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No. 66

## Senate

The Senate met at 9 a.m. and was called to order by the Honorable BENJAMIN NELSON, a Senator from the State of Nebraska.

### PRAYER

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

Dear God, You give the day and show the way. You guide what we are to do and say and help us without delay. Whatever challenges we must face, You promise us Your strength and grace. You never give us more than we can take, and guide the decisions we must make. Help us to look for vision from above and rejoice in Your unlimited love. When this day comes to an end, may we praise You for being our Father and our Friend. Amen.

### PLEDGE OF ALLEGIANCE

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

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

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The senior assistant bill clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, May 21, 2002.

To the Senate:

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

ROBERT C. BYRD,  
President pro tempore.

Mr. NELSON of Nebraska thereupon assumed the duties of the Chair.

### RECOGNITION OF THE ACTING MAJORITY LEADER

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

### SCHEDULE

Mr. REID. Mr. President, the Senate will shortly begin with a period for morning business that will last for 30 minutes. The Senate will then resume consideration of the trade act. There will be 90 minutes of debate in relation to the Rockefeller-Mikulski-Wellstone steel amendment prior to a rollover vote on a motion to invoke cloture on the amendment at approximately 11 o'clock.

Senators have until 10 a.m. this morning to file second-degree amendments to the steel amendment and until 1 p.m. to file first-degree amendments to the Baucus substitute amendment.

A cloture motion was filed last night on the bill itself, and the vote will take place tomorrow.

The Senate will recess from 12:30 until 2:15 p.m. for the weekly party conferences.

There are numerous amendments now pending on this trade bill. We will do our best to work through those amendments. It will be difficult to do that. As we know, we can do about three votes an hour. It will take a lot of hours to complete all of those amendments. We will do our best to work through that. We hope the managers can accept some of these amendments. That would save a lot of time. There are other amendments that Senators wish to offer. The key amendment, I am told, is the Kerry amendment which is the fifth in order of the amendments pending. I hope we can get to that quickly. If we can work out some limited debate on it, that would be beneficial. But unless we have a unanimous consent agreement, it will be very hard to get time even for debate on that.

There is a lot of work to do.

I understand that today the House is trying to get a rule on the supplemental appropriations bill. If they do that, it is possible we could get the supplemental sometime late tomorrow. That being the case, I am confident Senator BYRD and Senator DASCHLE would like to do the supplemental bill prior to our leaving for the Memorial Day recess. There is a lot of work to do with the limited number of days.

### EXTENSION OF MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that morning business be for 30 minutes so that debate on the Mikulski matter could start at about 25 minutes until 10, rather than 9:30.

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

### RESERVATION OF LEADER TIME

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

### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 9:35 a.m., with Senators permitted to speak therein for up to 10 minutes each, with the time to be equally divided between the two leaders or their designees.

The Senator from New Jersey.

Mr. CORZINE. Thank you, Mr. President.

### SOCIAL SECURITY

Mr. CORZINE. Mr. President, I rise today to talk about an issue that I have spoken about a number of times

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



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in this Chamber—one that is of great importance to the people of the State of New Jersey, but, even more importantly, to the people of the country; that is, Social Security, and the arguments that will be made about the privatization of Social Security, and those proposals developed by the Bush Social Security Commission.

As I have repeatedly explained when I talked about this issue, those proposals include deep cuts in guaranteed Social Security benefits, and that would force many Americans to extend the period of time before they retire.

Again, as I have repeatedly said, I think this is an issue that needs to be debated in front of the American people before we go to the polls this November. It is not one of those issues that should be decided by discussions between policy wonks and politicians. It needs to be understood by the American people, and they should have the right to express their opinions by those they have chosen to represent them.

Three weeks ago, I had the honor of representing the Democrats on our Saturday morning radio address, and I tried to make the case that benefit cuts proposed by the Bush Commission was a serious mistake in policy direction. Afterwards, the Cato Institute—one of the leading organizations pushing for privatization—issued a long treatise criticizing my statement.

Today, the Cato Institute is going to have another policy forum on privatization, particularly as it impacts minorities, and specifically Hispanics. So I thought it would be appropriate for me to deal with some of the arguments that have been made in response to my radio address. That is what I would like to do this morning.

In that radio address, I pointed out that President Bush's Social Security Commission developed privatization plans that would require drastic cuts in Social Security benefits that could exceed 25 percent for many people working today and more than 45 percent in the longer term.

Cato responded by claiming:

Charges of "cuts" are simply false.

In fact, it is the Cato Institute claim that is false. The truth is that the cuts I cited are based on the estimates of the independent, nonpartisan Social Security actuaries and are published in the Bush Commission's own report. I invite my colleagues, and certainly the academics at Cato, to take a look at page 75 in the report where those specific numbers are cited. These cuts apply to all Social Security beneficiaries, including retirees, the disabled, and survivors.

Moreover—this is an important point—the cuts would apply even to those who choose not to contribute to private accounts. Those people who choose to contribute to private accounts would get more serious cuts, but even those who continue to choose to be in Social Security would experience serious cuts as well.

Having argued the Bush Commission is not cutting benefits, the Cato Insti-

tute at another point backed off and said only that benefit cuts would not affect "current and near-retirees."

That is one of those discussions we will definitely have in the political debate this fall. But even this narrower claim is also false. Cato refers to the Bush Commission's "Plan 2," which explicitly calls for cuts in guaranteed benefits for all beneficiaries who retire beginning in 2009. This may create the impression that those who retire in the next 7 years are protected from benefit cuts. But, frankly, that is just not true.

First, to the extent that individuals contribute to private accounts, these contributions would trigger cuts in guaranteed benefits under the Commission's so-called "clawback" provisions. In other words, on the one hand the Bush Commission is offering up the promise of private accounts, with another they are cutting Social Security benefits for every dollar contributed to those accounts. That is what the clawback is all about; that amounts to playing, as far as I am concerned, bait and switch with America's retirees, and particularly the ones who are in near-term progress towards retirement.

I note that the cuts in guaranteed benefits would apply even if the value of a private account collapsed. Markets do go up and down. We have seen the value of the stock market decline as much as 30 or 50 percent in periods of time. Some may believe that the stock market only goes up. I am here to tell you, from my experiences in life, that is just not true. I certainly know that people are empathetic with what Enron employees have experienced. The fact is, markets move around, up and down. If the Bush Commission's proposals are adopted, those unlucky enough to lose money in their private accounts would have fewer Social Security benefits on which to fall back.

Keep in mind the average level of Social Security benefits today, for the average retiree, is less than \$10,000—about \$9,000 on average. And it is about \$7,500 for women, which is an issue we talked about last week. That is before the "clawback." And I promise you, \$7,500 or \$10,000 is not enough in my home State of New Jersey to have a satisfactory and safe environment in your retirement. It is just inadequate to support even a basic standard of living in most parts of the country.

It is also important to emphasize that the Bush Commission avoids calling directly for deeper and more immediate cuts in guaranteed benefits only—only—by assuming general revenue subsidies of the Social Security trust fund worth up to \$6.5 trillion in today's dollars. Yet now that the Bush tax cut has been enacted—and we have had a recession, and some other events have impacted Government—we are again running very serious deficits.

Just yesterday, the Treasury announced we are at \$66 billion in deficit this fiscal year. It is highly unlikely, in a period of serious fiscal deficit that

we are going to be able to come up with \$6.5 trillion to subsidize the general account of Social Security.

Without those subsidies, the Bush Commission would force the Social Security trust fund into a negative cashflow by 2010—not 2017, 2010—and the trust fund would be insolvent in 2025—not the 2041 that is now projected by the actuaries of the Social Security trust fund. At that time, many of today's middle-aged and older Americans will be retired, and many of those people will be dependent on Social Security.

In other words, current and near-term retirees are not protected under the Bush plan, notwithstanding the Cato claims to the contrary. Even the deep cuts proposed by the Bush Commission for all beneficiaries assume general fund subsidies that are unlikely to materialize. In fact, actual cuts are likely to be even greater.

Mr. President, let me turn to another related claim by the Cato Institute.

As I explained in my radio address, plans to privatize Social Security would take trillions of dollars from the Social Security trust fund. But Cato disputes that. They argue that personal accounts should be considered as part of Social Security. Taking the money out, giving it to the individual to manage, they are going to call that a part of the Social Security fund. They would go even further and say that is going to build the assets of the fund because they are going to presume that markets always go up.

It is ironic to hear advocates of privatization argue that private accounts should be considered a part of Social Security, considering that the arguments they make repeatedly emphasize such accounts would be owned and controlled by individuals. There is a failure of logic involved.

Beyond this apparent inconsistency, the more fundamental point is that private accounts would not guarantee the basic benefits that Social Security is designed to provide. It would only provide those benefits they would be able to purchase with the provision of those accounts. So those guaranteed benefits that are funded from the Social Security trust fund today would be challenged because that money is withdrawn. The Bush Commission undeniably would drain the trust fund of trillions of dollars that are needed to pay those guaranteed benefits.

The trust fund already has a \$3.7 trillion shortfall, according to the actuaries, over its adjusted life. Taking money out of the trust fund only makes that shortfall worse.

I think it is highly misleading to argue that general fund subsidies will "build the system's assets." It just does not jibe with common sense. These general revenues are not budgeted for and may never materialize. We have to do that each year as we go along. If they do, they can be used to avoid the deep cuts, of course, but there is no guarantee that is going to

happen, and there is no certainty that the level of Social Security benefits will be maintained the same if those revenues are not appropriated.

I will not take the time of my colleagues to respond to each of Cato's claims—I am putting out a written statement today that deals with each of the points they have made in a sort of 15-, 16-page report—which they put out in a 5-minute morning radio address.

When you cut through all the misleading arguments, there are a few simple truths to keep in mind about the privatization of Social Security as proposed by the Bush Commission. It would cut guaranteed benefits by 25 percent for current workers and up to 45 percent for many workers in the future. Those cuts would apply to everyone, even those who choose not to take on the responsibility of private accounts. And the cuts would force many Americans to delay their retirement to make sure they had adequate resources in their retirement years.

For these reasons, I believe the Bush Commission's plans to privatize Social Security would be a mistake for our country. Notwithstanding attacks from folks at the Cato Institute and other privatization advocates, I intend to continue to make this argument over and over so that we can raise this issue and have a real debate about the direction for Social Security before this year's election. We really need to have that.

This is a fundamental shift in American policy. We Democrats, and most Americans, are very secure with the idea that Social Security provides one of those three legs to the retirement of every individual. It is one of those initiatives that has worked. Americans feel very comfortable knowing that there is a baseline to their retirement security.

I hope we can have a real debate demonstrating that changing its nature, therefore, would undermine people's retirement security in the years ahead. So that is why it is important to speak on this issue over and over, to engage this as a debate the American people need to hear.

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

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

The senior assistant bill clerk proceeded to call the roll.

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

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

#### FBI FAILURE

Mr. SPECTER. Mr. President, I have sought recognition to comment about the failure of the FBI to act on the Phoenix memorandum in a timely way—that memorandum had reasonably explicit warnings about a terrorist

attack, al-Qaida, and a sneak attack—and especially about the failure of the Federal Bureau of Investigation to call that matter to the attention of the Judiciary Committee as a matter of oversight.

We have since learned that the FBI had information, in 1995 and 1996, which referenced the possibility of a hijacking and hitting the CIA headquarters or some other building in Washington, DC, and apparently that information was not transmitted to the White House. It was not transmitted to the Senate Intelligence Committee either at that time because I chaired the Intelligence Committee in 1995 and 1996.

According to reports, when the President was briefed on August 6 of last year, there were only generalized warnings given, and the CIA, which reportedly gave the briefing, did not have the information about the matters known to the FBI back in 1995 and 1996.

It is my view that the Director of the FBI ought to be called upon by the Senate Judiciary Committee to answer some very fundamental questions. I say the Judiciary Committee because the Judiciary Committee has the primary responsibility for oversight on the FBI.

It was the Judiciary Committee which confirmed Director Mueller, and I spent considerable time with Director-designate Mueller before he was confirmed, meeting with him in a so-called courtesy call, and then questioned him at some length before the Judiciary Committee. At that time we received commitments that the new Director would not make the same mistakes which had been made in the past by the FBI and would, in fact, turn over his own information which was proper for Judiciary Committee oversight.

One of the subjects I discussed with Director-designate Mueller at that time was a key memo in the FBI file going back to December of 1996 when the Department of Justice was pulling its punches because of concern that Attorney General Reno might not be retained for President Clinton's second term. It was my view that this memo should have been turned over on a voluntary basis as a matter of appropriate disclosure.

The Judiciary Committee did not receive that memorandum until a subpoena was issued by a subcommittee that I chaired, and not until April of 2000. While the Intelligence Committees do have the primary responsibility for investigating the intelligence failures of September 11, 2001, the Judiciary Committee has the responsibility on FBI oversight and on the question of reorganization of the FBI. There are major issues that have to be answered as to why the FBI did not tell the CIA about the 1995 and 1996 incidents so that the CIA would have that material available when they briefed the President.

This is reminiscent of a major intelligence failure that goes back to September of 1997, when the Senate Gov-

ernmental Affairs Committee was investigating campaign finance reform. At a joint hearing with the FBI and CIA, the CIA disclosed what the FBI had in its files, which the FBI had not disclosed, saying they had not realized it was in their files.

So there are some very fundamental questions to be answered, which do not get into any of the confidential memos and any sources and methods; and that is why Director Mueller of the FBI did not turn over the Phoenix memo to the Judiciary Committee on their own before it was sought after, and why the FBI did not tell the CIA this fundamental information so that the CIA would have it when they were briefing the President.

Last Thursday, I wrote to FBI Director Mueller calling on him to answer these questions, and I sent a copy of the letter to Director Tenet of the CIA asking him similar questions. When I saw the reports in the New York Times on Saturday morning about the information from 1995 to 1996 which, I repeat, I had not been told about when I chaired the Intelligence Committee, I called Senator LEAHY and Senator HATCH and urged that we have hearings very promptly to find out these basic questions about communications. It is not even necessary to see the Phoenix memorandum to question why it was not disclosed, to find out why the FBI does not communicate with the CIA.

I then called Director Mueller to ask if he would be willing to come in to testify early this week. He said he would have to take the matter up with someone else and get back to me. In a second telephone conversation on Saturday, he said he was not prepared to testify until there had been negotiations completed between the Judiciary Committee and the Department of Justice about the disclosure or production of certain documents. I replied that it was not a matter of production of documents; these fundamental questions ought to be answered and ought to be answered promptly for the American people, for Congress, and for the Judiciary Committee in our oversight function.

I then reminded Director Mueller that he had a 10-year term. The Congress has given the FBI Director a 10-year term so that he does not have to ask permission from anybody—not the Attorney General, not the President, not anybody—when it comes to a matter where there may be a conflict of opinion between congressional oversight and what the Department of Justice may have in mind. It is up to Director Mueller to make an independent judgment. That is why he has a 10-year term.

I did not tell Director Mueller he was subject to a subpoena. That is a matter only for the committee. I did discuss that possibility with the chairman, Senator LEAHY, and with the ranking member, Senator HATCH. I then called all of my Republican colleagues on the Judiciary Committee to discuss the situation and discuss the possibilities of a

subpoena. However, I did not—I repeat, I did not—talk to Director Mueller about a subpoena. That is a matter for the committee to decide and on which to take the lead. It is not something that I would do. Nor did I ask Director Mueller, or anybody else, for a copy of the notes of the briefing materials that went to President Bush in the purported briefing back on August 6, 2001. No request was made for that.

My view—and it is a very strong one, as you can tell from my tone—is that the FBI has questions to answer, and it is a matter for the Judiciary Committee because we confirmed Robert Mueller. We are the ones who asked him the questions and laid down certain parameters for his expected conduct as Director of the FBI, the most important of which is to tell the Judiciary Committee on his own when there are matters such as the Phoenix memorandum; just as the FBI should have told the Judiciary Committee about the Department of Justice memorandum in December of 1996, which was a smoking gun, with the Department of Justice pulling its punches on the campaign finance investigation because of the concern of Attorney General Reno's retention in the second term.

I make these comments very briefly this morning, and I know the assistant majority leader is waiting to proceed to the business at hand. I think these matters are of the utmost importance; the American people need to know about them. I hope Director Mueller will appear promptly before the Judiciary Committee and not wait until after our lengthy recess to take up the issues that require answers now.

I thank the Chair and yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. Mr. President, what is the business before the Senate?

#### CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

#### ANDEAN TRADE PREFERENCE EXPANSION ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of H.R. 3009, which the clerk will report.

The senior assistant bill clerk read as follows:

A bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes.

Pending:

Baucus/Grassley amendment No. 3401, in the nature of a substitute.

Rockefeller amendment No. 3433 (to amendment No. 3401), to provide a 1-year eligibility period for steelworker retirees and eligible beneficiaries affected by a qualified closing of a qualified steel company for as-

sistance with health insurance coverage and interim assistance.

Daschle amendment No. 3434 (to amendment No. 3433), to clarify that steelworker retirees and eligible beneficiaries are not eligible for other trade adjustment assistance unless they would otherwise be eligible for that assistance.

Dorgan amendment No. 3439 (to amendment No. 3401), to permit private financing of agricultural sales to Cuba.

Allen amendment No. 3406 (to amendment No. 3401), to provide mortgage payment assistance for employees who are separated from employment.

Hutchison amendment No. 3441 (to amendment No. 3401), to prohibit a country that has not taken steps to support the United States efforts to combat terrorism from receiving certain trade benefits.

Dorgan amendment No. 3442 (to amendment No. 3401), to require the United States Trade Representative to identify effective trade remedies to address the unfair trade practices of the Canadian Wheat Board.

Reid (for Kerry) amendment No. 3430 (to amendment No. 3401), to ensure that any artificial trade distorting barrier relating to foreign investment is eliminated in any trade agreement entered into under the Bipartisan Trade Promotion Authority Act of 2002.

Reid (for Torricelli/Mikulski) amendment No. 3415 (to amendment No. 3401), to amend the labor provisions to ensure that all trade agreements include meaningful, enforceable provisions on workers' rights.

Reid (for Reed) amendment No. 3443 (to amendment No. 3401), to restore the provisions relating to secondary workers.

Reid (for Nelson of Florida/Graham) amendment No. 3440 (to amendment No. 3401), to limit tariff reduction authority on certain products.

Reid (for Bayh) amendment No. 3445 (to amendment No. 3401), to require the TTC to give notice of section 202 investigations to the Secretary of Labor.

Reid (for Byrd) amendment No. 3447 (to amendment No. 3401), to amend the provisions relating to the Congressional Oversight Group.

Reid (for Byrd) amendment No. 3448 (to amendment No. 3401), to clarify the procedures for procedural disapproval resolutions.

Reid (for Byrd) amendment No. 3449 (to amendment No. 3401), to clarify the procedures for extension disapproval resolutions.

Reid (for Byrd) amendment No. 3450 (to amendment No. 3401), to limit the application of trade authorities procedures to a single agreement resulting from DOHA.

Reid (for Byrd) amendment No. 3451 (to amendment No. 3401), to address disclosures by publicly traded companies of relationships with certain countries or foreign-owned corporations.

Reid (for Byrd) amendment No. 3452 (to amendment No. 3401), to facilitate the opening of energy markets and promote the exportation of clean energy technologies.

Reid (for Byrd) amendment No. 3453 (to amendment No. 3401), to require that certification of compliance with section 307 of the Tariff Act of 1930 be provided with respect to certain goods imported into the United States.

Boxer/Murray amendment No. 3431 (to amendment No. 3401), to require the Secretary of Labor to establish a trade adjustment assistance program for certain service workers.

Boxer amendment No. 3432 (to amendment No. 3401), to ensure that the United States Trade Representative considers the impact of trade agreements on women.

Reid (for Durbin) amendment No. 3456 (to amendment No. 3401), to extend the tem-

porary duty suspensions with respect to certain wool.

Reid (for Durbin) amendment No. 3457 (to amendment No. 3401), to extend the temporary duty suspensions with respect to certain wool.

Reid (for Durbin) amendment No. 3458 (to amendment No. 3401), to establish and implement a steel import notification and monitoring program.

Reid (for Harkin) amendment No. 3459 (to amendment No. 3401), to include the prevention of the worst forms of child labor as one of the principal negotiating objectives of the United States.

Reid (for Corzine) amendment No. 3461 (to amendment No. 3401), to help ensure that trade agreements protect national security, social security, and other significant public services.

Reid (for Corzine) amendment No. 3462 (to amendment No. 3401), to strike the section dealing with border search authority for certain contraband in outbound mail.

Reid (for Hollings) amendment No. 3463 (to amendment No. 3401), to provide for the certification of textile and apparel workers who lose their jobs or who have lost their jobs since the start of 1999 as eligible individuals for purposes of trade adjustment assistance and health insurance benefits, and to amend the Internal Revenue Code of 1986 to prevent corporate expatriation to avoid United States income tax.

Reid (for Hollings) amendment No. 3464 (to amendment No. 3401), to ensure that ISAC Committees are representative of the Producing sectors of the United States Economy.

Reid (for Hollings) amendment No. 3465 (to amendment No. 3401), to provide that the benefits provided under any preferential tariff program, excluding the North American Free Trade Agreement, shall not apply to any product of a country that fails to comply within 30 days with a United States government request for the extradition of an individual for trial in the United States if that individual has been indicted by a Federal grand jury for a crime involving a violation of the Controlled Substances Act.

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be 90 minutes of debate in relation to amendment No. 3433, to be equally divided. The time will expire at 11 a.m.

The Senator from Nevada is recognized.

AMENDMENT NO. 3470 TO AMENDMENT NO. 3401

Mr. REID. Mr. President, I send an amendment to the desk on behalf of Senator LANDRIEU, and I ask unanimous consent that after it is reported it be laid aside.

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

The clerk will report.

The senior assistant bill clerk read as follows:

The Senator from Nevada [Mr. REID], for Ms. LANDRIEU, proposes an amendment numbered 3470.

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

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

The amendment is as follows:

(Purpose: To provide trade adjustment assistance benefits to certain maritime workers)

On page 86, between lines 17 and 18, insert the following new section:

**SEC. 113. TRADE ADJUSTMENT ASSISTANCE FOR MARITIME EMPLOYEES.**

Not later than 6 months after the date of enactment of the Trade Adjustment Assistance Reform Act of 2002, the Secretary of Labor shall establish a program to provide health care coverage assistance under title VI of that Act, and program benefits under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) to longshoremen, harbor and port pilots, port personnel, stevedores, crane operators, warehouse personnel, and other harbor workers who have become totally or partially separated, or are threatened to become totally or partially separated, as a result of the decline in the importation of steel products into the United States caused by the safeguard measures taken by the United States on March 5, 2002, under chapter 1 of title II of such Act (19 U.S.C. 2251 et seq.).

The ACTING PRESIDENT pro tempore. The amendment will be laid aside.

The Senator from West Virginia is recognized.

AMENDMENT NO. 3433

Mr. ROCKEFELLER. Mr. President, we are now on the retired steelworkers amendment. I urge my colleagues to vote for cloture. We are basically allowing a very small group of steel retirees who, through no fault of their own—we are going to allow them to get the TAA health credit for 1 year only, and for 1 year only once. So it is a highly restricted amendment, more so than TAA benefits generally. No transitional costs, no cash benefits, no retraining, none of that.

If you support trade adjustment assistance for workers who lost jobs because of imports, you must support some temporary assistance—1 year and only once—of just health benefits for steel retirees who lost their coverage because of the same types of imports.

The fact is, the American steel industry has suffered more than any other industry that I can think of. If you check the record, no other industry has suffered and been such a victim of a flood of imports as has the steel industry. It is very well documented. In the Presidentially initiated section 201 initiative, which involved the investigation of the International Trade Commission, and Republican and Democratic Senators are members, recently unanimously declared that the steel industry had been seriously injured by imports. Nobody else has gone through that process. They studied it and found out the steel industry had been clobbered by imports over a long period of years.

Steel has been besieged by unfair trade and subsidy practices. One of the things that so wrenches my gut is that the U.S. Government has done nothing about it. We have done nothing about unfair trade practices, about dumping, countervailing duties, cartels, or predatory pricing. We have just let it continue because somehow the steel indus-

try, I guess, does not count as much as a number of other industries in the minds of various administrations. I am talking not just about this administration, but previous ones also.

For 30 years, it is not just that bad things have been happening, but we have been breaking our own trade laws, as well as international rules. We have been ignoring them.

We passed a law saying there shall be no dumping. We did that in 1974. Administrations constantly ignore that law. So we have unfair foreign trade practices that have led us to this crisis. There was insufficient action against foreign dumping.

Do people know what “dumping” means? It means selling a product to another country at less than the cost of producing it in that country. So they are dumping it, so to speak, into the American markets.

There was insufficient action, again, under U.S. law—we were breaking our own laws—and international trade rules against decades of foreign subsidies to steelmakers. We do not subsidize our steelmakers. We never have. Everything they have done, they have done on their own—everything. Other countries subsidize their steelmakers. They underwrite their steel industries.

Our Government has turned a blind eye to the foreign steel cartels. Anybody who has anything to do with steel understands that. Those cartels have served as protectionist barriers to protect foreign steelmakers. Those barriers have protected them from international competition, from fairness, even from quality, and our Government declined to pursue endless reports that foreign steelmakers from different countries were operating in collusion.

What do I mean by that? These other countries that are producing steel decided they were not going to compete with each other; they were going to take all of their steel with this huge global overcapacity because our Government was not enforcing trade laws and they would send it all to America. Hence, our steelworkers were put out of work.

Somehow we, in our innocence and belief that everything will work out, did not view steel as a vital national asset. Every other country does. They have used all kinds of policies, all kinds of unfair policies, all kinds of illegal policies to promote their domestic steelmakers at our expense, and our Government never aggressively pursued any of those illegal practices. That is not to criticize the Government. The point of this amendment is that it has penalized the steelworkers who are now in chapter 7 and retired, out of work, lights out, with no health care.

I can think of no other sector where an American industry that is organized along commercial lines has had to engage in the brutal competition with what is called “national champion”—foreign steelmakers that are state protected, that are state subsidized and, in

many cases, state owned. How does one cope with that? You do not because we will not enforce our own laws.

That is the trade case. The other side is the human case. Senator WELLSTONE said this very well the other day. Why is it we have such trouble when a few select people—we are talking about 125,000 here—are in trouble through no fault of their own, through no protection of their Government, and we have trouble giving them any help?

The Presiding Officer and this Senator voted for a farm bill. It is embarrassing when we look at the help we gave soybeans in this country and then compare it to what this would cost to help 125,000 steelworkers who are retired because their companies went belly up and our Government would not do anything to help them.

We have to think about people, Mr. President. It is not unfair to think about people in the Chamber of the Senate. It is not unfair to think about helping people who are in dire need when we help them for 1 year and only one time with health benefits. That is less than trade adjustment assistance in the underlying amendment. That is probably closer to 2 years. We are only asking for 1 year for 125,000 retired steelworkers.

The human toll is enormous. Somebody explain this to me: How does the Senate sit by while steelworker retirees and their families bear the brunt of our collective Government failure to adequately enforce our laws?

After the administration's refusals to support any comprehensive solution for our steel industry during the ANWR debate—we had a much broader amendment then—we scaled it way back. Senators MIKULSKI, WELLSTONE, SPECTER, DEWINE, VOINOVICH, STABENOW, and others decided we would only work for a temporary solution of 1 year of health care coverage for steel retirees who lost their health benefits when their companies permanently closed. What is wrong with 1 year of benefits? What is wrong with that?

It is a bipartisan amendment. Workers who lose their jobs due to imports have some temporary health care coverage under this bill. Steel retirees who lost their health care coverage because of imports do not have health care coverage, and we are trying to get them some—1 year of TAA health credit and only once. It is not too much to ask for a group of American workers. I hope and pray my colleagues in the Senate will vote to support cloture.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Maryland.

Ms. MIKULSKI. I thank the Chair.

Mr. President, I rise to urge my colleagues to support the Rockefeller-Mikulski-Wellstone amendment and to vote for cloture to provide a safety net for American steelworkers. These steelworkers and retirees have been battered by decades of unfair illegal trade practices.

I thank Senator ROCKEFELLER and his staff for the excellent leadership

they have provided in crafting this amendment. This amendment is simple, straightforward, and affordable. Our amendment would simply provide a 1-year temporary extension of health care benefits to steel retirees who have lost their health insurance because of documented, trade-related bankruptcy of their company and documented predatory practices that caused their companies to go into bankruptcy. Our amendment seeks to help those steelworkers who suffered the most from these predatory trade practices.

We use the term "unfair" to the point where nobody pays any attention to it anymore. I want to make clear what happened to them. These practices were predatory. They were predatory practices against American steel in which there were foreign countries engaged in practices of dumping their steel below the cost of production in the American markets.

When Asia had its economic crisis, they dumped. When Russia was trying to get out of its economic crisis, they dumped. Often this dumping was strategic, subsidized, and predatory.

Who were the casualties of this trade? We did not even declare it a trade war. We just wimped, whined, and surrendered while all this foreign steel came in.

Mr. President, I am so proud of our country. We keep winning Nobel Prizes, but we keep losing markets, and one of the markets we have lost is steel.

Our amendment seeks to help those who have been injured because of these predatory and internationally illegal actions against us. Whom are we trying to protect? Simply the retirees, many who were laid off or forced to take early retirement because their companies are now bankrupt and their health care is now at risk.

American steelworkers and their retirees worked hard, played by the rules, served their country in war, served the armed services building our ships and our tanks, and in peace they made steel for our buildings, our bridges, and our cars.

Steel built the United States of America. Steel helped save the United States of America. Should we not honor this by providing a safety net for the retired steelworkers who are victims of international predatory practices?

For nearly 50 years, our Government has watched the steel industry wither. It accelerated particularly in the 1970s and then in the 1990s, not because steel was unproductive, not because steel was overpriced, but because of these documented predatory practices: Dumping cheap, subsidized foreign steel into our markets.

Our opponents say we should not put this amendment on the trade bill; and look for something else; do not tie up trade. I disagree. Illegal trade created the problem, so let's solve it in the trade bill. Unfair competition brought American steel to its knees. These for-

eign steel companies are subsidized by their government. They dumped excess steel into our markets.

Let me just give an example about our new friends, the Russians. I thank the Russians for cooperating with President Bush in the war against terrorism, but while we are dealing with one predator, they should look at themselves. Russia keeps open 1,000 unprofitable steel plants through their subsidies. That is not 1,000 steelworkers. That is 1,000 steel factories are kept open by their subsidies. What do they do with what they produce? Dump, dump, dump. I think we ought to dump the unfair trade practices.

We have to remember whose steel is in our country and the fact that we need to be steel independent. Maybe we can call one of those Russians the next time our Navy needs steel.

The Presiding Officer might be interested to know that Bethlehem Steel in my own hometown of Baltimore produced the steel to repair the U.S.S. *Cole*. If we needed steel to repair the U.S.S. *Cole*, I am sure the Russians would get right on it and we would pay any price for it, but I really do not want to have to turn to foreign steel to build the weapons to protect America as we reinvigorate our military. Somehow or another this is not right, it is not logical, it is not strategic, and I think we are going to really rue the day we let steel go down.

For some people in this body that is okay. There are those outside who say we do not need American steel, and they do not even worry about the American steelworker. Opponents of our amendment say it is unfair to target a specific group of Americans for assistance. Well, our steelworkers have been targeted, but it is by decades of these illegal trading practices.

This problem has been ignored by Presidents of both parties. However, I thank President Bush for taking the first step to impose temporary limited tariffs on imported steel to give us a breather. Now we need President Bush to take the next step to support us as we try to work our way out of something called legacy costs, the costs of pensions and health care. We wanted a temporary 1-year bridge to do this in the same way that the tariffs are temporary. We are not looking for hand-outs, give-backs, giveaways. We are looking for the opportunity to work our way out of it, and I think we could do it in a bipartisan way.

I am really disappointed the President is working directly against me. He had to call in some Republicans to try to convince them to vote otherwise. This should not be about those kinds of battles because I think the President took the first step. I think he is getting bad advice, and I am sorry he is opposing us on this amendment. Hopefully, we can change his mind on the long-range issues. But if President Bush had joined us in the fight, as I say, I would be the first to applaud him.

Opponents of our amendment say a specific industry should not be singled out. Well, we do that in this Congress. We single out specific industries and then talk about their value to America. I agree with that. Our Government singles out specific industries all the time when it is in our national interest. We single out industries when it is in our national interest because we need them as part of our economy or as part of our national production. That way, we can talk about the fact that when we help farmers or airlines. The national interest means national responsibility. I absolutely agree with that.

I have been in the Senate when I have heard my colleagues speak eloquently about the need to save the family farm. Why do we talk about saving the family farm? Because it is important to food production in the United States of America and it is part of our core values. It is part of our heartland. Absolutely, we should look out for saving the family farms.

At the same time, how about the steelworker families? We need to be steel independent. We need to find ways to help the steel industry to consolidate, and that means temporary tariffs in dealing with the health care benefits.

Farmers are important. So are steelworkers. Now let's talk about the airlines. Airlines, again, turned to us at a time of national crisis. Gosh knows, they took a terrible hit, and indeed it was a situation where we were concerned that our airline industry would go bankrupt because of the terrorist attacks on the United States of America. We need to look out for our economy. We need to look out for the airlines, the people who work for them, and the people who depend on them. I supported that.

What about steel? Are they not in the same category? Are they not part of our national economy? Are they not part of the fact we have to be independent? Were they not, too, hit by predatory practices? I do not mean to say that the two are parallel, but there has been direct documented injury.

In a few minutes, the Senate will vote on cloture. I am so sorry the Senate has come to this. Opponents of this amendment are afraid to bring it for a vote. Two weeks ago, everybody said we did not have a chance; we did not have a vote; who cared? Well, America cares; my colleagues care; and I really want to thank my colleagues who listened to Senator ROCKEFELLER, Senator WELLSTONE, and myself as we have talked on the floor, as we have talked in the halls, as we have talked in our offices. I thank my bipartisan colleagues such as Senator SPECTER, Senator VOINOVICH, and Senator DEWINE. We thank our colleagues for listening to our arguments.

We wanted to have a discussion, a debate, and do it the Senate way and let's see where the votes came out. But instead of doing it in what I consider the

majority way, we are going to hide behind a complicated procedure called cloture.

For those watching on C-SPAN, cloture means debate is shut off, which essentially means the amendment is shut off, the amendment is ended. In a regular vote, we only need a majority. I think we are going to have that majority because I think the majority of the Senate acknowledges the rationale of our argument both in terms of trade and human cost.

Instead, we are going to hide behind a parliamentary procedure that creates an obstacle of 60 votes in order to overcome it. I am disappointed in that, and I am disappointed there is no one present to argue with us.

Are there no real arguments against us? Are there no real bona fide arguments? I came today with something called a battle book. I was all set to debate, refute, and argue about what is in the best interest of our national economy, in both the short-range interest of our steelworkers and their health care and the long-range needs of America.

But hello, empty Chamber. Where are my colleagues? Is there no one to dispute us? If no one is present to dispute us, then give us a straight up-or-down vote. Maybe we are too far down the line for that, but the fact is we are going to have our vote, and we very likely might win it.

We have been working very hard, and so have those who support steel, the American labor movement, the steel unions, the families and districts such as in Pennsylvania, Minnesota, Indiana, Utah, and Ohio.

We will take our vote, though. I want to think about for whom I am here. One hundred and twenty-five thousand steel retirees have already lost their health care. They worked for many years in our Nation's steel mills. Veterans and widows of veterans, senior citizens who live on as little as \$10,000 a year. Americans who thought that promises made should be promises kept. These are Americans who did not run off to Bermuda to avoid paying taxes. When their country needed them, they were there.

The American steelworkers have one of the greatest histories of generosity, of give and take, the American way, than any other corporate organizational entity. The American labor movement had the highest rate of compliance, particularly during the Vietnam war, in service to their country. They did not run away. They fought. When they came back, they did not get a parade. Now they ought to at least get their health care. When their country needed them, they were there, working hard every day, serving their country and their community, believing they would have a secure retirement and health care.

This issue is here to stay. This is a very real issue. It will not go away. There is a need for the steelworkers who have diabetes; the diabetes will

not go away. The high blood pressure will not go away. The prostate cancer will not go away. All that will happen is steelworkers will go to emergency rooms, a place already overburdened, placing the responsibility on the emergency rooms.

I ask my colleagues to stand up for working Americans who are on the verge of losing everything they worked for.

I urge Members to vote for cloture for the Rockefeller-Mikulski-Wellstone amendment. Stand up for steel, America, the way the workers stood up for America over the last several generations.

I yield the floor.

Mr. REID. Madam President, I have watched the Senators for several days, and I am convinced how right they are. I ask unanimous consent on amendment No. 3433 to be named a prime sponsor.

The PRESIDING OFFICER (Mrs. MURRAY). Without objection, it is so ordered.

The Senator from Minnesota.

Mr. WELLSTONE. I suggest the absence of a quorum, and I ask unanimous consent the quorum call be charged to the opponents of this amendment. I want some debate out here.

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

The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

Mr. SPECTER. Madam President, I ask my distinguished colleague from Minnesota to yield 5 minutes.

Mr. WELLSTONE. Madam President, I am pleased to yield.

I say again to the opponents, after the Senator has completed his remarks, I will ask unanimous consent, again, that we have a quorum call and it be charged to the opponents.

We want people out here to be held accountable for their position.

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

Mr. SPECTER. Madam President, I have sought recognition to speak in support of the pending amendment of which I am a cosponsor. In my view, it is a modest request to ask that health benefits be extended to this category of steelworker retirees for a period of 1 year because these steelworkers, men and women, have been victimized by unfair foreign trade—subsidies, dumping, subsidized and dumped steel, which has come into the United States in violation of U.S. trade laws and in violation of international trade laws.

I compliment the President again, as I have on many occasions, for his invocation of tariffs which give the steel companies in America an opportunity to regroup and to reorganize. The tar-

iffs will also give the steel companies an opportunity to compete with steel manufacturers and steelmakers around the world, which are much larger.

We have seen the demise of more than 30 steel companies in the past several years, which have gone into bankruptcy proceedings because they simply cannot compete with steel that is dumped and steel that is subsidized coming into the U.S. markets.

I am pleased to say that two weeks ago yesterday when I visited the Irvin Steel plant in Pittsburgh, they were in full capacity. They had hired some 65 additional steelworkers and they had plans to hire more steelworkers because the tariffs have given them some relief. However, in order for the steel industry to reorganize and reconstitute itself, there is going to have to be something done about these so-called legacy costs for health benefits for retirees. These are obligations of the steel companies which are in bankruptcy reorganization proceedings. The plan is to have one steel company in the United States take over all of these steel companies which are tottering, and to reorganize and regroup, with one steel company emerging as a powerful steel company to compete with enormous steel companies in foreign countries. They cannot take over these companies if they have to take over these legacy costs.

That is why, one way or another, we are going to have to work it out. I believe in the long run it will be cheaper for the Federal Government to undertake these legacy costs; that is, to pay unemployment compensation, trade assistance, the many other benefits, and Medicare which will be paid in any event.

I regret we could not get the cash loan from ANWR proceeds. However, that is yesterday. There is no use crying over that spilled milk.

The steelworkers in America have taken it on the chin. Not long ago, there were 500,000 steelworkers in the United States. Today, there are fewer than 140,000. Pennsylvania, my State, is the cradle of the steel industry. In western and central Pennsylvania, there are many steel companies. In Bethlehem, PA, there is the Bethlehem Steel Company. These retirees are hurting.

When we are considering legislation for trade promotion authority for the President, I think the President is right, he needs trade promotion authority to negotiate trade deals to increase prosperity all around the world. In so many countries, it is so much better to have trade than to give them foreign aid. Trade promotion authority will also help the economy of the United States. It is not without some problems with NAFTA, and some other problems as well, however in the long run, trade promotion authority will be very helpful.

Just as this bill takes up trade adjustment assistance, it is fair and reasonable that this modest approach for



a single year ought to be incorporated in this bill. I think the amendment is very well placed.

I thank my colleague from Minnesota for yielding time. I thank the Chair. I yield the floor.

Mr. WELLSTONE. Madam President, how much time is there on our side?

The PRESIDING OFFICER. Ten minutes.

Mr. WELLSTONE. The majority leader is speaking under leader time; is that correct?

I thank him.

If I may have one second, I certainly want to have a chance to speak and join my colleagues, Senator ROCKEFELLER, Senator MIKULSKI, and Senator SPECTER.

Since I think there is a lot at stake with this amendment, sometimes we forget about what this means. Personally, I am extremely disappointed that the opposition has not come forth. After the majority leader speaks, I will suggest the absence of a quorum and will ask that all time be charged to the opponents because people need to be held accountable for their positions on such an important question which is crucial to environmental quality or lack of quality of life for the people we represent.

I thank the majority leader for being present.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DASCHLE. Madam President, in order to accommodate the time constraints, I will use my leader time to make some remarks with regard to this.

I will begin by complimenting and thanking my colleagues for the extraordinary job they have done. I will say for the record—and I want all to know—that I have never seen a more passionate or a more determined effort on the part of my colleagues on any issue than I have by my colleagues on this one. Senator WELLSTONE, Senator ROCKEFELLER, and Senator MIKULSKI in caucus, in leadership, in private meetings, and in every conceivable forum have made this an issue that we now clearly understand. I am grateful to them for enlightening us, for sensitizing us, and for making this the kind of cause it deserves to be, not only within our caucus but within the Senate and within the Congress itself. Everyone should know that were it not for their passionate defense, we would not be here this morning.

Second, I don't know if there is a more important issue as it relates to the well-being of workers who are vulnerable. We can talk about wages, we can talk about all the other issues involving displacement and the effects of trade, but when you talk about health, you are talking about the well-being of individuals who have no other choice but to seek remedy as these Senators seek it in this amendment.

This is a powerful message. We have people out there who have no access to health care, through no fault of their

own, and who have no opportunity to avail themselves of any health option, in large measure because they have fallen victims in many cases to the trade challenges, the trade problems, and the trade issues that are the very basis for the debate we have had on trade throughout the last several weeks. I do not know how you look at those people in the eye and say: Look, I understand you have a problem. I understand you can't go to a doctor. I understand your wife is sick and you can't go to a hospital. I understand you can't go to an emergency room. I understand the humiliation and all of the pain you must suffer and all of the anxiety. But I am not going to support their amendment. Go talk to somebody else, tell them about your problem, because I am not going to deal with it.

If we turn down this amendment, that is the message we are sending to every one of those people who are out of work and who have no health insurance. That is the message: We don't care.

We shouldn't be doing that. That is why this amendment is so critical. We should be saying: Look, we understand. For those of us who embrace trade legislation, it is all the more imperative that we do it.

There are a lot of my colleagues who, for understandable reasons, are saying: Look, I don't want to see trade promotion authority because all it does is displace workers, all it does is cause pain.

There are those of us who say: Well, there is a lot to be said about that, but the overall good of the country depends on trade promotion authority. But if we say this, we also ought to say that when those people are displaced, they are going to get help. When they are displaced, they are going to get the kind of care they need. When they are displaced, they can see a doctor or go to a hospital. Then, by God, we have to find a way to make that happen, or this country doesn't deserve to pass any trade legislation.

Let us deal with the victims as well as the prize winners here. Let us understand that. Let us not look at the big numbers, let us look at the faces of the human beings affected by this. That is what this amendment does.

This is an important vote. I hope everybody pays very careful attention to the consequences of their vote this morning.

Some say this is an easy "yes" or "no" vote. Maybe that is right. Maybe that is right. But if it is an easy no, I daresay—and I will challenge my colleagues who haven't thought about this—they haven't given it the kind of care and consideration it deserves.

At times, I wish we had a chair right in the middle of the well, right here. I would like to have a steelworker sitting right here as we vote. And I would like to have every Member walk by and say: You know I am going to look you in the eye, and then I am going to vote no.

I think if we forced someone to have a chair down here with a steelworker and his family sitting here, the vote would be 100 to zero. But they are out there somewhere. Nobody has to look at faces, or names, or victims. Let us understand those families are right outside these doors. Those families are glued to their televisions this morning, hoping and praying that we can do something about this. Hoping. Let's give them cause for hope. Let's give them the ability to understand that we hear them, that we care about them, and that we want to make a difference in their lives.

Madam President, America's steelworkers have literally built this nation—from the skyscrapers that define us, to the military that defend us.

But today, those steelworkers who have defined and defended us need our help.

The last few years have been among the worst in history for the American steel industry. In 1997, the Asian financial crisis disrupted global steel trade and diverted much of the world's excess steel capacity to the U.S. market.

That started a decline that has only gotten worse. In just the last 2 years, 31 steel companies have filed for bankruptcy. Since January of 2000, more than 50 steelmaking or related plants have shut down or been idled. And steel prices are now at their lowest levels in 20 years.

This crisis has been devastating for steelworkers, their families, and their communities. Over 43,000 steelworkers have lost their jobs, and another 600,000 retirees and their surviving spouses are in danger of losing their health care benefits because the companies that once employed them are now facing bankruptcy.

This amendment provides 1 year of subsidized health benefits for those retired steelworkers now in danger of losing them.

Last month, many of our Republican colleagues in the Senate said they supported a much more generous assumption of legacy costs as part of an effort to open the Arctic Refuge to drilling.

I said to them, at the time, if you are serious about helping steelworkers, you will have a chance to do it.

This is your chance.

This is a modest, stopgap measure—far more modest than what Republicans claimed last month they would support.

It covers 70 percent of retired steelworkers' health care costs for just 1 year. That is all it does. It does not cost the taxpayers a penny. It does not solve the larger issue of so-called legacy costs. It does not create a new entitlement.

There is a lot this amendment does not do. But what it does do, is show that we understand how much these workers are suffering. We understand that after a lifetime of hard work, they deserve better than uncertainty.

No one can afford to be without health insurance, but that is particularly true for people who have spend a



lifetime in jobs that demand hard, physical labor. For these people, sometimes health insurance means the difference between self-sufficiency and poverty.

I know that the administration has come out against health insurance for steel retirees. I hope the administration will reconsider.

Last year, we agreed we would leave no child behind. This year, let's make sure we leave no worker behind as America moves into the new, globalized economy.

This amendment is cost-effective, it helps people, it is compassionate. I can see no reason to oppose this amendment. I hope my colleagues will join me in supporting it.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Believe me, I so much want to speak and respond. But, again, just listening, first, to my colleague from West Virginia, and then my colleague from Maryland, and then the majority leader, and the way in which this affects people's lives, and how can people vote against helping people, what is the other position?

I want some debate. I want to respond. I don't want us to use all our time and then have opponents come out here and speak and speak and speak, without being held accountable for their comments in debate.

So, again, I suggest the absence of a quorum. I ask unanimous consent that the time be charged to the opposition, which has been unwilling to even speak on this amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. Will the Senator let me take a second?

Mr. MURKOWSKI. Sure.

Mr. REID. I appreciate the Senator doing that.

Madam President, I send an amendment to the desk and ask unanimous consent the pending amendment be set aside. This is for Senator JEFFORDS.

The PRESIDING OFFICER. Is there objection?

Mr. MURKOWSKI. I object, Madam President.

Mr. REID. Object to setting the amendment aside? OK. I understand.

The PRESIDING OFFICER. Objection is heard.

The Senator from Alaska.

Mr. MURKOWSKI. Madam President, I rise in opposition to the amendment offered by my good friend, the junior Senator from West Virginia.

My understanding of the amendment is that it provides a 1-year eligibility period for steelworker retirees and eli-

gible beneficiaries. The problem is it does not offer a way to pay for it.

Some of you may recall we had an extended debate on this floor a few weeks ago on aspects associated with energy development and the energy bill and proceeds from the proposed sale of opening ANWR. In that amendment offered by Senator STEVENS and myself, we proposed to fund the steel legacy issue relative to retirement.

This matter has been discussed in this body. My understanding is that Senator SANTORUM has spoken against the Rockefeller amendment. And I believe Senator SPECTER did as well.

I think we have to go back—

Mr. WELLSTONE. Will the Senator yield for a second, a split second?

Mr. MURKOWSKI. I am going to yield after my entire statement.

Mr. WELLSTONE. Just for the record—

Mr. MURKOWSKI. I am not going to yield.

The PRESIDING OFFICER. The Senator from Alaska has the floor and has declined to yield.

Mr. MURKOWSKI. I thank the Chair. And I thank my colleague. But I do want to continue uninterrupted because my statement is going to be very short.

I think the basis for the opposition is the illusionary effect that it has rather than the practical reality associated with a resolve of this issue.

As I indicated, Senator SANTORUM took the floor to decry the amendment. I recognize that Senator SANTORUM is as strong an advocate of the steel industry as any Member of this body, and his credibility is certainly unchallenged. I have listened to the Senator from Pennsylvania describe this amendment as a "cruel hoax" on the workers and on the future for U.S. steelworkers.

I happen to agree with his description of the amendment because it fails to fund the benefits and leads workers and retirees of the steel industry down a blind alley. It is going to authorize something—get their hopes up—but you are not going to fund it.

It is a shame because, as I indicated in my opening remarks, a month ago, the Senate had a chance to pass a comprehensive fix for the so-called steel legacy cost. And that is the issue that threatens the benefits of retired workers and the future, in my opinion, of today's steelworkers.

In that debate we challenged America's steel industry and America's steel unions and America's steel caucus to the reality of coming aboard on a major project that could rejuvenate America's steel industry; and that is associated with the building of approximately 3,000 miles of 52 to 54-inch pipe that would go from my State of Alaska to the Chicago city gate—an order that would be worth approximately \$5 billion.

What would that do to stimulate America's steel industry? Well, one can only guess. But that was basically

turned down. It was ignored by the steel unions, ignored by members of the steel caucus because evidently the interest is not rejuvenating America's steel industry, but it is addressing the obligation of retired workers and their benefits. I understand that. But I see in the legislation we offered an opportunity for both.

The tragedy is that when this pipeline is going to be built, it will be built with Japanese steel, with Korean steel, with, perhaps, Italian steel. Evidence of that was in the 1970s, when we were constructing the Trans-Alaska 800-mile pipeline. What was the condition of America's steel industry then? It was in decline. That was unfortunate. That entire pipeline was built with Japanese, Korean, and Italian steel. The reason offered was, we didn't make it anymore.

Now there is an opportunity to rejuvenate the industry. These are U.S. jobs. These are union jobs in U.S. steel mills, a major order, \$5 billion. Is there any interest? No. The contribution of the proceeds from the sale of ANWR in the billions of dollars was offered in the Stevens amendment, but it was objected to by America's environmental community. It was not a case of whether we could open it safely. It was an issue of politics. It was a charade.

We even reached out to the coal mining beneficiaries by helping them with shortfalls in their health care benefit program, something the present proposal does not do.

The main difference between our fix and the proposal before us is our proposal was comprehensive and, most importantly, it was funded. The amendment offered by Senator STEVENS and myself a month ago would have used a significant portion of the money from the oil and gas leasing in ANWR to help workers and the industry reorganize itself to compete in world markets.

This is an extremely important distinction because the Senator from West Virginia rejected an opportunity to embrace the future. Instead, he would rather put another burden on taxpayers and leave our workers and the industry, in effect, in the dark. When he rejected the amendment, the Senator from West Virginia and his supporters claimed they could not support it because they couldn't get a positive guarantee in writing from the President and the House of Representatives that they would support it.

Now, a month later, we introduce a hollowed out version of the Stevens amendment with no support, no assurance from either the President or the House of Representatives, and no money to pay for it. It doesn't take a mindreader to determine where you would have been better off. It is an outrage to the steelworkers and retirees who are being used, and it is an insult to the American taxpayer who will be asked to place yet another burden on their shoulders.

Make no mistake, this amendment is about politics. It has nothing to do

with the men and women of the steel industry, who are certainly struggling.

My greatest disappointment is not with the authors of the amendment but with the leadership of the steelworkers union. Most of its members helped build this country. They made steel what it was, a significant factor in democracy and the growth of our Nation. They made steel for the tanks and the guns that turned the tide in Europe and the Pacific during World War II. They worked in the arsenal of democracy. Yet today their union leaders are turning their backs on the workers and the retirees in favor of hanging out with environmental extremists who are opposed to the very steel plants and iron mines in which their workers were so proud to work.

They would rather support phantom efforts such as the amendment today than obtain real benefits for workers and retirees and beneficiaries. They know this amendment will not pass because it is just a political statement. Evidently they don't care. It is appalling, but they apparently don't care if the plants close, the workers are idle, and the benefits don't get paid because the companies go under.

A month ago, Senators were given the opportunity to decide whose side they would be on: environmental fundraising groups, rich kids who protest everything about America that the steel industry built, or the workers and retirees themselves, plus the coal miners and beneficiaries. The choice was easy: limited, environmentally responsible development of only 2,000 acres of land in Alaska in return for paying for the benefits for hundreds of thousands of workers and offering the industry a chance to rebuild itself, or party politics, which is merely the equivalent to a press statement or two and showing support for the corporate environmentalists that made the issue a test of their vision for the Democratic Party.

Unfortunately, most of the Members chose party politics and the special interests of corporate environmentalists over the working men and women of this Nation. It is times such as these, when our Nation is at war and our steel industry and our workers are suffering, that Washington has ceased to be a serious place. The workers deserve better than this hoax, this empty gesture. They need a real plan.

Again, as I have indicated, to suggest that what we had to have in order for this to go was support from the President and the House of Representatives, and now we find ourselves with no money to pay for it, I question the necessity of those earlier guarantees. What we have today is no money, no funding, no assurance from the White House. If the authors are serious about solving this problem, I am willing to sit down today and discuss real options that could get a majority of votes in the body and rejuvenate the steel industry and get it going.

If I were in the industry and I were involved in the union and I had the op-

portunity for a \$5 billion domestic order in this country, I would gear up for it. I would open the iron mines. I would expand the steel industry. I would insist that U.S. firms have an opportunity to participate in the largest single order ever outlined in the country. It is going to go to our foreign friends.

I believe the membership of the steelworkers union, the beneficiaries and retirees, are smart enough to figure out when they are being used for political purposes. I hope they will cry out to the leaders in the union and to the Senate and let them know that they do not appreciate having their futures used for political purposes.

Needless to say, I oppose the amendment and ask my colleagues to do the same.

Mr. ROCKEFELLER. Will the Senator yield?

Mr. MURKOWSKI. I am happy to yield.

Mr. ROCKEFELLER. The Senator from Alaska has mentioned politics and that the steel industry evidently decided not to take advantage of this multibillion-dollar offer that he and I talked about a number of times. I made it very clear to the Senator from Alaska during our conversations that whereas we do make pipe in the United States, we only have about 40 million tons of production left. And we don't make pipe of the size that was required for what the Senator was talking about at ANWR. That was the only reason. It was not politics.

The Senator talks about letters from the White House. I don't know if the Senator disagrees, but the Senator talks about letters from the White House. There was a reason for that. That was that the White House was and still is—they have been e-mailing all over the country and getting other people to e-mail because they have opposed this from the very beginning. They have opposed legacy costs. They made it very clear. All of their Cabinet officers made it very clear. The President made it clear. That is the reason we are reduced to simply having 1 year of health benefits because we have no other alternative. I would have, as the Senator from Alaska knows, voted probably for ANWR if Senator STEVENS, who was equally as angry as I was over what transpired, had been allowed to proceed. But it was simply bludgeoned.

I hope that the Senator would agree with that.

Mr. MURKOWSKI. If I may respond to my good friend, the Senator from West Virginia, first, we are both aware of the fact that the President did support opening ANWR. He would have signed an energy bill with ANWR in it. Clearly, the intent of the amendment, had it passed, was that the proceeds would go for the steel legacy fund—a significant portion of it. I know the Senator from West Virginia wanted an ironclad commitment from the White House.

I simply share that had we passed the amendment, we would have identified the funds as flowing to the steel legacy as compared to where we are today, which is we are talking about a 1-year proposal with an authorization only and no identification of funds. It seems to me we were much better off previously, had you accepted the deal. Had it passed, that is where the funds would have gone.

Ms. MIKULSKI. Will the Senator yield?

Mr. MURKOWSKI. Yes.

Ms. MIKULSKI. Madam President, I want to bring to the Senator's attention that this amendment is paid for by offsets that had been cleared and verified by the Budget Committee. So it is paid for. I wanted to have that said for the Senator's clarification. I thank my colleague for his sympathetic comments about steelworkers.

Mr. MURKOWSKI. Madam President, I don't want any more time to run on my side.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

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

It is not appropriate to include the steel legacy program on the trade adjustment assistance legislation and I urge my colleagues to oppose it.

This is a trade bill and inclusion of this amendment will doom the legislation. This is not just a helping hand for retired steel workers. It is the largest and boldest corporate welfare proposal I have seen in quite a while.

Not only is it corporate welfare but acceptance of this proposal is an invitation to others to come in to government largess in the same way: Promise the workers anything but give your promises to the taxpayers.

This legislation gives a free pass to companies and unions to bargain for benefits as irresponsibly as they would like. They may do this with the knowledge that they will never have to keep their promises. Instead, they can foist their benefit packages on the backs of the hard-working taxpayers. That includes many who have no insurance or retiree health because their employers cannot afford to purchase it.

My additional arguments against inclusion of the steel legacy program are as follows: Neither the costs of nor the implications of including steel legacy costs have been examined in the Senate Finance Committee.

The Senator from West Virginia introduced his bill, S. 2189, on steel legacy costs on April 17, 2002. That is barely a month ago. The GOP members and staff on the Senate Finance Committee have asked repeatedly that hearings be held on this issue but none has been held or contemplated.

This suggests that there are individuals on the Finance Committee who may not want this issue of steel legacy costs seriously examined. A generic hearing was held on March 14, 2002, in the HELP Committee. It was a very

nice hearing but it consisted solely of one panel and steel labor and management and one panel of affected steel workers. There were no opposing views, no academics, no thoughtful examination of the implications of the proposal, no discussion of the fact that other industries with unsustainable benefit promises to retirees are hoping to get in on this deal.

Now the Senator from West Virginia has altered his proposal a little in order to slip it into the Trade Act. He says it is designed to cover just 125,000 workers and just for 1 year. But bear in mind that a 1-year bridge benefit is not the long-term intention of the amendment. Once you grant this benefit it will never sunset.

The ultimate solution for the proponents of this program is to cover all steel workers in a permanent entitlement program. The steel workers, themselves, have suggested that as many as 600,000 retired steelworkers will be picked up by such a permanent program. In addition, current steelworkers, as they retire, would come into the system, making the pool of covered individuals much larger.

How many more individuals does that add to the pool? We don't know. We have some basis for comparison, but on a much smaller scale.

But our experience with the Coal Industry Retiree Health Benefits Act is just one-tenth the size, around 60,000 individuals, of the steel proposal. We have no reliable cost data on this proposal. Though Joint Tax told us that it only costs \$179 million over 1 year.

The truth is that experience tells us two things: No. 1, estimates of program costs are always too optimistic. No. 2, mortality estimates are unduly pessimistic.

One estimate is that the full program, covering all steel retirees, would cost around \$13 billion. But experience tells us that the estimate is probably too low. The legislation also creates a moral hazard. By allowing the parties to dump legacy costs they couldn't afford, it sends a message to all other industries. It tells them that they should make unsustainable benefit promises and lay them on the taxpayers.

In order to avoid this "moral hazard" in the future, this proposal would have to contain incentives to get the parties to change the way they bargain for benefits. We can see how that moral hazard still exists in the coal industry today.

Coal miners are still bargaining for, and the Bituminous Coal Operators Association is still promising, the same expensive benefit package that they dumped on the system 10 years ago.

Shifting their irresponsible collective bargaining costs to other parties did nothing to change the way they bargain for or promise benefits in the coal industry.

The coal workers and companies got away with making someone else pay for their unsustainable promises, so they keep on doing the same thing.

The "moral hazard" is happening in steel but on a much larger scale. Steel is 10 times the size of coal. The steel retirees are similar to any group of retirees who lose their health care coverage; they are a sympathetic group. But so are the retirees from countless other industries who lost or did not receive retiree health benefits because their company could not afford them.

The proposal before us creates a new Federal entitlement program for this particular "sympathetic group" that would cost billions of dollars.

My staff heard from a lobbyist from a major manufacturer in the transportation industry this week. That lobbyist said to "get ready" because they wanted to unload their retiree health costs on the taxpayers, too. This lobbyist suggested that their industry is much larger than the steel industry.

If you vote for this amendment, you will be ushering in an era other special retiree health care programs for all the other industries who have their own lobbyists.

Steel retirees should be considered in the context of deliberations on the uninsured. For several years we have been debating what to do about the uninsured and about prescription drug coverage under Medicare. We may decide that steel retirees fit into our deliberations. Ultimately, we may decide otherwise.

But we at least ought to explicitly consider the implications of the legislation. Bear in mind that there is another irony with the steel legacy costs proposal. Some very large steel companies—LTV and Bethlehem—went bankrupt, in part, because the 1992 energy tax bill mandated them to pay the retiree health care obligations for former coal employees under the Coal Industry Retiree Health Benefits Act.

Over the past 10 years these now bankrupt steel companies have spent hundreds of millions of dollars paying for the irresponsible health care promises of the Bituminous Coal Operators Association and the UMWA. Think about that.

The shifting of retiree health costs is a vicious circle. The amendment expands the TAA health insurance assistance to steelworkers whose companies permanently closed operations while in bankruptcy. Think about who ends up holding the bag. It is the rest of America. It is the taxpayers—from the single-mother waitress with children who does not have health care. It is the white collar workers in Silicon Valley who do not have health care. It is the Midwestern farmer who pays for his family's health care. It is all the other retirees who pay tax on their Social Security benefits. This amendment creates a double standard. There is one standard, guaranteed health care for one class of folks, retired steel workers of a few companies. There is another standard for everyone else. Is that fair? Does that make sense?

This bizarre proposal is compounded further by the double standard it cre-

ates for steel industry retirees. That's right. What we have here is a "rifle shot" for a couple of companies.

I have been one who has fought rifle shots in the Tax Code. Well, fellow Senators, you have got a rifle shot in front of you.

We do not know all the companies that will benefit from this but certainly LTV Steel which is in chapter 7 liquidation and Bethlehem Steel that is in chapter 11 bankruptcy.

Let me take a minute to review our TAA health insurance compromise and what the implications of the steel retiree health language would mean for the TAA health credit.

The agreement we worked out gives TAA workers an advanceable, refundable tax credit, set at 70 percent, that can be applied to the purchase of selected qualified health insurance in either COBRA or State insurance pools.

The compromise also includes funds for National Emergency Grants, so that States can provide subsidized coverage to workers before State insurance pools are established.

With no company left to provide COBRA benefits, and very few State insurance pools ready early on, steelworkers will wind up being covered through the interim National Emergency Grant program, not the tax credit.

I happen to support this important interim Emergency program. But I strongly believe the addition of new categories of workers is a mistake. It sends a signal to all industries, not just steel, that nearly full Federal support for unmet health insurance promises is available from the Federal Government.

You should also know that the bill introduced by the proponents of this amendment provides that steel retirees will each receive a cash life insurance payment of \$5,000. You may be thinking that is not very much life insurance. But multiplied by 600,000 that is \$3 billion.

In conclusion, I would be remiss if I didn't reiterate that I believe this is a sympathetic group. But I don't know that it is so sympathetic that we will be able to afford their bad debts, all \$13 billion of them. Why? because the transportation lobbyists will be here next thing you know asking that we cover their bad debts.

I urge my colleagues to vote against this proposal.

To vote for this amendment will doom the trade bill. We must examine proposals such as this carefully and deliberately, weighing the implications of our action.

Since most workers and retirees, including early retirees do not have any retiree health many policy questions are raised by this new Federal entitlement program.

The "sunset" of the Senator from West Virginia in this provision is simply a temporary bridge to permanent program.

I have many, many more concerns regarding this proposal. I will not go into them here.

Madam President, this is a very serious amendment. It does tremendous damage to the possibility of getting trade promotion authority to the President. I can better say this if I would read from some rough notes that I made in regard to a speech that my friend, Senator BAUCUS, made against the Gregg amendment on wage insurance when it was up last week. These are not direct quotes, but Senator BAUCUS made the best argument on the Gregg amendment that I can make against the amendment by the Senator from West Virginia.

First of all, you have to remember the words "very balanced compromise," three words that Senator BAUCUS used. We have a very balanced compromise before us. We ought to think in these terms: If we want trade promotion authority to go to the President, we don't want to upset that balanced compromise.

A second point he made on the Gregg amendment is: I worked very hard to kill crippling amendments that would kill TPA.

This is one of those crippling amendments that could kill trade promotion authority.

He expressed in another statement his "disappointment about the amendment before us," meaning the Gregg amendment, again upsetting a bipartisan compromise.

Then, lastly: If this amendment passes, there will be no bill.

That was said about the Gregg amendment. We defeated—Senator BAUCUS and I working together—the Gregg amendment on wage insurance. I worked to preserve that compromise, although a majority of my caucus was against it, the same way Senator BAUCUS has worked to kill a lot of amendments that have upset this compromise by being in the minority of his caucus.

What we are talking about is the center of the Senate. If anything is going to get done in the Senate on the controversial issue that we have before us—trade promotion authority, passing the House by a one-vote margin, 215-214—we are going to have to preserve the very balanced compromise that Senator BAUCUS and I have brought to the floor. Then we have the Senator from West Virginia with his amendment.

I think in the same way that Senator BAUCUS believed the Gregg amendment would upset this very carefully crafted compromise on trade promotion authority, the amendment of the Senator from West Virginia does the same thing. So that is the reason I ask for the defeat of this amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. WELLSTONE. Madam President, how much time do the opponents have?

The PRESIDING OFFICER. The Senator from Iowa has 13 minutes.

Mr. WELLSTONE. We have less time. I would be pleased to defer to the opponents if they want to speak.

Mr. GRASSLEY. We are not quite ready to speak. I ask that the Senator use a little bit of his time.

Mr. WELLSTONE. Madam President, let me, first of all, thank my colleagues for being here. I especially thank Senators ROCKEFELLER and MIKULSKI. I also thank Senator DASCHLE for his remarks. They were powerful and they were personal and they were on point.

My colleague from Alaska spoke, and I will echo what my colleague from West Virginia had to say in response. The only other thing I want to say is my colleague from Alaska said the proponents know this amendment will not pass, and it is really not enough. Frankly, we don't know it won't pass, and it will pass if the votes are there. Every steelworker and every worker and every family and every citizen in our country believes this is a matter of elementary justice—that is to say, in the trade adjustment assistance package of this legislation. Let's also provide some help to retired steelworkers who worked hard all their lives, be it in Maryland or the iron workers or the taconite workers on the range in Minnesota. They have worked for companies that have declared bankruptcy, and they thought they had retiree health care benefits. It is very important to them and their spouses.

Health care costs are a huge issue to the elderly population, and now the companies declare bankruptcy, walk away from it, and they are terrified and they don't know what they are going to do. They have worked hard all their lives for an industry that has been absolutely critical to our national defense. You could not find people more patriotic or more hard-working—people who are, frankly, asking for less.

All we are asking for in this amendment is a 1-year bridge so that we can put together legislation for the future that will not only deal with these retirees and help them but also help the steel industry get back on its feet.

This is the extension of trade adjustment assistance, and 70 percent of the COBRA costs would apply to these retirees. It would be a huge help. Now, my colleagues come out here on the floor and speak against it—some do—and they act as if we are presenting something that is egregious, almost sinful, when we are talking about helping people.

This is one of these sort of "buddy, you are on your own" philosophies. If you have been working hard all your life for a company, you are working in an industry for 30 years, the Government did nothing to deal with unfair trade practices, now the company declares bankruptcy and you have no help and you are terrified they say, buddy, you are on your own. That is basically what we are hearing.

Some colleagues come out here and say we should have done it on ANWR, although the House Republican leadership would not sign off on it, the White

House would not sign off on it, and it didn't look like it was going to happen or like it was a very serious proposal. Now there is this effort to bring people together. Republicans support this. Senators SPECTER and VOINOVICH came out here and spoke as well. Senator DEWINE supports this.

I think this is a matter of elementary decency, elementary justice. We are trying to provide some help to people. That is what this is about. I, frankly, am amazed that we are now going through this. I think my colleague from Maryland said this, but I want everybody to know this is a filibuster. One Senator said they don't have the support. I think we have a majority of support. We are going to have majority support and we should have more than the majority support.

We should not be in this situation where we come to the floor to advocate for people we represent for a minor expenditure of resources, to provide some help to people who worked hard all their lives, as a part of trade adjustment assistance, only for 1 year, an interim measure, and this is being filibustered, being blocked.

I cannot think of any reason to block this except for just absolute ideological opposition that, my God, when it comes to helping people who are really struggling, through no fault of their own, there is not anything the Government can or should do.

How much time is left?

The PRESIDING OFFICER. The Senator has 3 minutes 10 seconds.

Mr. WELLSTONE. I reserve the last 2½ minutes to respond to my friend from Oklahoma.

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES. Madam President, I yield myself such time as I might consume.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Madam President, I thank my colleague, Senator GRASSLEY, for his leadership and for his desire for us to pass a trade adjustment bill. Unfortunately, we have to pass three bills at once. We should be passing one bill. I have spoken about that issue a couple of times.

This is the legislation we have before us. It is pretty thick and comprehensive legislation. It has three bills in it. I venture to say a lot of my colleagues do not know the substance of the bill. I have been doing a little homework on it, and the more I find out about the amendment that is pending the less I like about it.

For example, I do not think we should combine trade adjustment assistance in the same package as trade promotion authority. Historically, we have never done that, and we do not need to do it now. Some people are trying to take trade promotion authority hostage, which they know the President wants, and say: We will not give it to you unless you pay our ransom, and our ransom is enormous new entitlements, one of which is trade adjustment assistance; that includes not just

training, but also the Federal Government picking up three-fourths of the health care costs, compromised down to 70 percent.

Interestingly enough, if one qualifies for the health benefits under trade adjustment assistance, looking at page 147, where it starts, to page 155, it says if you are going to get the health care tax credits—and they are refundable, so Uncle Sam will write you a check—you cannot have other coverage. You cannot have Medicare, Medicaid or SCHIP. It is in the bill. Maybe our colleagues did not know that.

What they are trying to do for the steelworkers is to pick up health care costs for their retirees, and, incidentally, they can have Medicare or Medicaid. I do not find that to be fair. This is like saying we are going to give qualifying individuals trade adjustment assistance; we are going to give them health care or help them with their health care expenses, but the steelworkers can have Medicare, too, and everybody else cannot.

Three-fourths of the beneficiaries under this proposal, according to the sponsors, are now Medicare eligible. Everybody else is going to be excluded—they cannot have both—but, incidentally, steelworkers can have both.

I asked the question last week: If we are going to do it for steelworkers, why not do it for textile workers; why not do it for auto workers; why not do it for airline workers? All these industries have lost thousands of jobs. What about communications workers? They have lost thousands of jobs too. Are we not concerned about their health care costs? We are going to single out one industry, one union and say: We are going to give you enormous benefits.

Some people have said the cost of this benefit is \$179 million over 10 years. The bill says the benefit period is for 12 months, but they say the total cost is \$179 million. What they did not include is another \$58 million which is included in the same CBO number that says cost and outlays are actually \$237 million. That was omitted in the debate we had last week.

I am looking at the amendment. I have stated a couple of times that I want the Senate to work and I want the Senate to work effectively and efficiently, and it is not doing so. It is not doing so when we take up a bill such as this with three bills in one.

The trade promotion authority section of the bill was passed out of the Finance Committee. The Andean Trade Act was passed out of the Finance Committee. Trade adjustment assistance was passed out of the Finance Committee, but the trade adjustment assistance proposal included in this did not pass out of the Finance Committee. Senator DASCHLE and maybe Senator BAUCUS revised it and included a lot of new items.

Now I am looking at the pending amendment that deals with steel on which we are going to be voting mo-

mentarily. Talk about a crummy way to legislate. This is the amendment Senator DASCHLE and others offered. It talks about eligibility for assistance. I am trying to comprehend who is going to be eligible, and the other day I asked questions about who is going to be eligible.

It says on page 2 of this amendment: Referred to the Trade Act of 1974 as amended by S. 2189 as introduced on April 17, 2002. Here is S. 2189 as introduced by several individuals—Senator ROCKEFELLER, I believe, is the principal sponsor—on April 17. This was introduced a month ago. It has never had a hearing, and two or three times in the pending amendment, it refers to S. 2189 as if it is law.

The cost of S. 2189 has never been formally estimated by CBO, but I heard estimates up to \$13 billion. Its eligibility is much broader than the pending amendment, but the pending bill continues to refer to S. 2189, as if that is the statute we are going to follow for eligibility. There is a lot of confusing nonsense between these two, neither of which have had a hearing before the Finance Committee in the Senate, and they are enormously expensive. They are brandnew entitlements.

I am troubled by the fact that we would ask taxpayers, many of whom do not have health care but they pay taxes, to be subsidizing retirees who have health care and are in the Medicare system. We already pay for their Medicare. Now we are saying we want to pay for their Medicare supplement. We have never done that.

Picking up an individual's Medigap policy has not been a responsibility of the Federal Government. That is what we are doing under this proposal for three-fourths of the individuals. Many other people who are a lot younger than age 65 will also qualify.

I question the wisdom of whether or not we should be asking all taxpayers to be benefiting one particular union and say: We are going to bail you out; we are going to take care of your retirees' health care costs, but we are not going to do it for textile workers, we are not going to do it for communications workers, we are not going to do it for auto workers.

Wait, maybe we are going to. Maybe this is the camel's nose under the tent and we will do this industry by industry. Whoever has the stronger lobby, whoever puts the money forward, whoever asks Congress, maybe has the most organized proponents: Let's have a bailout and pick up the cost of health care for our retirees; we cannot afford it so, please, taxpayers, you take care of us.

We already have taxpayers picking up Medicare and Medicaid, and now we are telling people: Yes, now we are going to pick up all extraneous benefits. Unions and management, you do not need to worry about what you negotiate because Uncle Sam, if you cannot afford it, if you go bankrupt, we will pick it up for you; just be irrespon-

sible as can be, and we will pick it up for you.

I do not think that makes a lot of sense. This also is detrimental to a lot of companies in the steel industry who are not in this situation, who have been responsible, who are trying to make ends meet, fulfilling their commitments and abiding by their contracts. We are asking them to subsidize their competitors. I fail to see the wisdom in this effort.

I urge my colleagues to vote no on this cloture motion. I yield the floor.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The Senator has 3 minutes.

Mr. WELLSTONE. Madam President, I will take 1 minute, and there will be 1 minute for Senator MIKULSKI and 1 minute for Senator ROCKEFELLER.

The PRESIDING OFFICER. The Senator has that right.

Mr. WELLSTONE. Madam President, I do not know how to do this in a minute, but I have listened to my colleague from Oklahoma. I think his problem is he just does not like trade adjustment assistance. His problem is he just does not think, when it comes to some of the most pressing issues of people's lives—in this particular case retired steelworkers and taconite workers—there is not anything the Government can and should do. That is his position.

Mr. NICKLES. Will the Senator yield for a moment?

Mr. WELLSTONE. I will be willing to yield on my colleagues' time.

Mr. NICKLES. I will be happy to yield the time. I point out, it is against Senate rules ever to impugn a Senator's motive. I want to make sure the Senator does not violate that rule.

Also, I will be happy to explain my position. Trade adjustment assistance never included health care and I think it is a mistake without having any idea, and I think it is a serious mistake to do so for one industry. The Senator is correct.

Mr. WELLSTONE. I thank my colleague. Actually, I was not talking about personal motives. I said I think my colleague does not like the trade adjustment assistance as part of this legislation because I think that is what he said.

The PRESIDING OFFICER. There are 2 minutes remaining.

Mr. WELLSTONE. Madam President, I think this is the right thing to do, and I hope colleagues will support it.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Madam President, I want to close for our side, if that is all right with my colleagues.

I say to the Senator from Oklahoma he is using the classic, sort of nose-under-the-tent approach. No other industry has ever gone before the ITC in the last 20 years and come out with a unanimous vote proving injury because

of imports as has the steel industry. No other industry has ever been so totally and entirely neglected by the U.S. Federal Government, under Republican and Democratic leadership, allowing cartels and state-owned subsidies to simply crush our steel industry. What we are talking about, and what we are voting on, is whether steel retirees who lost the health coverage they earned because their company shut down permanently due to an import crisis should get the benefit of 1 year of health care, and only get it once. We understand that we pay for the cost, that the pay-go is taken care of. The essence of the vote is before the Senate.

I further say that the Senator from Oklahoma, I am sure, misunderstands one thing: Other industries—I think he refers to the minimills—the minimills support this amendment, and we have a letter from Nucor, the largest, to so say. This is a matter of people, only 125,000. It is paid for in a tax-friendly way.

I urge my colleagues to support the cloture vote.

The PRESIDING OFFICER. The time of the Senator from West Virginia has expired.

The Senator from Iowa has 4 minutes.

The Senator from Oklahoma.

Mr. NICKLES. I wish to correct the RECORD. I think I stated in the RECORD earlier that the total cost was \$179 million, plus the pay. Now I am told by staff that the \$58 million is already included in the \$179 million, so I wish to correct that. The total cost estimate by CBO is \$179 million, not \$237 million. I misread.

I ask unanimous consent that this chart be printed in the RECORD at the conclusion of my statement.

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

(See exhibit No. 1.)

Mr. NICKLES. Let me reiterate to my friend from Minnesota, I have already supported trade adjustment assistance. Trade adjustment assistance is to provide assistance to people who

lose their jobs in training. That is the purpose of the program. The average cost has been about \$10,000 a year. About one out of three who are eligible have participated in the program to be retrained to get a job. I support that.

Now our colleagues are saying, in addition to that, we want to offer health care, and health care up to 2 years. If people believe we are going to take a program such as this and say to retired steelworkers, we are going to give this benefit for 1 year, I do not believe it. The bill they referred to, S. 2189, is a permanent program and its cost is estimated to be \$13 billion, not a 1-year program, not a couple-hundred-million-dollar program. It is a permanent program. That is their objective, to have the Federal Government pick up retired steelworkers' health care costs. I do not think that is fair to taxpayers. I do not think it is fair to other industries such as textiles, the auto industry, airlines, and others that have also suffered losses.

So I urge my colleagues to vote no.

#### ESTIMATED REVENUE EFFECTS OF TAA HEALTH COVERAGE PROVISIONS AND MISCELLANEOUS REVENUE OFFSET PROVISIONS

(Fiscal years 2002–2012; in millions of dollars)

Provision	Effective	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2002–07	2002–12
Provide a Refundable Income Tax Credit for 70% of the Cost of the Purchase of Qualified Health Insurance by Persons Who are Certain Steelworker Retirees (includes outlay effect).	ppa 12/31/01	.....	-86	-25	-50	-16	-2	.....	.....	.....	.....	.....	-179	-179
Miscellaneous Revenue Offset Provisions:														
1. Authorize IRS to enter into installment agreements that provide for partial payment	iaei/a DOE	11	30	14	5	(1)	(1)	(1)	(1)	(1)	(1)	(1)	61	63
2. Deposits to stop the running of interests on potential underpayments	dma DOE	19	76	47	-4	-4	-4	-4	-5	-5	-5	-6	130	104
Total of Miscellaneous Revenue Offset Provisions		30	106	61	1	-4	-4	-4	-5	-5	-5	-6	191	167
Total		30	20	36	-49	-20	-6	-4	-5	-5	-5	-6	12	-12
Increase in Outlays Due to refundable Income Tax Credit for 70% of the Cost of the Purchase of Qualified Health Insurance by Persons Who are Certain Steelworker Retirees.	ppa 12/31/01	.....	26	8	17	6	1	.....	.....	.....	.....	.....	58	58
Total revenue effect (excludes outlay effect of refundable steelworker health insurance credit)		30	46	44	-32	-14	-5	-4	-5	-5	-5	-6	70	46

<sup>1</sup> Gain of less than \$500,000.

Legend for "Effective" column: dma=distributions made after; DOE=date of enactment; iaeio/a=installment agreements entered into on or after; ppa=premiums paid after.

Note.—Details may not add to totals due to rounding.

Source: Joint Committee on Taxation.

Mr. GRASSLEY. How much time is remaining on this side?

The PRESIDING OFFICER. The Senator from Iowa has 2 minutes 50 seconds.

Mr. GRASSLEY. I yield myself the remainder of that time.

Madam President, for several years we have been debating what to do about the millions of people without health insurance coverage and about prescription drug coverage for seniors under Medicare. We may decide that steel retirees fit into our deliberations on the uninsured. We could otherwise decide as well. But we at least ought to be debating the issues of this legislation and their implication on the uninsured in regard to those bigger issues and not on this legislation.

Bear in mind that there is another irony with the steel legacy cost proposal. Some very large steel companies, LTV and Bethlehem as examples, went bankrupt in part because the 1992 energy tax bill mandated them to pay retiree health care obligations for former coal employees under the Coal Industry Retiree Health Benefit Act. Over the past 10 years, these now-bankrupt steel companies have spent hundreds of millions of dollars paying for

the irresponsible health care promises of the Bituminous Coal Operators Association and the United Mine Workers. Think about that.

The shifting of health retiree costs is a vicious circle. This amendment expands the trade adjustment health insurance assistance to steelworkers whose companies permanently closed operations while in bankruptcy. Think about who ends up then paying for it. It is the rest of America. It is the taxpayers, from the single-mother waitress with children who does not have health care for those children and herself; it is the white-collar worker in Silicon Valley who does not have health care; it is the Midwestern farmer who pays for his family's health care out of his own pocket as a self-employed person; it is the other retirees who pay tax on their Social Security benefits.

This amendment then creates a double standard. There is one standard, guaranteed health care for one class of folks, retired steelworkers for a few companies. Then there is another standard for everyone else. Is that fair? Does that make sense?

This bizarre proposal is compounded further by the double standard it cre-

ates for steel industry retirees. That is right. What we have is a rifleshot for a couple of companies. I have been one who has fought rifleshots in the Tax Code. Well, my fellow Senators have a rifleshot in front of them, and I hope we can stop it.

The PRESIDING OFFICER (Mr. NELSON of Florida). The time of the Senator has expired.

#### CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate the pending cloture motion, which the clerk will read.

The assistant legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the Rockefeller amendment No. 3433:

Jay Rockefeller, Paul Wellstone, Barbara Mikulski, Charles Schumer, Edward Kennedy, Joseph Lieberman, Richard J. Durbin, John F. Kerry, Barbara Boxer, Harry Reid, Tom Daschle, Christopher J. Dodd, Thomas R. Carper, Paul Sarbanes, Jon Corzine, Patrick Leahy, Debbie Stabenow.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived. The question is, Is it the sense of the Senate that debate on amendment No. 3433 to H.R. 3009, an act to extend the Andean Trade Preference Act to grant additional trade benefits under that act, and for other purposes, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Georgia (Mr. MILLER) is necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS), the Senator from Arkansas (Mr. HUTCHINSON), and the Senator from Oklahoma (Mr. INHOFE) are necessarily absent.

The yeas and nays resulted—yeas 56, nays 40, as follows:

[Rollcall Vote No. 117 Leg.]

#### YEAS—56

Akaka	DeWine	Lieberman
Baucus	Dodd	Lincoln
Bayh	Dorgan	Lugar
Biden	Durbin	Mikulski
Bingaman	Edwards	Murray
Boxer	Feingold	Nelson (FL)
Breaux	Feinstein	Reed
Bunning	Graham	Reid
Byrd	Harkin	Rockefeller
Campbell	Hollings	Sarbanes
Cantwell	Inouye	Schumer
Carnahan	Jeffords	Shelby
Carper	Johnson	Specter
Cleland	Kennedy	Stabenow
Clinton	Kerry	Torricelli
Conrad	Kohl	Voinovich
Corzine	Landrieu	Wellstone
Daschle	Leahy	Wyden
Dayton	Levin	

#### NAYS—40

Allard	Fitzgerald	Nickles
Allen	Frist	Roberts
Bennett	Gramm	Santorum
Bond	Grassley	Sessions
Brownback	Gregg	Smith (NH)
Burns	Hagel	Smith (OR)
Chafee	Hatch	Snowe
Cochran	Hutchison	Stevens
Collins	Kyl	Thomas
Craig	Lott	Thompson
Crapo	McCain	Thurmond
Domenici	McConnell	Warner
Ensign	Murkowski	
Enzi	Nelson (NE)	

#### NOT VOTING—4

Helms	Inhofe
Hutchinson	Miller

The PRESIDING OFFICER. On this vote, the yeas are 56; the nays are 40. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The Senator from Nevada.

AMENDMENT NO. 3433 WITHDRAWN

Mr. REID. Mr. President, I withdraw amendment No. 3433.

The PRESIDING OFFICER. The amendment is withdrawn.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

Mr. GREGG. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue calling the roll.

The legislative clerk continued with the call of the roll.

Mr. BAUCUS. 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. BAUCUS. Mr. President, I call for the regular order.

AMENDMENT NO. 3406

The PRESIDING OFFICER. Amendment No. 3406, offered by the Senator from Virginia, is the pending business.

Mr. BAUCUS. Mr. President, I inquire of my good friend from Virginia if he is willing to enter into a time agreement on this amendment of, say, 10 minutes.

Mr. ALLEN. I will agree to that.

Mr. GRAMM. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. REID. Reserving the right to object, Mr. President, I ask—

The PRESIDING OFFICER. Objection has been heard.

Mr. REID. Mr. President, who has the floor now?

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

Mr. BAUCUS. Mr. President, I move to table the Allen amendment.

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

The PRESIDING OFFICER. Is there a sufficient second on the motion to table? At the moment, there is not a sufficient second. A motion to table has been made.

The clerk will call the roll to ascertain the presence of a quorum.

The legislative clerk proceeded to call the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 2]

Allen	Gramm	Reid
Baucus	Grassley	Roberts
Carnahan	Gregg	Snowe
Dorgan	Nelson (FL)	

The PRESIDING OFFICER (Mrs. CARNAHAN). A quorum is not present.

Mr. REID. Madam President, I move that the Sergeant at Arms be instructed to request the presence of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Iowa (Mr. HARKIN), the Senator from Massachusetts (Mr. KERRY), and the Senator from Rhode Island (Mr. REED) are necessarily absent.

Mr. NICKLES. I announce that the Senator from Tennessee (Mr. THOMPSON), the Senator from North Carolina

(Mr. HELMS), the Senator from Arkansas (Mr. HUTCHINSON), and the Senator from Oklahoma (Mr. INHOFE) are necessarily absent.

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

The result was announced—yeas 58, nays 35, as follows:

[Rollcall Vote No. 118 Leg.]

#### YEAS—58

Akaka	Domenici	Levin
Baucus	Dorgan	Lieberman
Bayh	Durbin	Lincoln
Biden	Edwards	Mikulski
Bingaman	Feingold	Miller
Boxer	Feinstein	Murray
Brownback	Graham	Nelson (FL)
Byrd	Gramm	Nelson (NE)
Cantwell	Grassley	Reid
Carnahan	Gregg	Rockefeller
Carper	Hagel	Sarbanes
Chafee	Hatch	Schumer
Cleland	Hollings	Snowe
Clinton	Inouye	Stabenow
Cochran	Jeffords	Torricelli
Conrad	Johnson	Voinovich
Corzine	Kennedy	Wellstone
Daschle	Kohl	Wyden
Dayton	Landrieu	
Dodd	Leahy	

#### NAYS—35

Allard	Ensign	Roberts
Allen	Enzi	Santorum
Bennett	Fitzgerald	Sessions
Bond	Frist	Shelby
Breaux	Hutchison	Smith (NH)
Bunning	Kyl	Smith (OR)
Burns	Lott	Specter
Campbell	Lugar	Stevens
Collins	McCain	Thomas
Craig	McConnell	Thurmond
Crapo	Murkowski	Warner
DeWine	Nickles	

#### NOT VOTING—7

Harkin	Inhofe	Thompson
Helms	Kerry	
Hutchinson	Reed	

The motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

Mr. DASCHLE. Madam President, I ask for the yeas and nays on the motion to table the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DASCHLE. Madam President, I ask unanimous consent that if a point of order lies against the Allen amendment, the motion to table be withdrawn, and the Senate vote at 2:15 on the Allen motion to waive the Budget Act with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DASCHLE. I yield the floor.

#### RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15.

Thereupon, the Senate at 12:37 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mrs. CLINTON).



# ANDEAN TRADE PREFERENCE EXPANSION ACT—Continued

The PRESIDING OFFICER. The Senator from Mississippi.

AMENDMENT NO. 3406

Mr. LOTT. Parliamentary inquiry, Madam President. What is the pending order of business?

The PRESIDING OFFICER. There is a motion to table the Allen amendment.

Mr. LOTT. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) and the Senator from Arkansas (Mr. HUTCHINSON) are necessarily absent.

The yeas and nays resulted—yeas 49, nays 49, as follows:

[Rollcall Vote No. 119 Leg.]

## YEAS—49

Allard	Enzi	Murkowski
Baucus	Frist	Nelson (FL)
Bennett	Gramm	Nelson (NE)
Bond	Grassley	Nickles
Breaux	Gregg	Reid
Brownback	Hagel	Roberts
Burns	Hatch	Santorum
Byrd	Hutchison	Smith (NH)
Campbell	Inhofe	Smith (OR)
Chafee	Inouye	Stevens
Cochran	Jeffords	Thomas
Conrad	Kyl	Thompson
Craig	Lincoln	Torricelli
Crapo	Lott	Voinovich
Daschle	Lugar	Wydén
Domenici	McCaín	
Ensign	McConnell	

## NAYS—49

Akaka	Dorgan	Mikulski
Allen	Durbin	Miller
Bayh	Edwards	Murray
Biden	Feingold	Reed
Bingaman	Feinstein	Rockefeller
Boxer	Fitzgerald	Sarbanes
Bunning	Graham	Schumer
Cantwell	Harkin	Sessions
Carnahan	Hollings	Shelby
Carper	Johnson	Snowe
Cleland	Kennedy	Specter
Clinton	Kerry	Stabenow
Collins	Kohl	Thurmond
Corzine	Landrieu	Warner
Dayton	Leahy	Wellstone
DeWine	Levin	
Dodd	Lieberman	

## NOT VOTING—2

Helms	Hutchinson
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The VICE PRESIDENT. On this question, the yeas are 49, the nays are 49. The Senate being equally divided, the Vice President votes "yes," and the motion to table is agreed to.

Mr. GRAMM. I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER (Mrs. CLINTON). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. Madam President, I ask unanimous consent there be 30 minutes equally divided in the usual form prior to a vote in relation to the Hutchison amendment No. 3441; that upon disposition of the Hutchison amendment, the Kerry amendment No. 3430, be the pending business, with 60 minutes for debate equally divided and controlled in the usual form prior to a vote in relation to the amendment; that upon disposition of the Kerry amendment, the Senate resume the Dorgan amendment No. 3439, there be 30 minutes of debate controlled by Senator DORGAN, and that at the use or yielding back of that time, the amendment be withdrawn without further intervening objection or debate; that no second-degree amendments be in order to either the Hutchison or Kerry amendments covered under this unanimous consent agreement prior to a vote in relation to the amendments.

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

Mr. REID. This last vote took a long time; the vote this morning took a long time. The Democrats and the Republicans are now even. We will have 25 minutes, the majority said, before we will cut off the votes. Everyone should be on notice. That means whether we have a hearing with the Defense Department or we are in a car wreck in front of the Labor Department, it doesn't matter, after 25 minutes we will cut off the vote.

Mr. LOTT. Having been in the same position on how long these votes require, I understand and support what the assistant majority leader stated. We need to bring these votes to a conclusion.

I must add, though, in the last vote we did have a Senator who had been involved in a little accident and had to take a little extra time to get here; otherwise, we would not have asked it be held so long. I think it is fair notice that everyone realize we have a lot of work to do. We cannot hold every vote open 20 or more minutes. We will try to cooperate with the democratic leadership in that effort.

Mr. REID. If the Republican leader will yield, the votes are 15 minutes; we will extend them an extra 10 minutes. The votes are still 15 minutes.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 3441

Mrs. HUTCHISON. Madam President, I call up amendment No. 3441 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. CARPER). The Senator from Texas is recognized.

Mrs. HUTCHISON. I introduce this amendment to the trade package. I strongly support the bill on the floor, including the Andean Trade Preference Act and the Generalized System of

Preferences. These programs seek to help the Andean countries of Bolivia, Columbia, Ecuador, and Peru, and other developing nations, by applying preferential treatment for their exports.

We want to reduce and eliminate tariffs on imports from these countries to help them develop stronger economies. These programs benefit both countries. They improve the lives of the citizens of the exporting countries through improved economic conditions. These programs give open access to the U.S. market, the best market in the world.

For example, since the Andean Trade Preference Act went into effect in 1991, the Andean nations have experienced \$3.2 billion in new output and \$1.7 billion in new exports. This has led to the creation of more than 140,000 legitimate jobs in the region. These programs help the United States by developing better markets for our exports. If we can help developing countries increase economic growth and prosperity, they, then, will demand more imports, which will, of course, provide U.S. manufacturers with more consumers for their products.

Another important benefit of the Andean Trade Preference Act is that by providing for the people of these regions employment opportunities in legitimate businesses, we hope to keep them from needing or wanting or in any way being drawn to narcotics businesses. This contributes greatly to promoting stability in the area and to our efforts to reduce the flow of illegal drugs across our borders.

It is clear that the Andean Trade Preference Act and the Generalized System of Preferences help both sides. Since we are giving a benefit to these countries, however, we do have the right to expect something in return to ensure that we do not help countries that may work against our interests in other ways. For this reason, we have established conditions that a country must meet in order to qualify as a beneficiary.

Conditions we have required in the past include that a beneficiary not be a Communist-controlled country; that it has not nationalized or expropriated property of U.S. citizens; that it enforce the protection of intellectual property of U.S. citizens; certainly we want it to recognize binding arbitration awards in favor of U.S. citizens; we want to make sure they give preferential treatment to the United States if they give it to other developed nations; we want to make sure that any country with which we have these preferences is a signatory to an extradition treaty with the United States; and we want to make sure they recognize workers' rights.

In the bill before the Senate today we add seven more criteria that the President must consider before designating a country a beneficiary, including whether the country has demonstrated a commitment to the WTO and to negotiating a Free Trade Area of the

Americas; that the protection of intellectual property rights is consistent with the Uruguay Round agreement; that the country provides specific workers rights; demonstrates a commitment to eliminating the worst forms of child labor; that the country has met counter-narcotics certification criteria; that the country has taken steps to implement an anti-corruption convention; and that government procurement procedures are transparent and nondiscriminatory.

As I have looked at this list of criteria, I noticed a glaring omission. We are in the middle of a war on terrorism; yet there is no requirement that a country with which we would have fair trade and give preferences would support us in that war. It is clear we are fighting a war for freedom itself. We can't win this war alone. We need the help of our friends and allies around the world, for example, to track down terrorist cells or to cut off funds. More than \$100 million in assets of terrorists and their supporters have been frozen around the world. Of that \$100 million, the United States has frozen about \$30 million. The other \$70 million has been cut off by various allies. We must have the cooperation of allies and friends if we are going to defeat the enemy of freedom.

I am introducing an amendment today that establishes a requirement in addition to the seven new requirements that we have included in the bill before the Senate that the country support our efforts in the war on terrorism in order to receive beneficiary status under the Andean Trade Preference Act or Generalized System of Preferences. The kind of help that each country can give will vary and it may depend on the circumstances a particular country faces, the opportunity presented to it. Some will help us militarily, some will cut off funds, while others will share intelligence which can be very helpful, very important. Some may do so publicly, some privately. It is even possible a country may not have an opportunity to provide anything but moral support, but we want that moral support.

We want the country to be on the record helping us in the fight for freedom and making sure that a terrorist network cannot gain a foothold in any country with whom we have trade preferences.

I don't think it would be appropriate to try to specify the kind of help that a country must give. But I believe we must make it clear that we expect the country receiving preferences from the United States with whom we will start trade, we will have commerce, we will send goods in, and we will hopefully export goods from that country to the United States—there will be a lot of commerce. We need to make sure that the people with whom we are trading will respect this war on terrorism and be helpful to our country in rooting out terrorism wherever it may be.

I hope my colleagues will support this effort. I certainly think it is going

to be very important for us to have the help of every nation on Earth. Every nation that is freedom loving is also a nation that is at risk, if we don't win this war on terrorism. If these terrorists can defeat the United States of America, they will try to take over the world and wipe out freedom wherever it may be. We are in this together. We must have the full cooperation of every country with whom we are trading.

The bill before us today is going to put America, I hope, in a much better position to have better trade relations with countries around the world. The Andean Trade Preference Act has been in place but has lapsed. These poor countries are certainly good partners. We want to continue to have good trade relations with these countries and help them build democracies and stable governments.

There are 130 free trade agreements in the world. The United States is party to only three. The Andean Trade Preference Act has lapsed. We will hopefully renew it with passage of this legislation. But there are 130 agreements in the world, and the United States is party to only three. That is not a tenable situation.

We need to open our markets. We need to provide more jobs in America by exporting products. We need to help other countries have access to the great market of the United States of America which has the greatest consumer capacity in the world. We need to be open to these countries that need this kind of help to stabilize their own governments. It is in everyone's best interest that we have free and fair trade. It promotes freedom and democracy.

If we are going to have free and fair trade to promote freedom and democracy, we should certainly require that people help us in the war on terrorism. The war on terrorism is the war to protect freedom in the world. It goes hand in hand with free and fair trade, democracy, free enterprise, and open government. But we must also win the war on terrorism and protect freedom for ourselves, our allies, and our trading partners throughout the world.

I urge my colleagues to support this amendment to add the eighth criteria to the seven that the President would use to select countries that would receive the preferences of our country.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? At the moment, there is not a sufficient second.

The Senator from Montana.

Mr. BAUCUS. Mr. President, parliamentary inquiry.

Mrs. HUTCHISON. I asked for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mrs. HUTCHISON. Mr. President, I inform the Senator from Montana that if there is no one on the other side, I am prepared to yield back the time.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I think the Senator from Texas has a good idea. Under current law, there is discretion but this would extend benefits. Certainly strong consideration should be given to a country's support or lack of support for our war on terrorism.

I think the Senator has added a very valuable additional criteria to the President's which should be considered. I urge all Senators to support the amendment.

I yield the remainder of our time. We are ready for a vote.

The PRESIDING OFFICER. All time is yielded. The question is on agreeing to the amendment. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS), the Senator from Tennessee (Mr. THOMPSON), the Senator from Arkansas (Mr. HUTCHINSON), and the Senator from New Hampshire (Mr. GREGG) are necessarily absent.

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

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 120 Leg.]

YEAS—96

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

NOT VOTING—4

Gregg  
Helms  
Hutchinson  
Thompson

The amendment (No. 3441) was agreed to.

Mr. BAUCUS. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3430

The PRESIDING OFFICER. Under the previous order, there is 60 minutes on the Kerry amendment No. 3430.

Mr. BAUCUS. Mr. President, the next amendment is the Kerry amendment,

as the Chair announced, with 60 minutes evenly divided. I am just going to take a few minutes until the Senator from Massachusetts is back, so he can speak on his amendment.

Very briefly, this amendment may sound good on the surface, but for very compelling reasons it is not a good idea. It is a very bad idea. I will tell you why. It is true that under current law, one has the argument that foreign investors are at an advantage compared to domestic investors in seeking to protect their rights, say, in a fifth amendment takings question regarding, say, an environmental statute. The Methanex case dealing with MTBEs in California has not yet been resolved, but there is an argument that foreign investors in this case are in a more advantageous position than a U.S. investor with respect to the same kind of proceeding, and that is because of the way investor-state relationship rights are written under chapter 11 of NAFTA.

There are many treaties which govern investor-state relations that are causing some question. One is the one I mentioned. I will not get into great detail as to why the amendment offered by the good Senator from Massachusetts should not be adopted. Suffice it to say that in this underlying bill we have made major changes to "level the playing field" between foreign and domestic investors, as well as the rights of those seeking to uphold municipal and State regulations with respect to public health, safety, and the environment. It is totally a level playing field.

To make that point even further, we adopted in the underlying bill a provision suggested by the Senator from Massachusetts, Mr. KERRY, which made it crystal clear the rights of foreign investors in America do not enjoy an advantageous position over the rights of American investors to make sure the playing field is exactly level.

As a matter of comity, I can now let the Senator from Massachusetts go ahead and explain his amendment. I thought I would get started while we were waiting for the Senator to come to the Chamber. He has had some other matters to attend. He is here immediately, and we are glad to have him here to speak to the amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, are we operating under any time constraints?

The PRESIDING OFFICER. There is 60 minutes of debate equally divided.

Mr. KERRY. Mr. President, I yield myself such time as I may use.

I want to acknowledge the hard work the chairman and ranking member and those who are trying to press this issue have made. The issue I am raising does not threaten the capacity of investor-state relationships to be protected.

Let's be very clear about what is happening. As is so often the case on the floor of the Senate, especially when we are limited in time as to how much de-

bate we are going to have, and when we get into these pressure situations, big arguments are thrown out. People raise these red herrings and these notions of sort of a threat to business or to treaties or other things. I respectfully submit that a careful analysis of what we do does not in any way threaten the capacity of the investor-state relationships to be protected under treaties and, specifically, for this trade relationship that somehow we are going to approve on the floor—and I am going to vote for it. I am not trying to disrupt the process. I am here trying to make this process fair and sensible.

The fact is that chapter 11 of NAFTA is designed to provide foreign investors with the means to seek compensation when a government takes action to decrease the value of the investment. We obviously want that; other investors want that. If a government takes an action that decreases the value of the investment, people have a right to recourse. Either the action of the government might be through the direct physical seizure of property or it might be indirect regulatory action of some kind. That process, which we set up in this legislation, is the model for how that will be done. So it is appropriate that we do that here.

But I am not coming to the floor expressing a concern that is mine alone. The U.S. Conference of Mayors supports this amendment. The National Council of State Legislatures supports this amendment. The National Association of Attorneys General supports this amendment, and countless other State and government entities do. The attorney general of the chairman's home State of Montana supports it.

On May 14 he wrote:

I applaud the Baucus amendment, but remain concerned that the amendment would not be adequate to protect United States sovereign interests and preserve the authority of the U.S. Government at all levels to enact and enforce reasonable measures to protect the public welfare.

A lot of people have grown upset and concerned about the effect of NAFTA's investment settlement dispute process and the effect it has had on the ability of those States to promulgate legitimate health and safety laws. The National Association of Manufacturers—no supporter of this amendment—has acknowledged that investment provisions such as you find in chapter 11 of NAFTA merit improvement. They have even acknowledged it needs improvement.

So the test here is not whether we ought to be doing this, but whether we are improving it. The reason it is so important is the following: When we passed NAFTA, there wasn't one word of debate on the subject of the chapter 11 resolution—not one word. Nobody knew what was going to happen. Nobody knew what the impacts might be. And, steadily, foreign investment in the United States is increasing. That trend will be accelerated as we have a free trade area of the Americas agree-

ment that is being developed. A recent report by the Taxpayers for Common Sense at Tufts University shows that, unless we change the chapter 11 model, claims against the United States will average \$32 billion annually. That is just in terms of claims. It doesn't even address the millions of dollars the Federal Government is going to spend defending against these claims.

Let me explain this in sort of graphic terms. I want to add that among the groups supporting the amendment are the National Conference of State Legislatures, Conference of Mayors, National League of Cities, Conference of Chief Justices, Taxpayers for Common Sense, Consumers Union, League of Conservation Voters. All of them support the notion that we have to change this particular amendment.

The letters of the attorneys general of New York, California, and Montana are particularly instructive.

The attorney general of New York wrote:

The rights granted foreign investors under H.R. 3005 could go far beyond the carefully fashioned taking and due process jurisprudence articulated by the U.S. Supreme Court under the 5th and 14th amendments.

In other words, unless we change this, we are giving to foreign investors the right to have an application of standards that go well beyond the fourth and fifth constitutional amendments, which are applied to businesses here at home.

It has the ability to apply a takings standard, an expropriation standard that, in effect, is subject to a whole looser standard than that required by the Constitution of the United States.

What my colleagues are being asked to vote on is, Do you believe that American businesses ought to be subject to a fair playing field and that foreign investors should not be advantaged over American investors and the standards by which our businesses do business at home?

There are a lot of examples. Let me share quickly the concern of Montana Attorney General Mike McGrath. He wrote:

I frankly believe an overwhelming majority of American people and Montanans would react with outrage to the idea that an otherwise final and definitive ruling of our domestic courts would be reversed by foreign arbitration panels and could provide the basis for monetary claims against United States taxpayers.

He could not put it better. That is exactly already what is happening. It is happening right now. Let me share with my colleagues a few of the cases in which that is now happening.

First of all, there is the Methanex case, the most notorious of the cases, in which a Canadian corporation is suing for California's ban on MTBE. The details are fairly straightforward.

In 1998, the Governor of California banned the fuel additive MTBE because it has a tendency to leak out of gasoline storage tanks at a much faster rate than other blended gasoline, such as ethanol. We have just been through an ethanol fight on the floor of the

Senate. We decided that we think it is preferable to use ethanol to MTBE. MTBE travels quickly through the ground water, contaminating drinking water, leaving it foul smelling and bad tasting. It is also a known carcinogen and suspected carcinogen in humans.

Methanix, whose subsidiaries produce methanol, which is the M in the MTBE, filed a chapter 11 claim on the grounds that the ban diminishes their expected profits. Methanix claims that this public health law discriminates against the flow of capital and therefore discriminates against the goals of NAFTA.

I am not sure any of us would say that makes a lot of sense, but the arbitration panel has yet to agree, and the case demonstrates exactly why we need to protect legitimate health and welfare laws.

The Methanix case is the most expensive of any pending claim. They are seeking compensation and almost \$1 billion in damages. It is not just California that would suffer. All of us as a consequence would suffer because each State is subject to the same kind of problem, and that State, California in particular, would lose money out of education funds, highway funds, or other grants from the Federal Government were that case to succeed.

A less well known case, but perhaps more egregious, is the case against a jury finding by a Mississippi court against the Lowen Group, which is a Canadian-owned funeral parlor chain. Lowen was sued by a Biloxi funeral home for unlawful anticompetitive actions designed to drive up local insurance costs, forcing smaller funeral parlors into selling. A Mississippi State court agreed with the Biloxi funeral home and awarded \$500 million in damages.

Lowen appealed to the State supreme court which refused to reduce the bond amount needed to receive a stay. Instead of paying a bond, Lowen settled the case for \$175 million. It then proceeded to the NAFTA tribunal to file a claim. Lowen's chapter 11 case is predicated on the argument that the trial court's refusal to vacate the verdict was tantamount to an expropriation, and the case is now pending.

The message of this case and of the Methanix case could not be more clear: Anytime a foreign corporation dislikes the outcome of a U.S. jury trial, it can run to an international arbitration panel and try to get the ruling reversed. That is not what we wanted to have or intended to have happen in NAFTA, but the only way to protect it is to change that law now.

There are other cases. Let me call attention to the Mondev case which has nothing to do with the environment but everything to do with our sovereignty. The doctrine of sovereign immunity is centuries old in this country, and it holds that you cannot sue a government unless such a lawsuit is expressly permitted. But a claim against an action taken by the city of Boston

by Mondev International, a Canadian real estate developer, has challenged this concept before a NAFTA tribunal.

The Mondev case is an example of those cases where we ultimately see the sovereignty of the Supreme Court of the United States being subjected to second-guessing and questioning by a secret tribunal of NAFTA, over which we have no control of the standards because the standards have not been set to respect the Constitution of the United States.

I can remember how many times Senator HELMS from North Carolina has come to the Senate Chamber and said we should not sign a treaty that somehow obviates the demands of the Constitution of the United States. It seems to me that is precisely the principle which is at stake here, which is why Senator HELMS, who I know will not be here to vote, supports this amendment as others who believe the Constitution should not be subjected to second-guessing by an international tribunal.

These second-guessing efforts will have a chilling effect in the end on investment. They create expensive litigation. Just the threat of the litigation is, in and of itself, a chilling effect. I believe, based on these claims, chapter 11, as it currently stands, can be used to threaten governments from enacting public health measures.

The Canadian Government has now sought to ban the use of the words "light," "mild," and "low tar" from cigarette advertising. Philip Morris recently issued a warning to Canada under NAFTA that Canada must compensate investors when measures appropriate investments in Canada. We are going to go back and forth on this. We are going to have a constant second-guessing and a constant challenging of these standards.

It seems to me we ought to recognize that the Baucus bill, as amended, does not ensure that long-held U.S. case law on expropriation is upheld. The Baucus bill allows cases still to be decided against the United States when regulatory or statutory actions result in a partial taking. Such a case would stand on far more tenuous grounds in U.S. courts based on U.S. law and legal precedents.

My amendment would ensure that foreign companies could use investment dispute mechanisms. We do not say they cannot do it. We honor the concept of NAFTA or any treaty creating a dispute mechanism, but when a Government action causes physical invasion of property or denial of economic use of that process, that should be consistent with U.S. Supreme Court holdings.

In the Concrete Pipe case which was decided by the Supreme Court in 1993, the Court said:

Our cases have long established that the mere diminution of a value of property, however serious, is insufficient to demonstrate a taking.

We should not subvert that holding of the Supreme Court by refusing to

embrace in this legislation a recognition of American sovereignty in court procedure.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. GRAMM. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. I yield 10 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized for 10 minutes.

Mr. GRAMM. Mr. President, we just heard a wonderful dissertation on the trade equivalent of single-entry book-keeping. Our dear colleague has talked on and on about investment protections in the United States, but he has not said one word about investment protections in other countries for American investors.

I want to take a moment to remind my colleagues of a little history that I think is critically important in understanding this issue.

At the end of World War II, we negotiated a series of treaties known as Friendship, Commerce, and Navigation Treaties. Later, in the 1980s, we began entering into what are known as bilateral investment treaties, and today we have 45 such treaties. In both the FCN treaties and the bilateral investment treaties, we established procedures to protect our investors overseas. These protections, which were modeled on familiar concepts of American law, became the standard for protection of private property and investment around the world. And they made sure that our investors were protected from unfair treatment by foreign nations.

Why does the business community in America adamantly opposed the Kerry amendment? It is not because of concerns about foreign investor protections here in America. It is because they are concerned about protections for Americans overseas. Investment is a reciprocal process. We negotiated 45 bilateral investment treaties in order to protect American investment from being confiscated by actions of other countries.

As for foreign investment in America, our colleague argues that billions of dollars will be lost to foreign investors. But he fails to point out that never, ever, have we lost a case since these 45 treaties have been in effect. Not once since chapter 11 of NAFTA has been in effect have we ever lost a case. Not once has there ever been a judgment against the United States of America for failing to protect private property or investments.

The problem with this amendment is very simple and straightforward. The problem is that we are not talking only about foreign investors in America. We are talking about American investors around the world as well. These investment agreements are reciprocal.

In countries all over the world, if an investor is a large American company,

for the most part that company is protected. The governments of those countries are not likely to mess with the company's investments. Nor are they likely to let their local units of government mess with those investments. But a real problem arises when smaller American businesses want to invest abroad. They may not be granted the protections they need.

If we take away the investor protections we have worked for years to establish, if we carve out certain areas where investor protections will not apply, if we narrow the scope of investor protections, we will be leaving American investors vulnerable to actions by foreign governments. And in turn we will be discouraging our businesses from investing around the world. Keep in mind that United States investment abroad helps create a market for American goods, promote capitalism, promote democracy, and do everything else that we in the United States want to see done around the world. It is critically important that that investment be protected.

Every day these investment treaties protect American investment around the world. Meanwhile, we have never lost a case under these same investment treaties.

Let me explain further to my colleagues what happens if we do not provide investment protections. American businesses in certain countries often end up being forced to deal with government corruption. Congress passed the Foreign Corruption Practices Act to try to stop such corruption. But under this amendment to lower investor protections, hundreds of billions of dollars of American investment abroad would be jeopardized. We are the largest investor in the world, and these protections are critically important to us.

Let me just recap, then. Today, we have 45 bilateral investment treaties in effect, and each one of them contains a procedure whereby if American investors have their property taken, if they are discriminated against, if they cannot send their earnings back to their home country, they have in place procedures under which they can get access to justice.

In 57 years since we have had investment treaties, never, ever has the United States of America lost a case. But every day these same treaties protect American investments in Central and South America, in Africa, in Asia, in the developing world, in the very countries we say we want to see develop capitalist and democratic systems.

If we adopt the Kerry amendment, not only would we be responding to a circumstance that has never existed, since America has never lost a case, but we would be undercutting protections for the hundreds of billions of dollars' worth of American investments abroad. And, because of the massive economic damage that would result, we would lose the support of the

business community for the trade promotion authority bill.

What would we gain if we adopted the Kerry amendment? We simply would gain some "degree of protection" in cases that seem silly on their face. It is hard for me to imagine that any of the cases mentioned could possibly result in an affirmative judgment, but that is speculation since no judgment has been made. In 57 years we have never had a judgment against the United States of America.

Remember, investment agreements are reciprocal. If the Kerry amendment applied only to investment in America, this would be a largely symbolic but not a very harmful amendment because American protections are solid. But investment protections are reciprocal. Therefore, whatever protections we pledge to apply to foreign investors in America are going to apply to our investors in Mexico, our investors in Africa, our investors in South America, and our investors in developing countries in Asia. Since the Kerry amendment would affect not only foreign investors here but our investors there, we would be stripping away the protections that American investment now have. We would be hurting American companies, and their hundreds of billions of dollars of potential investment, and we would lose the jobs, economic growth, and economic opportunity that has resulted from our status as the world's largest investing nation and the world's largest exporting nation.

The Kerry amendment should not be adopted. There is no basis for adopting it. It does our interests virtually no good in America, but it does massive harm to our interests everywhere else in the world.

I reserve the remainder of my time.

Mr. KERRY. How much time do I have remaining?

The PRESIDING OFFICER (Mr. JOHNSON). Fifteen minutes twenty-four seconds.

The Senator from Montana.

Mr. BAUCUS. I ask unanimous consent that the underlying time agreement be extended an additional 30 minutes equally divided.

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

The Senator from Massachusetts.

Mr. KERRY. Mr. President, let me answer my friend from Texas. There is no stronger debater, there is nobody obviously we know who is more capable of making an argument, but this is an argument in which the Senator is flat, dead wrong.

Only five cases are pending today that were brought against the United States in which we are a defendant under chapter 11. No case has yet been decided. When he says we have never lost a case, no case has been decided in which the United States is a defendant. We are currently a defendant in five cases, and there were only six cases until 1998. Since then, there have been another five cases. What the attorneys

general of our States and the conference of mayors of our States and those responsible for the taxpayer—I mean, the businesses are sitting there, many of them with offshore interests, many of them not paying any taxes. It is not going to come out of their pocket, but the average American taxpayer is going to feel the bite if we have an expropriation case decided against an American company that comes against, say, the State of California or another State, and that is going to come out of the pockets of our citizens.

Secondly, the Senator from Texas is absolutely incorrect when he suggests this is going to leave our companies defenseless abroad. Let me be very specific. If a foreign government overreaches, the same investor-state mechanism will exist. We do not take away the investor-state relationship. We honor it. We do not take away the investor-state mechanism for resolution of disputes. We leave it in place. All we do is say the standard by which it should apply should not be less than the standard applied by the Constitution of the United States. It is very simple. Our businesses, our States, our taxpayers, should not have another country or another business from another country suing us and claiming that one of our health laws or one of our environmental laws has taken away the profits of that company and then some international arbitration panel, without any American judge who applies the standards of the American courts' case law that has been settled, are going to decide, oh, yes, we think that is a great idea. Let's hit the taxpayers of California to pay us because our investors are losing a lot of money.

No one should doubt this is coming down the road. Chapter 11 has yet to be put to the test. Before it is put to the test, we ought to have the courage to say we are happy to honor the concept of an international standard, but don't undo the case law established by the Supreme Court of the United States. That is all we are saying.

My colleague from Texas tries to say we will undo years of settled procedure for companies doing business abroad. That is just not true. That is not what we are going to do. We are suggesting a U.S. investor abroad can still win a claim, provided the investor can show they are discriminated against on the grounds of national treatment, which is the international standard we have agreed to; a performance requirement is the basis of the offensive State action; the offending legislation as enacted or applied is discriminatory in purpose; and if there is a wrongful expropriation under the standards by the Supreme Court.

I remind my colleague that under the standards of the Supreme Court is Justice Scalia who has argued what that appropriate standard ought to be. Let me be specific. In the 1999 case *College Savings Bank vs. Florida Prepaid Postsecondary Education Expense Board*,

the Supreme Court ruled the activity of doing business or the activity of making a profit do not constitute forms of property that can be the basis of takings claims.

That is an opinion authored by Justice Scalia. We are suggesting what the Senator from Texas is allowing for is some arbitration panel with a group of people who do not believe in the Supreme Court standard, to suddenly say we will apply a different standard to the takings. That does a disservice to our businesses and a disservice to the American taxpayer.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. I have 2 minutes, and I would like to respond very briefly.

First, under the Kerry amendment, if you were an American investor, you could not even file a claim against a developing country that has taken your property unless the U.S. Government agrees to it. And what if the U.S. Government were in some sensitive negotiation with that country? They would want you to simply go away. Whoever heard of having investor protections that are determined on a case by case basis by a government rather than pursuant to an agreement?

Second, it is one thing for an amendment to say that we should borrow part of the evolving takings standard—and we all know that the takings doctrine is evolving—from the Supreme Court. But it is another thing to convert that evolving standard into a new international principle, with the result that if a developing country takes only 99.9 percent of an investor's property, the investor has no claim or protections.

Clearly, governments that are interested in shaking down American investors are not interested in taking the investor away; they are interested in being paid off for the right to do business in their country. A key purpose of the investment treaties we negotiated over the past 57 years was to prevent our investors from being forced to pay off corrupt governments abroad. That is what we have been trying to stop. Through the Cold War, where we did not have these agreements in place, American businesses had no choice but to pay off corrupt local governments, which the Communists then pointed to as capitalism. That caused us problems all over the world. We negotiated these agreements to put an end to those problems and instill the rule of law worldwide.

When we start imposing these limits requiring compensation only for total confiscation, requiring governmental approval in order to claim your protections, and then carving out specific areas where your protections and the rule of law do not apply, it does not take a corrupt government long to figure out that they can impose "regulations" or "special fees" or "targeted taxes" in the unprotected areas.

The net result is to extract money from American businesses. Not only is

that profoundly wrong, not only is it corrupt, it discourages investment, it hurts American companies, and it hurts American jobs.

It is one thing to say we do not need these protections for people who invest in America. But it is another to say that we do not need them for Americans who invest overseas. The plain truth is America has never had a judgment against it under our investment treaties in some 57 years. There has never been a judgment against the United States of America for violating investor protections.

We can't adopt the Kerry amendment so that it would apply only to investment in the United States and would not affect protections for our investments around the world. If we could, it would be a useless amendment. And we should not adopt the Kerry amendment and carve out areas where American investors are not protected. If we did, we would be asking for big-time problems with corruption. This is why every business group in America is adamantly opposed to this amendment, and why I urge my colleagues to reject it.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Once again, I say with respect to the Senator from Texas, he is both missing and distorting the point at the same time. I hope my colleagues notice for the first time in history since I have known the Senator from Texas to be in the Senate he is defending the right of lawyers to sue without any kind of screening or any kind of effort to restrict a frivolous suit.

I have never heard the Senator from Texas do that. I am delighted that he is protecting the right of lawyers to sue without any screening. This screening is exactly what was recommended, I might add, in a letter from Chairman BAUCUS to Ambassador Zoellick on March 26. Here is what the letter said:

It may be prudent to establish screening mechanisms in other sensitive areas such as environmental regulation as a way to ensure that frivolous or inappropriate claims can be dismissed as early as possible. In general, I view this concept as consistent with the objective of the TPA bill to eliminate frivolous claims and deter their filing in the first place.

The amendment I have offered includes a small screen to help weed out the frivolous lawsuits, and it would require the approval of the home government to do that, which only works to our benefit. If someone is going to sue in another country they are going to sue anyway. But in order to sue in our country it seems to me we would like to have, once again, the standard applied as to what is frivolous or not.

I used to practice law. I remember when we did medical malpractice cases we finally set up a screening mechanism. Many States in America have set up a board which reviews cases using members of the profession to make a determination of whether or not it is a legitimate claim so we don't tie up the

court system with a whole set of illegitimate claims. That is all this seeks to do. It does not change the standard whatsoever. We are not changing the standard with respect to any capacity of our companies to be protected abroad or otherwise. We are simply applying, frankly, a standard that most of them can understand; that most would have a full expectation of receiving if they were being tried in a court in our country.

I am surprised the Senator from Texas does not want American companies to know that if they are engaged in one of these processes abroad, they are going to have a higher standard applied to them. The standard as developed by the court system of our country, in which most of us believe, we think, is one of the highest standards in the world.

Our businesses are better protected by having the continuity of that standard and the certainty of the way in which our case law has been interpreted.

I reserve the remainder of my time.

Mr. MCCAIN. Mr. President, this amendment jeopardizes foreign investment and seeks to place unnecessary and harmful restrictions on the protections afforded to U.S. investors abroad. The amendment would substitute the carefully crafted language of the managers' amendment for language that would bind the Administration to a set of negotiating mandates.

The stated purpose of the Kerry amendment is to "ensure that any artificial trade distorting barrier relating to foreign investment is eliminated in any trade agreement entered into under" trade promotion authority. Unfortunately, the amendment language would do just the opposite.

Foreign investment is critical to international trade and vital to the development of economies around the world. Foreign direct investment provides for the expansion of industries and infrastructure while promoting economic development and the rule of law.

As the world's largest foreign investor, the United States invests an average of \$150 billion a year in private capital in foreign nations. This investment not only benefits the countries receiving such investments, it also results in the creation of more American jobs and new markets for U.S. products abroad.

American companies investing in foreign nations are generally more successful and typically pay employees higher salaries than those that do not. Not surprisingly, these companies are also among America's top exporters, comprising over 75 percent of U.S. exports over the past 25 years. American companies invest abroad to expand market share, establish local relationships, promote visibility, and establish a more efficient means of distribution to foreign consumers—enabling these companies to become more competitive globally.



Because many nations lack legal systems that afford protections similar to those afforded in the United States, the U.S. has entered into investment agreements for over 70 years in order to provide U.S. companies that invest abroad with the same level of protection they enjoy under U.S. laws. Without these investment agreements, the risk of investing in developing nations would simply be too great for most U.S. companies.

This amendment would restrict investment agreements from providing the full investor protections granted to them under U.S. law. In turn, the amendment would weaken the protections granted by the 45 bilateral investment treaties negotiated by the U.S., in addition to the protections under NAFTA and the U.S. Vietnam Trade Agreement.

Should the Kerry amendment pass, foreign investing in the U.S. will retain access to the protections granted to investors by U.S. laws, regardless of the terms of an investment agreement, but U.S. investors abroad will not be afforded these same protections.

Under the amendment, in order for environmental, health, or safety laws to be considered in violation of an investment agreement, an investor must demonstrate that a foreign country enacted such laws solely to discriminate against foreign investors. This high burden of proof that a foreign country intended to discriminate will enable foreign nations to arbitrarily use or establish environmental, health, or safety laws as a veiled means of protectionism. This is precisely the type of action that U.S. investment protections have historically attempted to prevent.

Legitimate concerns have been raised regarding the investor-state dispute settlement procedures contained within NAFTA's chapter 11. Last summer, Ambassador Zoellick met with the NAFTA ministers to discuss these concerns. Progress was made and the ministers agreed to work to improve the tribunals, particularly in the area of transparency.

The managers of this legislation have dedicated themselves to addressing concerns regarding the protections given to investors, and, in particular, investor-state dispute settlement procedures. They should be complimented for establishing a valuable set of investment negotiating objectives which will improve future investment agreements while not tying the hands of our trade negotiators in the process.

Through both the Trade Act of 2002 and the Baucus-Grassley-Wyden amendment which passed the Senate last week, Senators Baucus and Grassley made considerable efforts to address concerns regarding investment agreements while strengthening the negotiating position of the U.S. The Trade Act instructs U.S. negotiators to adhere to a list of well-founded objectives while crafting investment provisions. Among those objectives are in-

structions to "establish protections consistent with U.S. legal principles and practice" and not to afford foreign investors greater rights than those currently enjoyed by U.S. citizens and companies domestically.

To address concerns regarding the lack of oversight of tribunal decisions, the managers appropriately recommend the establishment of an appellate body to review tribunal decisions. In order to prevent potential abuse of process, the Trade Act encourages the creation of a mechanism to eliminate frivolous claims. Further, it addresses concerns regarding transparency, by encouraging that tribunal hearings be open to the public, with a mechanism for accepting amicus curiae briefs.

The thorough principles established by the managers of this bill are unprecedented in breadth and scope. No such principles have ever been written into previous trade promotion authority bills, and I believe this language will result in an improvement of the protections that are afforded to U.S. companies in future agreements and the process by which investor-state disputes are mediated.

The Kerry amendment represents a continuation of the trade-distorting, protective measures we have dealt with recently. Not only is this amendment potentially damaging to U.S. companies, it once again calls into question our nation's dedication to our trade-related commitments.

Existing U.S. investment agreements and the negotiating objectives included in the compromise Trade Act provide more than adequately for the legitimate concerns regarding investor-state dispute settlement procedures. This amendment could seriously damage U.S. interests and I strongly urge my colleagues to oppose it.

Mr. BIDEN. Mr. President, I support Senator KERRY's amendment to strengthen the protections for State and local government to achieve their environmental and other important priorities. The Kerry Amendment adds to the objectives that our negotiators will seek to achieve in future trade discussions. While we cannot mandate specific outcomes in those negotiations, we here in Congress will be able to look at future trade agreements to make sure that they include additional safeguards for the kinds of regulations that some international investors have challenged under NAFTA's Chapter 11.

We all agree that to make trade work, to bring the benefits of expanding markets to American workers and consumers, we must give investors the confidence that the countries they move into will not discriminate against them. They need to know that they will not have plants and equipment expropriated, or rendered worthless through some government regulation or other action.

But such protections can go too far, as many observers of actions taken under NAFTA investor-state provisions have concluded. The Kerry Amendment

makes sure that our negotiators will be careful to balance the need for investor protections with the need for state and local governments to protect their citizens as they see fit. That is the kind of balance that will help to restore popular support for the many real benefits of expanded trade, and will help to secure Congressional support for future trade agreements.

Mr. ALLEN. Mr. President, I rise to oppose the amendment that Senator KERRY has offered. The Kerry amendment unfortunately seeks to impose highly detailed negotiating mandates on the President, and would give those mandates the force of law in the United States.

The bipartisan bill that is currently before us provides balanced guidance to U.S. negotiators both to protect U.S. investors abroad and to address the legitimate concerns that have been raised about investment rules.

The purpose of our investment agreements, and the dispute resolution provisions in them, is to level the playing field; to ensure that Americans operating abroad obtain the same benefits and protections provided to Americans and foreign investors operating in the United States.

NAFTA's rules on investment—the so-called chapter 11—are not novel or unusual; they are modeled on longstanding international and U.S. practice. Arbitral dispute-resolution panels were not invented by NAFTA; they have been in use for more than 40 years.

Chapter 11 is only one of over 1,600 bilateral investment treaties worldwide, the vast majority negotiated by the European Union's member-states, Japan, and Canada. These investment agreements ensure that investors are treated fairly when operating abroad.

These treaties contain an arbitral dispute-resolution process similar to that found in chapter 11. The arbitrators selected on these panels frequently are distinguished lawyers, jurists and statesmen including Warren Christopher, Benjamin Civiletti, Attorney General for President Carter, and Abner Mikva former Member of Congress and White House Counsel for President Clinton.

The United States has thus far entered into 43 bilateral investment treaties of this nature. If not for these treaties, U.S. investors operating in these countries could be disadvantaged, especially in comparison to their competitors from the European Union, Japan, and Canada.

Many U.S. companies and major trade associations tell us that these provisions are extremely important to protecting Americans against abuses in other countries. U.S. investors invest \$3 trillion abroad and these investments account for more than a quarter of all U.S. exports. In short, foreign investment by U.S. firms keeps us competitive and builds jobs for Americans.



Several domestic constituencies, including environmental groups, have expressed great concern about the potential for use of these provisions to undermine important U.S. laws and regulations especially those protecting health, safety and the environment. The U.S. Government is vigorously defending U.S. environmental laws against any such charges.

The current administration is working with all interested parties in an effort to address these concerns for NAFTA and future investment agreements while continuing to protect American companies against abuse in other countries.

Steps have already been taken. For example, in July, 2001, the United States, Canada, and Mexico, through the NAFTA Trade Commission, issued an interpretation on two matters relating to chapter 11.

Some have concerns regarding the confidentiality of the panels.

It has been agreed that the parties would make publicly available all documents issued by or submitted to a NAFTA arbitration panel.

Others have complained that one type of investment protection called "general treatment" provides rights to foreign investors beyond U.S. law.

It was clarified that this provision affords no more than the minimum standard of treatment under customary international law and that provisions of other agreements (WTO) do not form part of the minimum standard, as some claimants were arguing in chapter 11 cases.

The United States, Canada, and Mexico have and will continue to utilize of our right under NAFTA to provide guidance to arbitral panels. Chapter 11 does not provide novel rules on what constitutes an expropriation beyond that covered by traditional investment agreements or by U.S. courts.

The truth of the matter is that overall trade helps the American family. The lower tariffs and higher incomes that followed the signing of the North American Free Trade Agreement (NAFTA) and the Uruguay Round of the General Agreement on Tariffs and Trade (GATT) resulted in benefits of \$1,300 to \$2,000 a year for the average American family of four.

According to a recent University of Michigan study, a new trade round could deliver an annual benefit of \$2,450 for this same family. Trade does not discriminate against the rich or the poor; it seeks to elevate all economic levels.

Contrary to popular belief, trade on balance, provides American workers with more opportunities to obtain higher-paying jobs than are lost due to international competition.

It gives more people the chance to make a better life for themselves and their family.

The U.S. Department of Commerce reports that, on average, jobs tied to exports earn 13 percent to 18 percent more than earned in other jobs.

In other words, trade brings prosperity and opportunity to more workers than are lost.

The effect of the North American Free Trade Agreement are as follows.

U.S. exports to our NAFTA partners increased 104 percent between 1993 and 2000, while U.S. trade with the rest of the world grew only half as fast.

In the 8 years since NAFTA's implementation, U.S. exports to Mexico and Canada have grown to support nearly 3 million American jobs today—one-third more than in 1993.

We trade about \$2 billion a day with our NAFTA partners—that's almost \$1.4 million a minute.

As U.S. government data indicate, without NAFTA, the United States would have lower-paying jobs and would export less, and Mexico and the United States would have lower environmental standards.

In the Commonwealth of Virginia, export sales of merchandise in 2000 totaled \$10.5 billion, up nearly 30 percent from the 1993 export total of \$8.1 billion. Virginia businesses recorded export sales of \$1,490 for every person in the State.

And, unlike what some of my colleagues may have you believe, trade is also beneficial for the environment.

Studies have shown that countries that open their markets actually spend more money in efforts to preserve and protect the environment as a result of gains through trade. Attempts to impose environmental regulations have often been self-defeating because they have stifled the trade necessary for economic growth, which would enable countries to afford to adopt environmental protection policies. The overall track record of the United States in promoting initiatives to protect the environment provides evidence that environmental freedom and the economic development it engenders are correlated with sound environmental policies.

Fair and free trade agreements must not and will not compromise American sovereignty.

In response to concerns that trade deals may be unconstitutional and could undermine U.S. sovereignty.

It should be stressed that the United States will always determine our own domestic laws.

Even if future trade agreements allowed some disputes to be submitted to an international tribunal for initial determination, no trade agreement could grant an international organization the power to change U.S. laws.

Proper trade agreements foster adherence to the rule of law and protect private property and intellectual property rights.

Free trade forces participating countries to play fair. For example, because of its membership in the World Trade Organization, China will now have to crack down on software piracy, which has been a growing problem for sometime to many U.S. manufacturers.

China has long been the world's largest source of pirated compact disks and software.

In China last year, software firms lost over \$1 billion in profits to piracy.

Furthermore, while many criticized China's WTO membership, American industry will benefit because, to comply with agreements of the organization, China now has to lower tariffs and non-tariff barriers.

The bottom line is that the United States needs to negotiate more free trade agreements. Of the more than 130 trade and investment agreements that exist throughout the world, the United States is party to only three: specifically, with Jordan, Israel, and the NAFTA countries of Canada and Mexico.

Free and fair trade and the chapter 11 issues are immensely important to the high-tech sector as well. The U.S. high-tech sector invests more abroad than any other industry. Leading, innovative U.S. companies have benefited from a set of stable and predictable rules governing investment in overseas markets.

Investments in foreign markets by high-tech companies, which support manufacturing and rapidly growing information technology services, are an integral part of a virtuous cycle that keeps this sector growing and strong.

The fact that large and small companies alike can reach customers in other countries with goods and services means that they can continue to provide great opportunities here at home for our engineers, researchers and other highly-paid and highly-skilled workers.

The bipartisan trade package includes a number of needed reforms that have arisen out of cases of foreign investors bringing actions in the U.S. These reforms include provisions for increased transparency, consistency in the rights afforded to foreign and domestic investors in the U.S., and improvements to dispute settlement procedures. And, it includes clarification of the definition of expropriation, although, Mr. President, Senator KERRY's amendment is not one of them.

The Kerry amendment would go far beyond these important and necessary changes and would impose new negotiating mandates in the area of investor protections.

These rigid requirements would tie U.S. negotiators' hands while giving our trading partners greatly increased leverage to make demands on their own.

The bipartisan trade package includes needed changes in the area of investment provisions and these should be passed by the Senate and implemented in trade agreements.

The Kerry amendment, in its attempt to address these concerns, goes too far and will create uncertainty and undermine the investment protections for U.S. companies as they do business in overseas markets.

These are only a few of the many reasons that my colleagues should join me in opposing this amendment and press

forward to pass this trade legislation in order to benefit America.

The PRESIDING OFFICER. The Senator from Montana.

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

The PRESIDING OFFICER. The Senator is recognized.

Mr. BAUCUS. Mr. President, we sympathize with the general concern of the Senator from Massachusetts; namely, making sure that foreign investors do not have greater rights in the United States compared to domestic investors in challenging whether an action by a government body, say a State, city or county, is a takings under the Constitution of the United States. We all recognize that.

This is an area that is complex. It requires us to step back a little bit and find a "level playing field" between foreign investors and U.S. investors.

The Senator from Texas is absolutely correct. The main reason we are addressing this situation really began years ago when U.S. investors were being discriminated against overseas. It caused quite a few problems in many countries. So over the years, various treaties have been written between the United States and other countries trying to create a balance between foreign and domestic investors in the United States and in other countries. That is the whole goal here.

When NAFTA was written, including chapter 11, there probably was too much emphasis given to protecting U.S. investors' rights overseas rather than the interests of government here at home because that was the biggest concern at that time. Since then, there has been a rising concern that perhaps NAFTA went too far and gave too great a protection to foreign investors versus domestic investors in the United States, which led to concerns raised by the Senator from Massachusetts.

In this bill, we attempted to correct that problem with various provisions. We have lots of provisions in the bill to even the playing field.

We also took a provision suggested by the Senator to make it crystal clear that there is absolutely no favoritism given to domestic versus foreign investors who sued the United States challenging whether certain regulations were takings under the fifth amendment. It makes no difference whether it is foreign or domestic investors; an investor will be treated exactly the same whether he or she were in the other category. We took that language and added to that the amendment in the underlying bill to make that very clear.

But we have to make sure that American investors—while we are protecting ourselves by making sure foreign investors don't have an advantage over U.S. domestic investors in the United States—overseas are treated fairly and are not discriminated against.

There are some very glaring problems with the amendment offered by the Senator from Massachusetts.

First, he tries to define what constitutes a taking under the fifth amendment. His definition, first, is simplistic and, second, it is wrong.

First, it is simplistic, because all of us who have studied these issues know—believe me; I spent quite a bit of time a few years ago on the Environment and Public Works Committee—that the Supreme Court's definition of what constitutes a taking, and, therefore, requires compensation is extremely complicated. It is extremely complex. It depends totally upon the facts and circumstances of the case.

I will not take the Senate's time to quote all of the language of the Supreme Court opinions on takings which makes this point very clear. But that is the case.

The Senator from Massachusetts, however, wants to define in a sentence what "takings" is. His definition is wrong. With all due respect to my good friend from Massachusetts, it is also irrelevant because we can't define takings. The Supreme Court says what takings is. The Supreme Court under *Marbury v. Madison* interprets the Constitution. The Congress doesn't say what the Constitution says. We could say a lot. When it comes to what constitutes a fifth amendment taking, the Supreme Court decides that; we can't make that decision.

Here is how the Senator from Massachusetts defines takings. It is wrong. He says a measure is not a taking if it causes a mere diminution in the value of property. You can't define takings like that. It is wrong. You can't define it here in the statute. The Supreme Court is going to define what a taking is.

With the Senator's language, we are adding a huge incorrect and irrelevant complexity. It just shouldn't happen. It just fouls things up. It is not the right thing to do.

He has in his amendment another provision which is a real problem; namely, that investors—in the United States or any country—who want to bring an action in the other country—say a Canadian investor in the United States is claiming that actions are takings. That Canadian investor has to get permission from his country. Turn that around. Obviously, other countries are going to do the same thing, or turn that around in our case. We Americans would have to get permission from the U.S. Government to bring an action against another country claiming expropriation, an additional hurdle which the Senator from Massachusetts places in the way of a U.S. investor seeking redress overseas.

Now, I ask you. The Senator from Texas made the point: What if the U.S. State Department is in negotiations with, let us say, France over some matter, no matter what it is. Maybe it has to do with the Middle East; who knows what it is. Let us say a major American investor wants redress because he believes the French Government took action which was an expropriation of

his property. He would have to get the approval of the U.S. Government. Knowing the State Department as we do, they are going to get very involved, or could get very involved, and impede or prevent that American from exercising his rights.

The Kerry amendment requires the investor to get permission from his host country before he can bring an action before the dispute panel where the investor thinks the action of the other country amounts to expropriation. There is another problem. It is a huge loophole. Essentially, this loophole says a foreign investor in the United States has to first prove that the primary purpose of the regulation was not discriminatory.

No U.S. investor is going to be able to prove that the primary purpose of a foreign regulation was not discriminatory. That creates a huge additional burden for the U.S. investor that a foreign investor in the United States does not have.

Most Americans say: Gee, what is wrong with that? Let us make those foreigners have to prove a much higher and an almost impossible standard compared with the domestic investors. It is going to happen. Do you think other countries are going to just sit back and take that? They are going to do the same thing. They are going to say: Wait a minute. In France, in Canada, or in whatever country, an American investor who wants to come to that country, assuming he can first get permission from his own United States State Department has to show that the primary purpose in France, or in Canada, or in whatever country is to discriminate against Americans. The American investor cannot prove that. It is almost impossible to prove that the primary purpose in that country was to discriminate against Americans. It is almost impossible.

That is why this amendment, while on the surface it talks about all these cases—and there are going to be cases. There are always going to be cases pending for a dispute settlement action. There will always be. But the mechanism which the Senator from Massachusetts prescribes here, when one reads the exact language of his amendment, has all these very deep flaws. To say there are unintended consequences is to say blithely that there will be dramatic consequences as a result in the consequence of this action, if we are so foolish enough to pass this amendment.

I know that is strong language. I have the utmost respect for my good friend from Massachusetts. But that is what this language does. One has to read the language.

As I said from the outset, we have gone overboard to take the earlier language suggested by the good Senator to make sure that the playing field is in fact level. We have done that. That is in the bill. That is in the bill. But to go further and adopt the provisions now offered by the Senator will have very

dire consequences for American investors overseas, and also boomerang against the various municipalities and States.

I hear about a letter stating that the States basically are a little fearful Uncle Sam might do some things that will override their prerogatives. But I don't think the persons who wrote that letter really thought through the full implications of this amendment offered by the Senator from Massachusetts because, if they had, I doubt very seriously many of them would have signed the letter.

I reserve the remainder of my time.

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

The PRESIDING OFFICER. The Senator from Massachusetts has 22 minutes 24 seconds.

Mr. KERRY. Mr. President, I yield myself such time as I may use.

The PRESIDING OFFICER. The Senator is recognized.

Mr. KERRY. Mr. President, I will speak to what the distinguished chairman has just said because, once again, this amendment does not do the things that have just been alleged. Let me be very specific about it.

First of all, the chairman sort of brushes off the serious consequences to U.S. interests by the status quo. I would ask him, and I would ask my colleagues, does anybody here believe that the Governor of California made the decision he made with respect to methanol on a discriminatory basis? There isn't anybody in America who would suggest that he did. Yet that case is being brought now. It exists.

The fact is we do nothing to change the standard by which a business would have the opportunity to resolve its investor-state relationship. In fact, we are not declarative as to the issue of expropriation.

What we do in this amendment is seek to define over 80 years of Supreme Court decisions as to what is not an expropriation. We do not say what it is, which is what the Senator was just arguing. We do not define "expropriation." All we do is point out what it is not. We clarify exactly what the Supreme Court has said in the 1993 Concrete Pipe case, where they said: Our cases have long established—this isn't hard to define; these are the words of the Supreme Court—we have long established that mere diminution in the value of property, however serious, is insufficient to demonstrate a taking.

So the Supreme Court of the United States has established a standard which they say we have long established, which Justice Scalia reaffirmed as recently as 1999 in the College Savings Bank case.

So all we are doing is saying that is not an expropriation. But if you allow this law to stand as it does today, it could be an expropriation by the standard that an arbitration panel decides to apply. So we are subjecting our States and ourselves to the resolution of a dispute by a standard that we know has

long been established by the Supreme Court to be otherwise. They might define an expropriation to be exactly what the Supreme Court has said it is not.

All I seek to do in this amendment is to say we embrace the definition of the Supreme Court as to what it is not. We do not try to establish what it is beyond what it is not. So, once again, people are grabbing at things to try to make this seem more perilous than it really is.

Moreover, with respect to the screening, the screening applies to a U.S. company applying to a U.S. screening process. It is in our interest to have knowledge that we are not, in fact, engaging in some wholesale discriminatory process that works contrary to the intent of the treaty and that there is a legitimate claim.

But what happens in another country is up to that country. It is up to that country now. If they want to go ahead and bring suit against us, just like the Canadian corporation has done, suing California for \$1 billion because they are trying to protect its citizens from the effects of MTBE—and now they are at risk for \$1 billion under this silly law the way it stands. It is silly law, and nobody even debated it when it was put into place originally. It has not even been debated. This is the first time we have debated it on the floor of the Senate.

We are seeing a growing number of lawsuits now where companies are coming in and saying: Hey, we don't like that health law. We don't like the definition of "cigarettes." We are going to come in and tell you you can't use those words; you are diminishing our ability to sell cigarettes in your State. So you are taking away our property. Your citizens owe us money.

This is common sense. Sure, we have a lot of people who like the status quo because they profit from the status quo. But that doesn't mean it is good law. And that doesn't mean it protects the interests of the United States. And that doesn't mean it is based on common sense.

I respectfully suggest that what we are doing is a sensible way of trying to establish the high standards of the court system of the United States. What other people want to do in their countries is their business, but this is the way we should set up the screening in ours.

There isn't anybody here who is going to argue that the international business structure is the cleanest or most devoid of corruption today. The United States is one of the few countries that has the anticorrupt businesses practice. As far as I know, in recent years, the French were allowed to deduct bribes on their income taxes. And there are a whole bunch of folks who run around the country offering money under the table, all kinds of different ways.

This will be the first time I have heard people on the floor of the Senate

defending the capacity of these other countries to do clean business.

I think we ought to raise the standard. That is precisely what I am trying to do.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. How much time is remaining on each side?

The PRESIDING OFFICER. The Senator from Massachusetts has 16 minutes. The Senator from Montana has 19 minutes.

Mr. BAUCUS. Mr. President, I yield to my good friend from Nebraska—how many minutes?

Mr. HAGEL. Seven minutes.

Mr. BAUCUS. Mr. President, I yield 7 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. HAGEL. Mr. President, I rise today in opposition to the Kerry amendment. Almost every American who has a pension plan has an interest in maintaining strong investment protections, the kind that we now have in the current trade promotion authority bill.

Almost every pension plan carries company portfolios that invest overseas. If those investments lose value due to unfair, arbitrary, or discriminatory action by a foreign government, then the U.S. company deserves compensation. It is what the U.S. courts offer American companies invested in the United States. It is what U.S. courts offer foreign companies invested in the United States.

The current TPA bill ensures that U.S. companies abroad are afforded the same fair and transparent arbitration procedures that are consistent with U.S. law, practice, and principles.

The Kerry amendment puts into jeopardy this protection. U.S. companies that invest overseas make important contributions to the U.S. standard of living that, in many cases, are greater than those of purely domestic firms. These contributions help to increase U.S. productivity and include: research and development, exports, and investments in capital equipment.

Since 1982, these companies have performed well over half of all U.S. research, and not only research but significant development as well.

Since 1977, these companies have shipped over half to three-quarters of all U.S. exports. Their affiliates are important recipients of these exports and accounted for nearly half of these shipments in 1997.

These companies undertake the majority of all U.S. investment in physical capital in the manufacturing sector; as much as 57 percent in that sector. More than 70 percent of the net income earned by overseas affiliates of American companies returns to the United States. It is a significant number.

More than 70 percent of the net income earned by overseas affiliates of American companies returns to the

United States. That means jobs, opportunity, and growth for this country—not overseas, not other markets, but this country. The well-being of these companies is important, obviously, to our economy.

Investing abroad has similar risks that investing in the U.S. has. There is a chance that a local regulation may change the value of your property or your asset. No one wants to have their property expropriated but sometimes the Government determines a public policy need to do so. When that happens, U.S. law and these investment protection provisions in the TPA bill say that the company is entitled to at least compensation.

The purpose of the investment protections is to afford the same protections to U.S. companies in foreign countries that foreign investors get in U.S. courts. Given the developing world's lack of sound judicial systems, there is a need for an investor-state dispute mechanism that is based on U.S. law, practice and legal principles.

The investment provisions in the current TPA bill direct U.S. negotiators to obtain the following, clearly: protections for U.S. companies invested abroad against discrimination in expropriatory actions by foreign governments or for their unfair and inequitable treatment; transparent and open investor-state panels; mechanism to weed out frivolous claims and deter the filing of such claims; procedures for the efficient selection of arbitrators and the expeditious disposition of claims; enhanced public input into the development of government positions; a review mechanism to deal with potential aberrant decisions; protections on expropriation consistent with U.S. legal principles and practice; and protections on fair and equitable treatment consistent with U.S. legal principles and practice.

The TPA bill contains mechanisms that address the legitimate criticisms we have heard over the past year about the investment provisions in the North American Free Trade Agreement chapter 11 investment section. We have heard much about that in the debate this afternoon.

As plainly and clearly as I can say it, there is no need for the Kerry amendment. I urge my colleagues to oppose the Kerry amendment.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senator from Montana.

Mr. BAUCUS. Mr. President, I appreciate the remarks of my friend from Nebraska. I might go further and say, not only is there no need for the Kerry amendment but it would create huge problems for Americans in America and problems for Americans overseas. Whether they are intended or unintended consequences, I am not sure, but those consequences are real.

I must repeat, the underlying bill was changed in the Chamber to include

language suggested by the Senator from Massachusetts, Mr. KERRY, that solves all the problems he has now been talking about.

What are they? Essentially if you listened closely to the cases he has been talking about, the concern is that a foreign investor might have superior rights compared to a domestic investor. The language we adopted says clearly that foreign investors have no greater rights than a domestic investor. That is the language in the underlying bill. We are talking about trade promotion authority. We are talking about fast track. We are talking about negotiating objectives. We are talking about what we would like our executive branch trade negotiators to work toward, the guidelines under which we are giving them to work.

One of the guidelines in the current bill is that foreign investors would have no greater rights than domestic investors in investor-state dispute settlements. That is clear. All the problems the Senator from Massachusetts talked about are already taken care of. That is why in many respects the statement by the Senator from Nebraska is true. It is unneeded. The problem is already cured in the bill with the inclusion of the language that foreign investors enjoy no greater rights than domestic investors.

If you look at the actual language of the amendment, not only is it not needed, it creates a whole host of additional problems we just don't need to have. One is when we try to define what expropriation is. We can't redefine the Supreme Court's definition of what expropriation is. That is up to the Supreme Court to define so long as it applies equally to domestic and foreign as the underlying language provides.

Second, he creates an initial hurdle that a domestic investor has to get approval from his host government before he or she could seek redress of rights in the foreign country. For an American investor that means the United States Government and the State Department and, who knows, the Treasury Department can get involved and say, we have problems with the other country. We don't know if we want you to proceed with your case in the other country; we don't want you to do that. That is what is called for by the Senator's language.

In addition, he suggests that a foreign investor cannot bring a claim presumably in the United States unless that foreign investor can prove that the underlying action by the municipality or the State was primarily to discriminate against the foreign investor, an almost impossible burden to meet. Clearly, if we create that almost impossible burden for foreign investors in the United States, other countries can do the same. This means that other countries, under the guise of public health and safety and environmental protection, could discriminate against the United States in a very subtle way and discriminate against U.S. investors as opposed to their own investors, but

make it very difficult, if not impossible, for the U.S. investor to prove that the primary purpose of that other country was to discriminate against the United States. That is what this language says.

I am not talking about potential problems. I am talking about the exact language of the bill. I will run through them again. It tries to define—incorrectly—what constitutes a taking under the fifth amendment of the Constitution and, B, it requires that a host investor get permission of the host government and, C, sets the impossible standard that a foreign investor must show that the primary purpose was to discriminate against him in seeking redress in a foreign country.

That is going to boomerang against the United States. The main point, taking care of all the problems suggested by the Senator from Massachusetts, there are no problems left. We handled it. It is in the bill. Second, the additional language that he suggests is just going to cause a whole host of problems that we don't need, to put it mildly.

I reserve the remainder of my time.  
The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. The Senator from Montana has 8 minutes, and the Senator from Massachusetts has 16 minutes.

Mr. BAUCUS. Mr. President, I yield 4 minutes to the Senator from Iowa.

Mr. GRASSLEY. Mr. President, I thank Senator BAUCUS for how he has worked in a team with those of us who worked this compromise out to defeat a lot of crippling amendments. I see this as the last crippling amendment. Senator BAUCUS and my colleagues on this side of the aisle have already made strong arguments why the amendment ought to be defeated. I add my thoughts to theirs.

Senator BAUCUS and I took great care to address concerns raised about potential abuse of the investor-state dispute process. At the same time, the bill recognizes that protecting U.S. citizens abroad is also an extremely important objective.

This amendment threatens to undermine the bill's careful balance in two ways.

First, it ignores the delicate political compromises needed to pass this bill. In doing so, it jeopardizes passage of both trade adjustment assistance and trade promotion authority.

Second, the bill undermines the careful substantive balance outlined in the bill. Under the guise of protecting Government's ability to apply health, environmental and safety regulations, it takes away the rights of U.S. citizens to receive a fair and impartial hearing when their property is confiscated overseas.

Let me give you an example. In 1972, the Pakistani Government nationalized ten schools belonging to the Presbyterian Church of America. For the

past 30 years, the Presbyterian Church has been trying to recover their investment. Even after the Pakistani Supreme Court ruled in 1992 that the state could not take their land, Pakistan continued to deny the church its property.

It should not take 30 years for a church to recover its own property, but that is what the current state of play in too many parts of the world. And that is why we need strong investor-state dispute settlement procedures. Let me give another example.

Nearly 30 years ago, Richard Bell, a U.S. citizen living in Costa Rica, had his property expropriated by the Costa Rican Government for a national park. Despite assurances from several Costa Rican administrations that the matter would be resolved, it took until October 2001 before Costa Rica entered into a framework agreement with Mr. Bell to submit the issue to arbitration. And that agreement would never have been reached without hundreds of hours of U.S. government assistance. Mr. Bell declined to use the Costa Rican courts due to extensive delays associated with the judicial system. In hindsight, 10 years in the judicial system does not seem so bad.

Not every country in the world provides quick access to justice like the United States. The amendment would hurt our ability to help these citizens. And I think that is a mistake.

As Stuart Eizenstat, former deputy Secretary of the Treasury during the Clinton administration wrote recently in an editorial:

By demanding that the Senate both reduce investors' protection against expropriation and force investors to obtain permission to file claims before tribunals, the critics would strip U.S. investors of key protections and potentially to politicize the dispute settlement process.

The ability of U.S. citizens to invest abroad and foreign citizens to invest in the United States is not something to be taken for granted. For the last 25 years, each successive administration has recognized that it is critical to negotiate strong, objective and fair investment protections in our international agreements to continue to promote such investment. These traditional investment protections are largely based on U.S. law and policy and established international law.

The bill carefully balances concerns about the investor-state dispute settlement process without weakening core investment rules that serve America's interests. The degree of support for the final product is demonstrated by a strong bipartisan committee vote of 18 to 3 in favor of the bill.

I urge my colleagues not to upset this careful balance. Again, let me quote from a recent editorial by Stuart Eizenstat:

The Senate should approve the Baucus-Grassley Fast Track bill without delay and should resist attempts to weaken investment protection rules that embody core values of the United States: respect for private property, nondiscrimination, and the right to ap-

pear before an independent and impartial tribunal.

This amendment undermines these core values. I urge my colleagues to reject it.

The PRESIDING OFFICER. Who yields time?

Mr. KERRY. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from Massachusetts has 16 minutes.

Mr. KERRY. And the opponents?

The PRESIDING OFFICER. They have 4 minutes.

Mr. KERRY. Mr. President, I yield myself such time as I may use.

Let me respond to the distinguished ranking member. What he read was a Supreme Court case about eminent domain. That is completely separate from what I am seeking to address. It has nothing to do with what my amendment does. He talked about the Supreme Court and the standard with respect to the right of our companies to seek redress if a government takes their property. That stays exactly the way it is today. That is expropriation by eminent domain.

What we are talking about is exclusively regulatory action, when a government takes regulatory action, passes a law to implement environmental standards, or a health standard, and a company then comes in and claims that the particular regulation was purposefully to discriminate against that company, not for the welfare of its citizens.

Now, are the Senators saying we should not require that appropriate standard, that you ought to be able to win a regulatory expropriation when it is discriminatory? That is not a problem; that is a standard. That is an appropriate way to measure whether or not a regulation reaches too far or is appropriate.

Let me be very precise about how this works. Consider the MTBE ban in California. Nine States have now followed California's lead. California—and the Governor or the State—is being sued by a Canadian company claiming their removal of methanol is discriminatory. It is geared as an expropriation that has taken their value. Nine States have now done the same thing. Are they all going to be subjected to suit? Are we going to have every company have the ability to come in and say, we think you are just passing this, whether or not you have hurt our business, so they settle for just \$175 million? That is what I talked about—a nuisance settlement of \$175 million that comes out of the taxpayers.

Chapter 11, as it currently stands, is being used to threaten governments from enacting public health measures. Here is an example: The Canadian Government has sought to ban the use of the words "light," "mild," and "low tar" from cigarette packaging, and Philip Morris recently issued a warning to Canada that, under NAFTA, Canada must compensate foreign investors

when measures expropriate investments in Canada. So Philip Morris is warning Canada that their use of the words "light," "mild," and "low tar"—banning those words—is taking value away from Philip Morris. Should that be subjected to a standard of being discriminatory against Philip Morris, or to a standard of, is that a legitimate health concern of the Canadian Government? It works both ways. It absolutely works both ways.

Now, there are three significant areas where the Baucus bill, as amended, falls short. No. 1, it does not ensure that the long-held U.S. Supreme Court case law on expropriation on what is not expropriation is upheld. I reiterate, we are not defining expropriation. We are simply saying that under the long-held U.S. case law this particular kind of reduction of business is not when an expropriation ought to apply because otherwise a secret—we don't have any right to know what the deliberations are, we don't know what the standards are. It is an arbitration panel of three judges of another country that is going to decide. We think that is an expropriation.

The second thing is that I do not rule out the possibility that an investor could bring an expropriation case. We simply limit the use of an expropriation standard to those cases in which U.S. case law recognizes regulatory taking. Secondly, we provide a protection for legitimate public interest law.

The amended bill does not guarantee that a legitimate domestic law is protected. My amendment provides safe harbor for Federal, State, and local laws and regulations protecting public health and safety and the environment, except when the action taken is primarily discriminatory. That is an appropriate standard to apply, and that is what we ought to vote for.

The current bill allows claims to be decided on a question of whether the free flow of goods or capital is impeded by public health. That is not a standard we should want to adopt in our country.

Thirdly, we uphold the principle of due process. The principle of due process is somewhat close to the international law of what is called fair and equitable treatment. But fair and equitable treatment is completely vague. We don't know what it means. We don't know how that standard has been applied. It can mean many things. One thing we have tried to do over the years in this country is define clearly under the due process clause of the U.S. Constitution what process is, what rights attach to people. If the concept of fair and equitable treatment remains the guiding principle of the investor-state dispute panels, without further clarification, then you have a very real risk that those panels import a different legal standard into their consideration than that which our U.S. companies have a right to expect.

I believe American companies win with the passage of this amendment because, in fact, it has the practical effect of making future investor-state arbitration panels have their rulings based on concrete, well-defined U.S. laws, rather than nebulous, uncertain, unclear, international precedents.

Under my amendment, an American investor can win before an arbitration panel if they show they were discriminated against on the grounds of national treatment or if the offending regulation is enacted or applied in a discriminatory, purposeful fashion.

If a foreign government passes legislation that is discriminatory, of course, an investor will be able to seek compensation. There is nothing in this legislation that diminishes their capacity.

What I sought to do in my amendment originally was to guarantee that no foreign investor would have greater rights than a U.S. investor. The amendment by the chairman simply says they will not have lesser rights. It does not protect their right to guarantee that a foreign investor will not have greater rights. That is what this is about.

I hope my colleagues will help American businesses to be properly and adequately protected and our States to be protected with their laws of public purpose: to protect the environment and protect our health standards.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? If no one yields time, time will be charged equally to both sides.

The Senator from Montana.

Mr. BAUCUS. Mr. President, there are many statements the Senator made with which I take issue because they are inaccurate. One of the most inaccurate is the last statement the Senator made, that there is nothing in the bill to make sure foreign investors are not accorded greater rights than domestic investors. This is the Kerry language which we provided for in the underlying bill—not the Kerry amendment now being offered, but Kerry language he suggested earlier.

Let me read it:

Insert the following: foreign investors in the United States are not accorded greater rights than United States investors in the United States.

That is what is in the bill. So his statement to the contrary, that there is nothing in the bill that assures foreign investors do not have greater rights than domestic investors, is inaccurate. We already include it in the underlying bill.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, the Senator is correct, that is the language that was used, but it is preamble language. It is in the preamble. It has no teeth. There is no substance to it. What I am trying to do is guarantee in each of these categories that there are teeth, there is substance in the law that, in fact, guarantees you will not

have those greater rights because still all of this is subject to the international panel's application of standards; they ultimately will decide.

Unless we establish some standard by which to measure it, that is literally a statement without any enforcement mechanism whatsoever.

I reserve the remainder of my time.

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

The PRESIDING OFFICER. Six minutes to the Senator from Massachusetts and 2 minutes to the Senator from Montana.

Mr. BAUCUS. Mr. President, I will take 1 minute. This debate is devolving into little details. In my 1 minute, let me say, again, the Senator is inaccurate because we are talking about negotiated objectives in the bill. They all have the same force and effect. That is, the language referred to has the same effect as it would for another part of the bill. We are talking about negotiated objectives given to our negotiators as they try to negotiate other agreements.

The PRESIDING OFFICER. Who yields time?

The Senator from Texas.

Mr. GRAMM. Mr. President, I will take just 1 minute of time. Let me first say there is much about the argument by the Senator from Massachusetts that, first, I do not understand and, second, I do not agree with.

First, let me say I was puzzled by his reference to lawsuits and Republican opposition thereto. If there is any principle I believe in, it is the right of people to protect their property.

Second, it seems to me that the Senator has written an amendment that addresses no legitimate concern because in the 57 years we have had investment treaties giving investors in America the right to go to arbitration to have their investment protected, no one has ever won a suit against the United States of America.

And meanwhile, American investors use these rights every day in every developing country in the world. They make the difference between confiscation and destruction of American investments, and the protection of American investments and the jobs that flow from them.

The Senator argues that nothing in his amendment lessens the rights of American investors. Nothing could be further from the truth. His amendment would require investors to get government permission to protect their basic property rights. Governments would have to sign off in order for investors to obtain protection of their property. Nothing could be more alien to the American system than that notion.

His amendment also deems exempt those State and local laws and ordinances related to a series of issues—such as health, safety, environment, or public morals, whatever that is—unless the laws and ordinances were intended solely to take investor property. That new standard would run counter to our

notion of discrimination—which looks at impact not intent—and would be much harder to breach. Finally, the Kerry amendment says that your property is protected only if the taking is complete. That is little consolation to an American investor.

I urge the rejection of the Kerry amendment.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator's time has expired.

All time remaining is that of the Senator from Massachusetts.

Mr. KERRY. Madam President, how much time remains?

The PRESIDING OFFICER. Six minutes.

Mr. KERRY. I will not use all that time.

The Senator from Montana is correct, we are reaching the end. Let me once again answer my friend from Texas and say we have established screening mechanisms with respect to certain kinds of cases all through our country. Lawyers have accepted the notion—we even have rules in the Federal court under rule 11, if I recall it correctly, which seek to deal with the question of frivolous lawsuits.

What we are trying to do is recognize that we want to establish some order in the system. I think most people would agree that the challenge by the Canadian company to the California statute with respect to MTBE is frivolous. No one here would believe that is somehow discriminatory or a taking; nevertheless, we have a lawsuit. California taxpayers are exposed for the potential of \$1 billion for what was a legitimate health effort.

If people think that ought to be tying up the arbitration panels of rule 11, go ahead and vote for it, but I do not think it should. There ought to be some kind of mechanism by which you have a signoff on whether there is a legitimacy to the claim. Since it is your own Government making that judgment, particularly with respect to a U.S. business interest, it is really hard to conjure up a scenario within which they are not going to be pretty permissive if there is some legitimacy to a claim.

What we really see here is resistance to the notion that we should raise the standard of international behavior with respect to the potential of what is or is not a cause for action in an expropriation. I submit to my colleagues that the standard here is vague. The standard is now carried out in secret. It is carried out according to standards that our businesses do not know and cannot anticipate.

It is carried out by a standard that is less than the rights afforded our businesses under the U.S. Constitution; less than those rights, according to the due process clause, the fourth and fifth amendments; and less than those rights according to the settled case law of the Supreme Court of the United States for a long period of time, to quote the Supreme Court itself.



I believe we should put in some objectives which state clearly what we would like to have negotiated. All of this is a negotiating objective. I do not deny what the Senator has said. These are goals. But why not be precise about what we want negotiated and the standards that we think ought to apply?

If they find the kind of problems the Senator from Texas is saying, they will not negotiate it the same way. These are all objectives. Let us vote for a standard and an objective in the negotiations so we arrive at the better protection of American businesses with respect to expropriation and we do not submit our States to a series of frivolous lawsuits as they are currently and we do not allow a process of intimidation to take place between company and government as we see in the Philip Morris-Canada situation with respect to smoking.

That is what this vote is about. Since this is not the meat and potatoes in the end anyway, what we vote is not the final word. What we are voting is an intent and a direction, and I hope my colleagues will vote the intent and direction of raising the standard by which the U.S. businesses are going to be treated in the trade resolution process.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Madam President, is all time yielded back?

The PRESIDING OFFICER. All time has expired.

Mr. BAUCUS. Madam President, I move to table the Kerry amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arkansas (Mr. HUTCHINSON), the Senator from New Hampshire (Mr. GREGG), the Senator from North Carolina (Mr. HELMS), and the Senator from New Mexico (Mr. DOMENICI), are necessarily absent.

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

The result was announced—yeas 55, nays 41, as follows:

[Rollcall Vote No. 121 Leg.]

#### YEAS—55

Allard	Cochran	Hutchison
Allen	Craig	Inhofe
Baucus	Crapo	Kyl
Bennett	DeWine	Landrieu
Bingaman	Ensign	Lincoln
Bond	Enzi	Lott
Breaux	Feinstein	Lugar
Brownback	Fitzgerald	McCain
Bunning	Frist	McConnell
Burns	Graham	Miller
Campbell	Gramm	Murkowski
Cantwell	Grassley	Nelson (NE)
Carper	Hagel	Nickles
Chafee	Hatch	Roberts

Santorum  
Sessions  
Shelby  
Smith (NH)  
Smith (OR)

Snowe  
Specter  
Stevens  
Thomas  
Thompson

Thurmond  
Voinovich  
Warner

#### NAYS—41

Akaka  
Bayh  
Biden  
Boxer  
Byrd  
Carmahan  
Cleland  
Clinton  
Collins  
Conrad  
Corzine  
Daschle  
Dayton  
Dodd

Dorgan  
Durbin  
Edwards  
Feingold  
Harkin  
Hollings  
Inouye  
Jeffords  
Johnson  
Kennedy  
Kerry  
Kohl  
Leahy  
Levin

Lieberman  
Mikulski  
Murray  
Nelson (FL)  
Reed  
Reid  
Rockefeller  
Sarbanes  
Schumer  
Stabenow  
Torricelli  
Wellstone  
Wyden

#### NOT VOTING—4

Domenici  
Gregg

Helms  
Hutchinson

The motion was agreed to.

Mr. REID. Madam President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### CHANGE OF VOTE

Mr. REID. Mr. President, on rollcall vote No. 121, Senator BIDEN voted "aye." It was his intention to vote "no." Therefore, I ask unanimous consent that Senator BIDEN be permitted to change his vote since it will not affect the outcome of the vote.

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

(The foregoing tally has been changed to reflect the above order.)

Mr. REID. Madam President, the Senator from West Virginia, Mr. ROCKEFELLER, wishes to speak in morning business in regard to the American soldier who was killed the day before yesterday in Afghanistan. I ask unanimous consent that the Senator from West Virginia be recognized for up to 10 minutes to speak as if in morning business.

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

(The remarks of Mr. ROCKEFELLER are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I ask unanimous consent that amendment No. 3442 be temporarily set aside. I have spoken to Senator DORGAN, and he is in agreement. The managers of the bill are trying to work something out on this amendment. So I ask that it be set aside.

I also say, for the edification of Members, that immediately Senator DORGAN is going to speak, as there is a unanimous consent agreement pending allowing him to do so, for up to half an hour on the Cuba amendment he offered. Following that, Senator TORRICELLI is going to offer amendment No. 3415, under a half-hour time agreement, evenly divided. Then we are going to go to a Grassley amendment that he is going to offer.

This is about as far as we will be able to get this evening, the majority leader

has indicated. So that is where we are. We will have something more definite as soon as Senator DORGAN finishes his statement on Cuba. We will have something written up so people know more definitely what this will be.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from North Dakota.

AMENDMENT NO. 3439 WITHDRAWN

Mr. DORGAN. Madam President, it is my intent not to take the 30 minutes. But I do want to make some comments about an amendment I have offered that is now pending, amendment No. 3439. This amendment deals with language that was in the farm bill that passed the Senate and went to conference dealing with the ability to sell food to Cuba.

As my colleagues know, we have had an embargo with respect to the country of Cuba for some four decades. That embargo included, for most of those four decades, an embargo on the shipment or sale of food to Cuba. That changed a couple years ago because my colleagues and I decided that an embargo ought not include an embargo on food shipments, that using food as a weapon is not the appropriate thing to do.

So we lifted that embargo with respect to food, though it was lifted in a very narrow way. And the Cubans have been able to buy American food, especially following the hurricane in Cuba. They have purchased \$75 to \$90 million worth of food from this country now. It has to be purchased with cash, and they have to do it through a French bank in order to accomplish the transaction.

In fact, following the vote in September of 2000, where we allowed food to be sold to the Cubans, one of the people who opposed that, a Congressman from Florida, said he was satisfied that the language in the legislation was restrictive, making it difficult for the United States companies to do business in Cuba because they will have to go through third countries for financing. In point of fact, he was saying it is going to make it very difficult for us to sell food to the Cubans.

We agree that it is difficult. As a result of that, we put legislation on the farm bill in the Senate by a very significant vote. That legislation says that Cuba could access private financing in this country for the purchase of food from the United States. No government subsidies at all, just private financing, if they can find private financing. We included that in the farm bill that left the Senate and went to conference and got stripped out of the conference, even though the House of Representatives had a vote. They voted 273 to 143 to endorse the Senate plan for more trade with Cuba.

So the House has spoken on this issue. The Senate has spoken on it. By far, the vast majority of both the House and the Senate said we do not want to use food as a weapon. Let's be



able to sell food to the Cubans, if they want to buy food. If they want to access private financing, they can access private financing, if they can find it somewhere. But let's not make it more difficult for those in the world who need access to that which our farmers grow in such abundance to have access to that food—let's not make that more difficult.

There are some who still are rooted in the 1960s. This 40-year embargo with Cuba has not succeeded through 10 United States Presidents. It just has not succeeded.

I do not stand here suggesting that I have any sympathy for the Castro regime. We need to, as a country, persuade Cuba to move towards democracy, move towards greater human rights. I believe we will best do that by doing just as we do with China and Vietnam—both Communist countries—engaging them with trade and commerce and travel.

I believe we will best do that in Cuba in exactly the same manner. That is why I believe that changing our laws with respect to trade, especially with respect to food, and also with respect to travel, will be the method by which we move Cuba and move the Castro government towards a day when there will be open elections in Cuba, democracy, and a better record on human rights in Cuba.

There are some in this town who do not agree with me. And I respect that. But I tell you, I wonder, for the life of me, how does someone really believe that our selling chicken gizzards, turkey legs, pork lard, wheat, and dried beans to Cuba undermine the interests of the United States? Does anybody really believe that, that the sale of these agricultural products to Cuba undermines the economic interests or the security interests of the United States? No one really believes that any longer.

So I do not believe we ought to use food as a weapon anywhere in the world, under any circumstance. That does not hurt Fidel Castro. He has never missed breakfast or dinner because this country decided it will not sell food to Cuba. But the poor, sick, and hungry people in Cuba, who have missed a lot of meals, they are the ones who hurt from this country's policy of using food as a weapon.

So this amendment is very simple. It lifts, ever so narrowly, that portion of the embargo that deals with food and allows Cuba to purchase food from this country with private financing—not public financing, just private financing.

Why should our farmers be the victims of a foreign policy that doesn't work? Why should our farmers be told that they cannot sell their crops to Cuba using the kinds of private financing that are common to agricultural sales involving other countries? That doesn't make any sense to me.

I know my colleague from New Jersey has a different view on this. Let me, if I might, out of my time, yield to

my colleague from New Jersey for 4 minutes.

(Mr. REED assumed the chair.)

Mr. TORRICELLI. Mr. President, I thank my colleague from North Dakota for yielding me this time.

There are profound differences in the Senate over American policy towards Cuba, as there are divisions in the United States. For 40 years, the Cuban people have seen their nation enslaved by an alien ideology. The Cuban people, who by their nature are independent, industrious people, entrepreneurial in spirit, strong of faith and nationalism, have seen their country's independence compromised by foreign alliances, their sense of entrepreneurship compromised by communism, and the free spirit of the Cuban people dampened by state control over almost every facet of life.

Ten years ago, this Congress recognized that America was maintaining a fiction in its policy toward Cuba. We pretended to have an embargo but allowed American corporations to trade with Cuba through Europe. We said we were offended at human rights violations in Cuba, the denial of all basic rights, but we maintained normal economic enterprise through our allies. The Cuban Democracy Act and then the Helms-Burton Act, under the Clinton administration, changed these circumstances. That issue is now before the Congress again, and it is a good debate.

As certainly as Senator DORGAN feels the need for change, I rise in the belief that what is required is not change but more time. It has admittedly been a long time. I cannot say with any satisfaction that the policy has yielded any results. I can only tell you that American policy is justifiable, morally and strategically, and that the burden of change is not with us. The United States Government has no argument with the Cuban people. It is for this reason that American law has exempted food and medicine and cultural exchanges and media visits from the embargo.

For 10 years since the modern embargo was written, the U.S. Government has made concession after concession. To the Castro government we allowed the opening of news bureaus in the hope that Castro would institute some reform, and there was none. The Clinton administration allowed charter flights so tourists could visit in the hope there would be some concession from Castro, and there was none. We believed that if we would loosen up visas for tourists to begin to visit in some small numbers, we would get some reciprocal action by Castro, and there was none—time and time and time again. Indeed, in the licensing of food deliveries and other economic enterprise, every single request that was made of the Treasury Department was granted, concession after concession.

What is it we sought? Some small indication from Havana of change. If Fidel Castro had done anything, a sin-

gle opposition newspaper, one; an election in a small town, one province; a single political party in opposition—anything—there would be no embargo today.

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

Mr. TORRICELLI. I ask for 1 more minute.

Mr. DORGAN. I yield an additional minute.

The PRESIDING OFFICER. Without objection, the Senator is recognized.

Mr. TORRICELLI. Under American law, the moment the President of the United States has certified there is a free election in Cuba, by law there is no embargo. I know Senator DORGAN and I will address the Senate on this issue at another day, another time, on another piece of legislation. It is an important debate for the Senate. On this day I did not want Cuban Americans to believe that this Senate is of one mind. I believe in defeating Fidel Castro. I believe the Cuban people can still live to see a free day. I don't intend to yield the fight until we reach that day.

I thank the Senator from North Dakota for yielding the time.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, my colleague and I share the goal of democratic reforms in Cuba and human rights in Cuba. It is just that I believe that the quickest route to changing the Government of Cuba is not through a policy that for 40 years has been a failure but, instead, by developing policies that we have decided work in China, Vietnam, and elsewhere, policies of engagement.

I believe very strongly that having unfettered trade with Cuba and United States citizens traveling in Cuba is the quickest way that exists in order to bring democratic reform and human rights to Cuba.

It is interesting to me that in the early 1970s, it was Richard Nixon who went to China. When he went to China, do you know who was the leader of China? Mao Tse Tung, a repressive Communist leader who virtually obliterated human rights in China. Richard Nixon went to China and began an engagement with China to open and expand trade and travel with China over a period of years.

Now in the Senate we hear people say, when we have these votes, engagement with China is the way to bring China along on human rights and democratic reforms. Engagement with China, a Communist country, is the way for us to accomplish that goal. They say that with Vietnam as well, a Communist country. Engagement with Vietnam, more trade, more travel, more engagement will move us towards greater human rights and greater democratic reforms in China and Vietnam. But they say that logic does not exist with respect to Cuba. Why? For 40 years this policy has existed, and for 40 years it has failed.

Despite the fact we have opened a crevice dealing with the sale of agricultural products to Cuba, the State Department and the administration are not helping us move food to Cuba when Cuba wants to buy it for cash. The head of Alimport, which is the agency that buys food for Cuba, applied for a visa to come to the United States. That visa was revoked. Why? Because they indicated on a previous visit to the United States, the head of Alimport, Mr. Pedro Alvarez, seemed to do things that were undermining our country's interests. What were these things? He said in the United States that he hoped Cuba could buy more food from the United States. That undermines our country's vital interests? I think not.

I always find it interesting the way our country handles these issues, not just this but trade issues generally. We use trade as a way of creating foreign policy to punish and reward. I have spoken before about this. We have this little trade disagreement with Europe. Europe slaps some prohibitions on hormone beef coming from the United States. What is our response to Europe? We slap big penalties on Europe. We take aggressive, tough action against goose liver, truffles, and Roquefort cheese. That is enough to scare the devil out of anybody. We are going to take action against your goose liver.

Going to Cuba, Pedro Alvarez wants to come to this country because he wants to buy—if you don't mind my reading a few of these things—chicken innards, chicken gizzards, chicken entrails, pork trimmings, yes, pork loins, wheat, corn, soybeans, dried beans, eggs. The list is a long list.

Does anybody really think that any part of this as a sale to Cuba is going to undermine the interests of our country? Does anybody really think that? I don't think so.

My colleague from New Jersey always states his case well. I understand his point. Neither he nor I wants to give comfort to a government that doesn't respect human rights.

But this isn't about giving comfort to the government. This is about our responsibility. Our responsibility, in my judgment, is to decide as a country that it is not a moral policy to use food as a weapon. I hope we never again use food as a weapon.

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

Mr. DORGAN. In the final 30 seconds I have remaining, I intend to withdraw my amendment No. 3439, and I will explain why that is the case. Some of those who have cosponsored amendment No. 3439, and who support us on all of these issues when we vote on Cuba issues, have indicated to me they would feel constrained to support a tabling motion only because it would exist on trade promotion authority, and they don't want to jeopardize that legislation in any way. They have indicated they would support this proposition that I offer on future legislation.

So it is my intention to offer it on an appropriations bill.

I ask unanimous consent to withdraw amendment No. 3439 at this moment.

The PRESIDING OFFICER. The amendment is withdrawn.

#### AMENDMENT NO. 3415

Mr. REID. Mr. President, it is my understanding now that the business before the Senate would be No. 3415, the Torricelli-Mikulski amendment.

The PRESIDING OFFICER. That is correct.

Mr. REID. I thank the Chair.

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

Mr. TORRICELLI. Mr. President, for more than a century, American workers have made enormous progress in their working conditions and securing their most basic rights in the sale of their labor. It is the foundation of our very economy that the United States uniquely created circumstances where those who made products had decent enough wages to buy them. Those who were engaged in the production had sufficient leisure time to enjoy the fruits of their own labor. People fought and died for these rights in the labor movement. They were not given easily, not simply established, but fought for by a generation of workers.

Those rights are very much now at issue as the Senate debates the expansion of international trade and fast-track authority for the President in new bilateral agreements.

The question arises on the sanctity of these rights and their ability to be defended in an international context. What does it mean to American workers to have the right of association, the right to organize and bargain collectively, the prohibition of forced or compulsory labor, minimum wage, prohibitions on child labor, maximum hours, or safety conditions?

Regarding the issue before the Senate, if we are to engage in these new international labor agreements, are we creating a situation where Americans can continue to have pride that we afford these things to our own people, to our own workers, while seeking the benefits of lower prices and cheaper goods through cheaper labor? Are we sending American workers into competition with those who enjoy none of these rights?

Is there not some degree of hypocrisy? We want these things for our workers, but we put our workers in a situation of competition with workers in China, Latin America, or Africa who enjoy none of these rights. Indeed, what meaning will it have to claim these things for ourselves if we allow products into America from nations that guarantee none of these rights?

The examples around the globe are as striking as they are compelling. Human Rights Watch recently released a report documenting child labor; obstacles to unionizing on banana plantations in Ecuador, the world's largest exporter of bananas. The report cited children as young as 8 years old work-

ing long hours in hazardous conditions, exposed to toxic pesticides, drinking contaminated water, using sharp tools, hauling heavy loads and, in some cases, suffering sexual harassment.

I am told that it is progressive to be arguing on the Senate floor for fast track, for labor agreements with all nations, with no conditions on labor rights. I am told that is progressive.

What is progressive in allowing products into the United States made from child labor, exploited children? What is progressive about not insisting that these basic rights be afforded to those whose products will come into America, those who use the products. Nations who import these goods cannot morally separate themselves from the means of production. If you buy it, if you import it, if you negotiate with the countries that cast a blind eye to the sexual harassment, the exploitation, the long hours, the unsafe conditions, the contamination, the sickness, and the death, you are part of the problem. You are not only condoning it, you are encouraging it by providing a market for it.

So I rise today not only for our own workers who will be forced into competition with these conditions to survive, making the right for minimum wage, to organize, for health benefits, for retirement, for safe conditions meaningless given the competitive circumstances in which we place our own companies; I also rise for their people because in this competition no one succeeds. It is a competition of exploitation. Everybody loses.

The same report documenting abuses in Ecuador found that workers feared dismissal if they even attempted to unionize and are replaced by "permanent temporary" workers. So not only are these conditions horrific, there is no chance through collective bargaining, through the exercise of union rights, to redress the grievance. If you told me that conditions in these nations were abhorrent but that through trade workers would organize themselves, they would be guaranteed better rights, conditions, and labor, it would be something worth attempting. The marketplace will not improve these conditions. Forcing American workers to compete with these companies in these circumstances will become a near permanent condition.

There are many industries that are facing these same circumstances. It is not simply agriculture. It is the garment industry, it is the footwear industry, and it is not simply Latin America.

Indeed, China in some cases may be the most egregious, offering low wages, weak labor laws, and suppression or control of all trade activity. In China, this has been particularly true in garments and footwear in which retailers subcontract orders to the absolutely lowest bidders with no inquiry, no control, perhaps not even any interest, in the degree of exploitation.

There is something wrong with this system, and I do not know how it is

corrected. Amendment after amendment is lost on this Senate floor. People rise for footwear, but it can be lost for garments and for agriculture. If it was exploitation of somebody else in another country, it is their problem, not ours. On the contrary.

I want affordable goods for the constituents of my State as much as any Senator. I believe in free, fair, open competition as much as anybody. I believe in the ability of the American worker, American business to compete with anybody, anywhere, anytime on a free and fair basis. But who here believes there is something to be gained by competing with what amounts to slave labor in conditions of death and exploitation? Who believes any American worker in any industry could survive that competition? And, indeed, are we not replete with examples of the fact that they cannot?

I do not know how these circumstances ever change. I know that if America were going to the lowest bidder for businessmen, I know if we were looking around the world for the cheapest possible bankers and financiers, I know if there were no working conditions for lawyers in India, Pakistan, or Latin America and we were importing that labor, it would get someone's attention. But garment workers, footwear workers, agricultural workers, have they no advocates? Is there no concern for the competition in which we put our people in these circumstances? There is concern, but there is a minority.

I have heard enough of this debate. I have watched enough votes. I have seen every Member defeated on every amendment to know mine will be no different. They are hollow words, but they will be read again. We do an injustice to the American workers. We do an injustice to those in developing countries who only want the right to form their own unions, the basic protection of themselves and their families.

The monarchies of Europe in the 18th and 19th centuries faced similar circumstances. Europeans, even in those governments, could have raised their standard of living by getting cheaper products from nations that practiced slavery, and very often they would not; they would not be part of it.

What, I say to my colleagues, is the difference from importing products during that exploitation—from the exploitation of children who are worked at 8 years old for little or no wages; people who are locked in dormitories at night so they cannot leave the factory; people who are paid in script, not money; people who work because they have no choice or die? Different centuries, different words, same results: Human exploitation.

The President wants authority to negotiate with a series of Third World nations to enter into free trade agreements with the United States. If we were here on a different basis, I not only would vote for that authority, I would offer the bill. I would be here ar-

guing for it every day. What separates us is not a desire to open markets or have free trade, it is the simple conditions of doing so.

If I believed George W. Bush would negotiate free trade agreements insisting on the rights of foreign workers to organize, or a minimum wage, or child labor, this would be the right thing to do.

The language before this Senate does not contain any requirements to bring the domestic laws of any nation into the compliance of the ILO conventions, guaranteeing protection against the most egregious violations of workers. It requires nothing, so that is exactly the kind of support I intend to give it: Nothing.

Under my amendment, workers' rights provisions would be assured just as we are protecting intellectual property or investor rights because it is not as if there are not some assurances to some Americans in fast track. If you own a patent, we will defend you. If you have intellectual property, the U.S. Government will respect it. But if you are the heirs of garment workers and agricultural workers, the rights you fought for—protection from being in competition with a child for labor, not to compete with someone who earns under the minimum wage—you will get none of those protections at all.

I regret the Senate has come to this point, and I regret that we could not come to common terms in how to engage in international agreements to open borders. It did not have to be. While I know my amendment may not succeed, I assure the Senate we will visit this subject again. There is just so much we can lose, so many industries that can be lost, so many American workers we put in competition with people in desperate circumstances.

The downward spiral of living circumstances of working families in America, the loss of benefits, wages, industries, communities, is just so much of a burden that can be borne until we insist not simply on opening markets, but opening them on some common basis of respect for human rights and human dignities in international labor.

I thank my colleagues for the opportunity to offer the amendment and to address this subject.

Mr. CORZINE. Mr. President, I rise to lend my support to Senator TORRICELLI's amendment which would require prospective trading partners to ensure that their domestic laws provide adequate labor protections. The amendment calls on countries interested in trading with the United States to conform their labor protection regime to the labor standards of the International Labor Organization's Declaration. The amendment would further require that the worker rights protections including in the underlying legislation be subjected to the same dispute resolution mechanism as other areas.

For far too long American businesses have been operating at a comparative

disadvantage. Through years of improvements, the United States today provides its workers with a market basket of protections: the 40-hour workweek, the minimum wage, OSHA standards. But, as the business community has long pointed out, each of those protections comes with a cost as well as a benefit. It costs more to provide workers with a fair wage. It costs more to provide a safe workplace and allow workers to associate freely. It costs more to treat workers with dignity. It is a cost of doing business in a democratic society.

Other countries take advantage of lax worker protections to attract manufacturing companies away from pro-worker regulatory regimes. Developing countries desperate for economic improvement are in a regulatory race to the bottom, putting downward pressure on international wages and working conditions. Sacrificing decent working conditions and base salaries may give these countries an edge in industry, but it puts their workers at risk.

The Baucus-Grassley bill was correct to put worker rights on the agenda of U.S. trade negotiators, but it did not go far enough. This amendment would guarantee that the worker protections included in the bill can be enforced through the dispute resolution process. If it makes sense to enforce the investment protections included in international agreements, it makes as much sense to enforce labor protections.

We must establish a level playing field for all countries. No country should feel pressured to exploit children or undermine worker safety in an effort to attract development dollars. And no country should be put at a competitive disadvantage for providing its workers with basic protections or with basic dignity.

I urge my colleagues to support Senator TORRICELLI's amendment, which seeks to ensure that the United States puts its national values into practice and considers the rights of workers throughout the world when it frames international trade agreements.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to amendment No. 3415.

The amendment (No. 3415) was rejected.

Mr. GRAMM. I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, it is my understanding, pursuant to the previous order, that the Republicans have indicated they want to offer an amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Montana.

Mr. BAUCUS. Mr. President, we are waiting for Senators GRASSLEY and BROWNBACK with respect to a sense of the Senate regarding granting Russia PNTR benefits. I hope those Senators can come fairly quickly because as soon as they do we can take up that resolution.

In the meantime, I will say a few words about the health provisions included in the pending legislation. I say from the outset that I am extremely pleased about these provisions. They represent, first, a true bipartisan compromise, the result of months of negotiations, and, I might add, lots of concessions on both sides.

After all that effort, I believe we have reached an agreement that will provide real, genuine help to families affected by new trade policies.

Before describing the proposals, I commend Senator GRASSLEY from Iowa. Many people spend a lot of time talking about bipartisanship in this town, but Senator GRASSLEY does more than just talk. He is bipartisan. His efforts on this issue and others were crucial to getting a workable bipartisan compromise. I am happy to have him as my partner on the Finance Committee.

What is the proposal? The proposal provides a 70 percent tax credit for health insurance premiums to workers who participate in trade adjustment assistance, known as the TAA program. This tax credit is advanceable and it is refundable. That means workers displaced by trade will not have to pay the full cost of their health insurance and then wait to be reimbursed when they file their tax returns the next year. They get the help up front, when they need it.

Employees can also use this credit for a number of health insurance options. Those include maintaining their existing health insurance under what is known as COBRA coverage; purchasing insurance through a State high-risk pool or comparable coverage that the State has established; a State employee benefit plan or comparable coverage; they can purchase through a State-operated health plan; or coverage purchased through a private pool.

Some Senators expressed concern about the impact on workers with individual market policies. And they argue it will take a long time to establish a State group coverage option. These are good points. They are valid. We attempted to address them.

Workers covered by individual market policies before losing their jobs will be able to keep those policies and take full advantage of the 70 percent tax credit. In addition, because we believe it will take some time for the Treasury Department to set up the tax

credit mechanism and because it will take States some time to establish group purchasing agreements, we have included interim coverage under the National Emergency Grant Program.

In short, it is not everything that Senators on either side of the aisle wanted. There are some provisions and concessions made on both sides of the aisle. We dropped on our side the Medicaid provisions. We yielded on the issue of requiring those eligible for COBRA to purchase only COBRA coverage. Most importantly, we moved from a premium subsidy to a tax credit, something that Republicans and centrists support.

Similarly, the compromise is not everything the other side wanted. There is a tax credit, but not for the purchase of individual coverage. Indeed, the size of the tax credit, 70 percent, represents a sacrifice on both sides. Those on our side started at 75 percent; the other side wanted 60 percent. In the end, we split the difference at 70 percent—not exactly an even split, but a good split.

None of the sacrifices were easy. Each side had to swallow a bit of their pride. While we may have given up a little, displaced workers and their families gained a lot. I am proud we proved our ability to work together and compromise to help Americans in need.

The trade adjustment assistance provisions are very significant. They are a huge improvement over current law. These provisions give health insurance benefits to displaced employees. They give substantial benefits for a couple of years to employees displaced because of trade. They are a main driver of this bill. In addition, we are giving fast track negotiating authority to the President under certain negotiating objectives. But the real substance of the legislation that is about to be passed here that has immediate legislative effect is the trade adjustment assistance provisions. They are significant. That is the legislation that will be enacted as a consequence of the trade bill we are now negotiating. I urge all colleagues to remember that.

When we hear complaints of displaced employees, rest assured there are significant provisions that help those employees that will be displaced because of trade.

The underlying bill develops a greater consensus on trade so more and more Americans are able to gain the benefits of trade—not just the multinational companies, but small business, so all the people that work in America so diligently to try to improve their income and have health insurance for their family and children can live a good life, take vacations and so forth.

In the past, there has not been sufficient consensus on trade, and there still is not sufficient consensus, but the provisions help move us in that direction.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3446 TO AMENDMENT NO. 3401

Mr. BROWNBACK. I call up amendment 3446 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. BROWNBACK] proposes an amendment numbered 3446 to amendment No. 3401.

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

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

The amendment is as follows:

(Purpose: To extend permanent normal trade relations to the nations of Central Asia and the South Caucasus, and Russia, and for other purposes)

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . DEMOCRACY AND FREEDOM THROUGH TRADE ACT.**

(a) FINDINGS.—Congress makes the following findings:

(1) The United States is now engaged in a war against terrorism, and it is vital that the United States respond to this threat through the use of all available resources.

(2) Open markets between the United States and friendly nations remains a vital component of our Nation's national security for the purposes of forming long, lasting friendships, strategic partnerships, and creating new long-term allies through the exportation of America's democratic ideals, civil liberties, freedoms, ethics, principles, tolerance, openness, ingenuity, and productivity.

(3) Utilizing trade with other nations is indispensable to United States foreign policy in that trade assists developing nations in achieving these very objectives.

(4) It is in the United States national security interests to increase and improve our ties, economically and otherwise, with Russia, Central Asia, and the South Caucasus.

(5) The development of strong political, economic, and security ties between Russia, Central Asia, the South Caucasus, and the United States will foster stability in this region.

(6) The development of open market economies and open democratic systems in Russia, Central Asia and the South Caucasus will provide positive incentives for American private investment, increased trade, and other forms of commercial interaction with the United States.

(7) Many of the nations in this region have secular Muslim governments that are seeking closer alliance with the United States and that have diplomatic and commercial relations with Israel.

(8) The nations of Russia, Central Asia and the South Caucasus could produce oil and gas in sufficient quantities to reduce the dependence of the United States on energy from the volatile Persian Gulf region.

(9) Normal trade relations between Russia, Central Asia, the South Caucasus, and the United States will help achieve these objectives.

(b) SENSE OF CONGRESS.—(1) Prior to extending normal trade relations with Russia and the nations of Central Asia and the South Caucasus, the President should—

(A) obtain the commitment of those countries to developing a system of governance in accordance with the provisions of the Final Act of the Conference on Security and Cooperation in Europe (also known as the "Helsinki Final Act") regarding human rights and humanitarian affairs;

(B) ensure that those countries have endeavored to address issues related to their national and religious minorities and, as a member state of the Organization for Security and Cooperation in Europe (OSCE), committed to adopting special measures for ensuring that persons belonging to national minorities have full equality individually as well as in community with other members of their group;

(C) ensure that those countries have also committed to enacting legislation to provide protection against incitement to violence against persons or groups based on national, racial, ethnic, or religious discrimination, hostility, or hatred, including anti-Semitism; and

(D) ensure that those countries have continued to return communal properties confiscated from national and religious minorities during the Soviet period, facilitating the reemergence of these communities in the national life of each of those countries and establishing the legal framework for completion of this process in the future.

(2) Earlier this year the Governments of the United States and Kazakhstan exchanged letters underscoring the importance of religious freedom and human rights, and the President should seek similar exchanges with all nations from the region.

(c) PERMANENT NORMAL TRADE RELATIONS FOR RUSSIA.—

(1) PRESIDENTIAL DETERMINATION AND EXTENSION OF NONDISCRIMINATORY TREATMENT.—Notwithstanding any provision of title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.), the President, after certifying to Congress that all outstanding trade disputes have been resolved with Russia, may—

(A) determine that such title should no longer apply to Russia; and

(B) after making a determination under subparagraph (A) with respect to Russia, proclaim the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of that country.

(2) TERMINATION OF APPLICATION OF TITLE IV.—On or after the effective date of the extensions under paragraph (1)(B) of nondiscriminatory treatment to the products of Russia included under paragraph (1)(B), title IV of the Trade Act of 1974 shall cease to apply to that country.

(d) PERMANENT NORMAL TRADE RELATIONS FOR KAZAKHSTAN.—

(1) PRESIDENTIAL DETERMINATION AND EXTENSION OF NONDISCRIMINATORY TREATMENT.—Notwithstanding any provision of title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.), the President may—

(A) determine that such title should no longer apply to Kazakhstan; and

(B) after making a determination under subparagraph (A) with respect to Kazakhstan, proclaim the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of that country.

(2) TERMINATION OF APPLICATION OF TITLE IV.—On or after the effective date of the extension under paragraph (1)(B) of nondiscriminatory treatment to the products of Kazakhstan included under paragraph (1)(B), title IV of the Trade Act of 1974 shall cease to apply to that country.

(e) PERMANENT NORMAL TRADE RELATIONS FOR TAJIKISTAN.—

(1) PRESIDENTIAL DETERMINATION AND EXTENSION OF NONDISCRIMINATORY TREATMENT.—Notwithstanding any provision of title IV of

the Trade Act of 1974 (19 U.S.C. 2431 et seq.), the President may—

(A) determine that such title should no longer apply to Tajikistan; and

(B) after making a determination under subparagraph (A) with respect to Tajikistan, proclaim the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of that country.

(2) TERMINATION OF APPLICATION OF TITLE IV.—On or after the effective date of the extension under paragraph (1)(B) of nondiscriminatory treatment to the products of Tajikistan included under paragraph (1)(B), title IV of the Trade Act of 1974 shall cease to apply to that country.

(f) PERMANENT NORMAL TRADE RELATIONS FOR UZBEKISTAN.—

(1) PRESIDENTIAL DETERMINATION AND EXTENSION OF NONDISCRIMINATORY TREATMENT.—Notwithstanding any provision of title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.), the President may—

(A) determine that such title should no longer apply to Uzbekistan; and

(B) after making a determination under subparagraph (A) with respect to Uzbekistan, proclaim the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of that country.

(2) TERMINATION OF APPLICATION OF TITLE IV.—On or after the effective date of the extension under paragraph (1)(B) of nondiscriminatory treatment to the products of Uzbekistan included under paragraph (1)(B), title IV of the Trade Act of 1974 shall cease to apply to that country.

(g) PERMANENT NORMAL TRADE RELATIONS FOR ARMENIA.—

(1) PRESIDENTIAL DETERMINATION AND EXTENSION OF NONDISCRIMINATORY TREATMENT.—Notwithstanding any provision of title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.), the President may—

(A) determine that such title should no longer apply to Armenia; and

(B) after making a determination under subparagraph (A) with respect to Armenia, proclaim the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of that country.

(2) TERMINATION OF APPLICATION OF TITLE IV.—On or after the effective date of the extensions under paragraph (1)(B) of nondiscriminatory treatment to the products of Armenia included under paragraph (1)(B), title IV of the Trade Act of 1974 shall cease to apply to that country.

(h) PERMANENT NORMAL TRADE RELATIONS FOR AZERBAIJAN.—

(1) PRESIDENTIAL DETERMINATION AND EXTENSION OF NONDISCRIMINATORY TREATMENT.—Notwithstanding any provision of title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.), the President may—

(A) determine that such title should no longer apply to Azerbaijan; and

(B) after making a determination under paragraph (1) with respect to Azerbaijan, proclaim the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of that country.

(2) TERMINATION OF APPLICATION OF TITLE IV.—On or after the effective date of the extensions under paragraph (1)(B) of nondiscriminatory treatment to the products of Azerbaijan included under paragraph (1)(B), title IV of the Trade Act of 1974 shall cease to apply to that country.

(i) PERMANENT NORMAL TRADE RELATIONS FOR TURKMENISTAN.—

(1) PRESIDENTIAL DETERMINATION AND EXTENSION OF NONDISCRIMINATORY TREATMENT.—Notwithstanding any provision of title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.), the President may—

(A) determine that such title should no longer apply to Turkmenistan; and

(B) after making a determination under subparagraph (A) with respect to Turkmenistan, proclaim the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of that country.

(2) TERMINATION OF APPLICATION OF TITLE IV.—On or after the effective date of the extensions under paragraph (1)(B) of nondiscriminatory treatment to the products of Turkmenistan included under paragraph (1)(B), title IV of the Trade Act of 1974 shall cease to apply to that country.

Mr. BROWNBACK. Mr. President, I thank my colleagues and I thank the chairman of the Finance Committee and the ranking member for the consideration of this amendment.

This amendment is particularly important in light of what has taken place recently in this country and around the world. The attack on September 11 has been an issue that is front and center of our minds since that date.

I came from a secure briefing where we were talking about what was known prior to that time period. This week, the President of the United States heads to Russia to work with the Russians on several issues. One is reduction of nuclear weaponry.

A two thirds reduction of missiles announced last week was an incredible reduction of nuclear missile material and nuclear missile capacity. There are United States troops in regions of the former Soviet Union that prior to September 11 we probably would not have dreamed of having present, in places such as Uzbekistan, Kazakhstan, and Georgia. The United States has troops there, training or on missions, dealing with the war on terrorism.

We have had a great deal of cooperation from these countries in the war on terrorism. It is an important point. It is an incredible point of safety for our people in the United States, and it is an incredible moment for the United States and the world that are seeing taking place post-cold war when you consider where we are with Russia. Even last week in the NATO meeting, Russia said, OK, we will come closer to joining in with NATO. This is something that 5 years ago could not have even been contemplated. Yet we are seeing that growing closeness taking place between the United States and Russia. We see a growing cooperation on terrorism taking place there and in central Asia. We are seeing the United States troops in this region.

We need to reduce our dependence on Middle East oil. A key part of that is what is taking place in Russia and central Asia.

Our Nation was brutally and callously attacked September 11, 2001. We continue to mobilize with diplomatic and military action abroad, as well as bolstering defenses at home. We are facing a sustained war effort against international terrorism and a sustained readiness at home not seen since World War II. Let there be no doubt those individuals and organizations responsible for terrorism against the

United States will be found and brought to justice and America's shores will be safe again.

As America continues to mobilize military, intelligence, and law enforcement assets to confront our enemy, there is one asset we have yet to mobilize which can be just as valuable as a bomb or a bullet. I believe that is trade. Trade with America can be an effective catalyst for the long-term viability of the institutions of democracy, the economic strength that bolsters them and our friends abroad.

Economic prosperity, civil rights, and liberties are an extension of the democratic society, which, in turn, ameliorate internal strife and dissatisfaction that can lead to extremism, evil, and terror.

By reaching out to our friends and struggling nations, by opening our markets to their products and vice versa, we can deploy the entrepreneurship of America as a weapon to help solidify the foundations of democracy, civil liberty, human right and economic prosperity abroad.

As we continue to debate trade promotion authority, it is also important we take this opportunity and ensure the nations seeking the benefits of increased and improved economic relations with the United States also benefit from certainty in their trading relationship with us; certainty that we will remain committed to their continued development, and certainty that, while the path of democratic and market reforms will not always be smooth, our commitment to their efforts will remain unwavering.

Today I offer an amendment that would make such a clear, strong, and principled statement. My amendment would extend permanent normal trade relations to Russia and the nations of Central Asia and the South Caucasus: Kazakhstan, Tajikistan, Uzbekistan, Turkmenistan, Armenia, and Azerbaijan, which will join Georgia and Kyrgyzstan in this regard.

Title IV of the Trade Act of 1974, the Jackson-Vanik provision, denies unconditional normal trade relations to certain countries, Russia and the former Soviet Republics in particular, that had non-market economies and that restricted immigration rights. Given the importance of strengthening our economic relationships, and encouraging continued democratic and market reforms, I believe that now is the time to permanently waive Jackson-Vanik for Russia and all of the nations of Central Asia and the South Caucasus.

Unfortunately, not everyone agrees.

Currently, the United States and Russia are engaged in a poultry trade dispute. Earlier this year Russia implemented a comprehensive ban on U.S. poultry imports, apparently in an effort to protect its developing domestic poultry industry. Some are concerned that Russia is contemplating similar actions on other products.

Russia should have strong domestic industries. However, we have learned

the hard lesson throughout the first half of the twentieth century that nations cannot build lasting economic strength through protectionism. I am pleased to have signed letters along with many of my colleagues in support of the U.S. poultry industry on this issue. The statement inherent in those letters is that nations cannot make unilateral, anti-trade decisions as if they operate in a vacuum.

Unilateralism, or more specifically bypassing unilateralism in favor of open markets and cooperation, is the very reason that we are debating trade promotion authority today. Theoretically we have come to recognize that open markets, not protectionism, best serves the common good. Even though, in practice, our debate over trade promotion authority demonstrates even an American interest in at least some forms of protectionism, I hope that my colleagues who have also opposed Russia's actions on poultry keep these important principles in mind as we finish our debate on trade promotion authority.

Some are also concerned that Russia, Central Asia, and the South Caucasus are not yet ready to graduate from Jackson-Vanik. Jackson-Vanik was intended to ensure that Soviet Jews could freely emigrate, but has also come to symbolize human rights more generally. The process of graduation from Jackson-Vanik has come to include several steps that nations operating under Jackson-Vanik must take to protect human rights, religious freedom, and equality for ethnic and religious minority groups. Jackson-Vanik graduation also includes the return of communal property confiscated from national and religious minorities during the Soviet period, which is intended to facilitate the reemergence of those communities in the national life of each such country, as well as the establishment of a legal framework for the completion of this process in the future. Finally, graduation has come to require an exchange of letters between nations under Jackson-Vanik and U.S. representatives at the most senior levels, which underscore the importance of human rights and religious freedom.

I have worked closely with organizations such as the National Council on Soviet Jewry, B'nai B'rith, and others, organizations I have the utmost respect for, to help bring this region into the Western community. I believe these important steps towards supporting human rights and religious freedom should be pursued by all nations, and I will continue to work towards that end. Progress has been made in the nations we are discussing here today.

In February of this year, Assistant Secretary of State Beth Jones secured the commitment from Uzbek President Islam Karimov that his government would allow the International Committee of the Red Cross, ICRC, to view the conditions of detainees. This is an important step that will allow the

international community to identify potential human rights violations.

In Kazakhstan prison conditions are harsh, however, the Government is taking an active role in efforts to improve prison conditions and the treatment of prisoners, and observers have noted significant improvements in prison conditions.

In Azerbaijan, though the Government largely controls radio and television, the primary source of information for most of the population, the Government took significant steps towards improving the media. These steps include the announcement that five private television stations would be granted long sought-after operating licenses by the frequencies committee.

In Armenia, prison conditions are Spartan and medical treatment is inadequate, however, according to domestic human rights organizations, conditions continue to improve.

I do not rise today in support of permanent normal trade relations with Central Asia and the South Caucasus because they are perfect—far from it. I do so because they continue to demonstrate a commitment to improving human rights and religious freedom, and the extension of permanent normal trade relations will only create an impetus for further reforms through increased economic and political association with the United States. By continuing to grow our relations with these countries, together we are going to improve their human rights and religious freedom conditions.

For years Congress went through the process of debating the merits of extending normal trade relations to the Peoples Republic of China, and just last year the Congress approved China's accession to the World Trade Organization. Trade with China has always been conditioned on the premise that increasing trade with China would increase China's contact and acceptance of the values, liberties, and fundamental beliefs that make our nation great. I do not believe anyone in the Senate is prepared to suggest China has a commendable record on human rights. Certainly not this Member, particularly in view of what is taking place even today in their dealing with the North Koreans entering China, to be forced back, sometimes with bounties. If trade can achieve these goals in regard to China, the positive impact of trade on Russia, Central Asia, and the South Caucasus is no less than a foregone conclusion. If a trading relationship with China will improve their human rights record, the same will hold true for Central Asia, the South Caucasus, and Russia as well.

In addition to improvements over human rights and religious freedom, we must also be mindful of the remarkable developments that have taken place in this region of the world since September 11.

This week President Bush travels to Moscow and will sign an historic agreement between our nations to eliminate



two thirds of our nuclear weapons stockpiles. Five years ago that would have been world news for a month. Today it is hardly passing news for a day. Just last week the North Atlantic Treaty Alliance and Russia announced the formation of the NATO-Russia council, a decision-making body to counter terrorism and other security threats to our common interests.

Think, where would we be today if we didn't have the bases and the operations that took place out of Uzbekistan, Kazakhstan, bases to be able to land in Azerbaijan, troops right now working on counterterrorism in Georgia?

Today in Central Asia and the South Caucasus, multiple nations are seeking to embrace democracy, make market reforms, and build a closer relationship with the United States. Our friends in this region have been instrumental in our ability to bring the war effort directly to enemy al-Qaeda forces in Afghanistan. These nations represent immediate targets for increased economic ties with the U.S., and are representative of the types of nations that must have strong economic ties to the U.S. to help address internal difficulties. Plus, if they are not building ties with the U.S. they will be building them with nations in the region, some much less friendly towards the U.S., some of which have significant internal militant Islamic forces that want to move forward in these countries today. Clearly, we don't want that to take place.

In light of these crucial developments, I continue to believe that now is the right time to send the strong message to Russia, Central Asia, and the South Caucasus that they are on the right path, that we recognize the importance of the steps they have taken, and we are committed to continue working with them to strengthen democracy within their borders and open their markets to the world around them. I continue to feel that extending permanent normal trade relations with these important nations is the right way to make such a statement, and it is in the best interests of the United States that we do so now.

Permanently waiving Jackson-Vanik for these important allies would cost us nothing. Yet we have much to gain from the certainty created in our economic relationship with these nations to permanent normal trade status. Particularly, if we can do this with China, given their human rights record, we can do that in this region. Russia itself owns immense fossil fuel reserves which could reduce our reliance on oil from the volatile Middle East. Kazakhstan, Turkmenistan, Uzbekistan, and Azerbaijan are also valuable sources of oil. Kyrgyzstan has made impressive progress in making market reforms since its days as a Soviet Republic, which can provide fertile ground for American investment. Georgia is making significant progress towards market reforms as well.

It is also the case that several of these Central Asian and south Caucasus nations are suffering from internal strife caused by corruption and extremist Islamic fundamentalists. Kyrgyzstan's and Uzbekistan's Governments are currently targets of the terrorist organization, Islamic Movement of Uzbekistan, which seeks to create Islamic states in the region. Tajikistan is especially vulnerable in this regard as the flow of narcotics and refugees from Afghanistan, its neighbor to the south, have weakened that nation.

These nations are in dire need of American influence. They need access to our markets, as well as investment from American industry. By providing them with permanent normal trade relations, we will send a clear signal that the United States is prepared to engage this region permanently through trade and help bolster the democratic, market-opening reforms that are currently underway.

As strong as I believe that on balance extended permanent normal trade relations to these nations is the right thing to do today, I again recognize the difference of opinion held by some of my colleagues. It seems clear to me that however appropriate such action might be, permanent normal trade status will not be approved by this Senate today. Senator GRASSLEY has filed a second-degree amendment to mine, which expresses the sense of the Senate supporting the President's trip to Russia to meet with President Putin and deepen the friendship between our nations. I certainly thank Senator GRASSLEY for offering this amendment, and I endorse it.

I suggest, however, that some additions might be made to this sense of the Senate, if possible. I think it is fully appropriate, as well as consistent with the provision, that we include language recognizing the considerable efforts the nations of central Asia and the south Caucasus have made in assisting our antiterrorism efforts. I remind my colleagues that we have troops based in some of these nations.

Finally, I also encourage my colleagues to support including language supporting the extension of permanent normal trade relations to our friends at the appropriate time.

I think this is an important and significant geopolitical issue for the United States. This goes beyond trade. It is an important trade issue, but it is important geopolitically for us to do this.

While I recognize the votes are not here today, I hope in the near future the votes will be there for us to extend PNTR to the countries which I have identified. They are on the front lines of our war on terrorism. They will be countries that will fight terrorism internally, and they will increasingly do so in the future. If the United States is not dramatically engaged in this region, you can pay me now or pay me later. They are going to be involved in this fight, and we are going to have

more difficulty doing it in the future if we don't engage these nations now. Their populations are hungry for us to say: Yes, the United States wants to help. Work with us. Work with us in a positive way so we can have jobs and some opportunities and not be pulled by a militant Islamic group that says: Look, the West doesn't care for you. The West is opposed to you. The West doesn't like you. They do not believe in you.

We shouldn't be saying that. We should be engaging them as rapidly as we possibly can. Certainly, in the case of the former Soviet Union, we would be welcoming them with open arms as fast as we possibly could. They have already taken action. Do not quibble about that. Instead, let us engage these countries that seek our engagement, and let us do it in a constructive manner so we can help them. We will be helping ourselves as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

AMENDMENT NO. 3474, AS MODIFIED, TO  
AMENDMENT NO. 3446

Mr. GRASSLEY. Mr. President, I would like to offer a second-degree amendment to Senator BROWNBACK's amendment. I send a modified amendment to the desk.

The PRESIDING OFFICER. The amendment is so modified. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY] proposes an amendment numbered 3474, as modified, to amendment No. 3446.

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

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

The amendment is as follows:

In lieu of the matter proposed to be inserted insert the following:

**SEC. \_\_\_\_ SENSE OF THE SENATE REGARDING  
THE UNITED STATES-RUSSIAN FED-  
ERATION SUMMIT MEETING, MAY  
2002.**

(a) FINDINGS.—The Senate finds that—

(1) President George W. Bush will visit the Russian Federation May 23-25, 2002, to meet with his Russian counterpart, President Vladimir V. Putin;

(2) the President and President Putin, and the United States and Russian governments, continue to cooperate closely in the fight against international terrorism;

(3) the President seeks Russian cooperation in containing the war-making capabilities of Iraq, including that country's ongoing program to develop and deploy weapons of mass destruction;

(4) during his visit, the President expects to sign a treaty to significantly reduce American and Russian stockpiles of nuclear weapons by 2012;

(5) the President and his NATO partners have further institutionalized United States-Russian security cooperation through establishment of the NATO-Russia Permanent Joint Council, which meets for the first time on May 28, 2002, in Rome, Italy;

(6) during his visit, the President will continue to address religious freedom and human rights concerns through open and



candid discussions with President Putin, with leading Russian activists, and with representatives of Russia's revitalized and diverse Jewish community; and

(7) recognizing Russia's progress on religious freedom and a broad range of other mechanisms to address remaining concerns, the President has asked the Congress to terminate application to Russian of title IV of the Trade Act of 1974 (commonly known as the "Jackson-Vanik Amendment") and authorize the extension of normal trade relations to the products of Russia.

(b) SENSE OF THE SENATE.—The Senate—

(1) supports the President's efforts to deepen the friendship between the American and Russian peoples;

(2) further supports the policy objectives of the President mentioned in this section with respect to the Russian Federation;

(3) supports terminating the application of title IV of the Trade Act of 1974 to Russia in an appropriate and timely manner; and

(4) looks forward to learning the results of the President's discussions with President Putin and other representatives of the Russian government and Russian society.

Mr. GRASSLEY. Mr. President, before I talk about my approach and my feelings on this whole issue of our relationship with the former Soviet Union countries, I commend Senator BROWNBACK for the very thoughtful approach that he has on these issues, and the attention he has given this foreign policy consideration, as well as foreign trade-connected issues of the former Soviet Union.

I understand his interest in seeing normal trade relations extended to Russia, central Asia, and the south Caucasus.

The Democracy and Freedom Through Trade Act introduced today may be an appropriate vehicle to do just that. I certainly think this issue deserves a hearing. But I am not sure it is appropriate for this bill. Instead, I offer this sense-of-the-Senate amendment on the upcoming U.S.-Russian Federation Summit. It expresses a sense of the Senate in support of our President's efforts to strengthen our relations with Russia. The amendment itself seeks to build upon that relationship by expressing the Senate's support for restoring permanent normal trade relations with Russia.

Given the upcoming meeting between President Bush and Russian President Vladimir Putin, this resolution is a timely opportunity for the Senate to express its support for recent developments between our two countries, and also to express encouragement for these two Presidents when they meet later this week.

Since September 11, a new partnership has grown between the United States and Russia as a result of our close cooperation and common efforts in the fight against international terrorism.

This enhanced relationship recently produced a new strategic framework between Russia and the United States to significantly reduce stockpiles of nuclear weapons by the year 2012.

In addition, the United States and Russia, along with our NATO partners, have further institutionalized the U.S.-

Russian security cooperation through the establishment of the NATO-Russia Permanent Joint Council. That Council meets for the first time May 28 of this year in Rome. It is clear that historic progress is being made between the United States and Russia, and that even more forward movement would be beneficial for both countries. I hope that movement continues.

I am not oblivious to the fact that there have been decades of tension between our countries. And I don't think we can be so naive as to think that there are not problems down the road. But it surely is important, particularly when there are opportunities such as the last few months to grow our relationship based upon those opportunities. Since there is this opportunity for benefit to both countries, I believe the time has come for Congress to seriously consider the elimination of Jackson-Vanik requirements with regard to Russia, and, thus, begin debate on the extension of normal trade relations.

President Bush has recently asked Congress to restore permanent normal trade relation status for Russia based on this policy of free and unfettered immigration. However, there are important issues that must be addressed during this discussion that go beyond just the issue of the Helsinki accords as it dealt with the subject of immigration. For example, there are some outstanding trade issues that need to be addressed. Among these are recent problems dealing with the U.S. poultry exports to Russia.

We also need to see greater progress on religious freedom and human rights, and the concerns of many people within Russia and also people outside of Russia who have concerns that Russia have more religious freedom.

I am pleased that President Bush has stated his commitment to work with Russia to help freedom and tolerance become fully protected in Russian law and Russian life.

President Bush has also stated his commitment to work with Russia to advance free immigration, safeguard religious liberty, and enforce legal protections for ethnic and religious minorities. I am surely hopeful that President Bush will further address these concerns openly and candidly in his discussions with President Putin during his upcoming visit.

So I believe the best hope for a positive future between our two countries is to develop an understanding of, and appreciation for, each culture, with both personal and business relationships. The development of commerce, international trade, and the sharing of ideas will further advance economic and political stability for both Americans and Russians.

I have said so many times on the floor of the Senate—particularly when trade issues are before this body, and even sometimes when trade issues are not before this body—that we political leaders and diplomats should not be so smug as to think that the only way we

are going to have peaceful relations between us—between the United States and some other country—is if political leaders and diplomats do it.

In fact, I have expressed the view that our efforts are kind of a spit in the ocean compared to the efforts that can be made through commerce. That is why I have stated that this trade promotion authority bill is so important to world peace, to the development of relationships, because as we break down the barriers of trade, as we enhance opportunities for commerce, individual businesspeople in one community doing business in another country, and vice versa, we are going to build relationships that will enhance opportunities for peace much greater than what political leaders can do, not denigrating the efforts of political leaders in the process.

This is particularly true as we look forward to doing away with Jackson-Vanik vis-a-vis Russia, as we look forward to Russia coming into the World Trade Organization, very much as we have looked at improving our relationship with China, with China now being a member of the World Trade Organization.

So what the Senator from Kansas is doing may be a small step by political leaders, but it is an important small step. I just think his doing it on this trade promotion bill is not the ideal place to do it. So that is why I have offered this second-degree amendment.

I encourage my colleagues to support this resolution which, in turn, supports President Bush's policy objectives with respect to the Russian Federation and calls for the termination, in an appropriate and timely manner, of the application of Jackson-Vanik provisions to Russia.

When it comes to the issue of this substitute that is before us, I hope we can get it adopted in a consensus way because this is one opportunity for us to show support for the President. Whether we are Republicans or Democrats, we have to admit that when it comes to enhancing our relationships with Russia, it has to be done through our head of state, through our chief diplomat, our Chief Executive, the President of the United States.

We should do everything we can to support the President at the time of his trip to Europe, to Moscow and St. Petersburg to further refine our relationships with the President of the Russian Federation and, in turn, with the Russian people.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, the majority leader has asked me to announce there will be no more rollcall votes tonight. The managers may have some other business to do. But basically this is the end of rollcall votes for tonight.

Mr. President, I ask unanimous consent—I have cleared this on the other side—the pending amendment be set aside temporarily to offer an amendment. I have cleared this with Senator GRAMM.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 3521 TO AMENDMENT NO. 3401

Mr. REID. Mr. President, I send an amendment to the desk. This would be the Democrats' next in order.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. JEFFORDS, proposes an amendment numbered 3521 to amendment No. 3401.

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

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

The amendment is as follows:

(Purpose: To authorize appropriations for certain staff of the United States Customs Service)

At the end of the title relating to Customs Reauthorization, insert the following:

**SEC. \_\_\_\_ . AUTHORIZATION OF APPROPRIATIONS FOR CUSTOMS STAFFING.**

There are authorized to be appropriated to the Department of Treasury such sums as may be necessary to provide an increase in the annual rate of basic pay—

(1) for all journeyman Customs inspectors and Canine Enforcement Officers who have completed at least one year's service and are receiving an annual rate of basic pay for positions at GS-9 of the General Schedule under section 5332 of title 5, United States Code, from the annual rate of basic pay payable for positions at GS-9 of the General Schedule under section 5332, to an annual rate of basic pay payable for positions at GS-11 of the General Schedule under such section 5332; and

(2) for the support staff associated with the personnel described in subparagraph (A), at the appropriate GS level of the General Schedule under such section 5332.

The PRESIDING OFFICER. The Senator from Nevada.

**CLOTURE MOTION**

Mr. REID. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

**CLOTURE MOTION**

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on Calendar No. 295, H.R. 3009, the Andean Trade Preference Act.

Max Baucus, Zell Miller, Harry Reid, Tom Carper, Joseph Lieberman, Tom

Daschle, Jeff Bingaman, Christopher Bond, Larry E. Craig, Gordon Smith of Oregon, Chuck Grassley, Orrin Hatch, Pete Domenici, Pat Roberts, Chuck Hagel, and Robert F. Bennett.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

**MORNING BUSINESS**

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business with Senators allowed to speak therein for a period not to exceed 10 minutes each.

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

**THE DEATH OF SGT. GENE VANCE IN AFGHANISTAN**

Mr. ROCKEFELLER. Mr. President, we received confirmation yesterday that Sergeant Gene Vance of Morgantown, West Virginia, was killed on Sunday in an exchange of gunfire near the village of Shkin, near Afghanistan's border with Pakistan. Sergeant Vance was a member of the 19th Special Forces Group of the West Virginia National Guard. His unit was patrolling southeastern Afghanistan in an effort to locate and eliminate any pockets of al Qa'eda and Taliban resistance. Sergeant Vance was the first American killed in combat in Afghanistan since March.

On behalf of all the Member of the Senate—I believe I can so speak—I want to express to Sergeant Vance's wife, Lisa, and daughter, Amber, our deepest sympathy at their loss and ours.

I extend those condolences to other members of Sergeant Vance's family who must be going through the kind of grief to which some people have become accustomed, but not many.

He was a member of the West Virginia National Guard. I had the honor to be Governor of West Virginia for 8 years. I know it just so happens that the West Virginia National Guard has top rankings all across the country in all respects—professionally audited, so to speak. There is no stronger embodiment of the patriotism that runs so deep in the mountains of my State of West Virginia.

America's early success in the war in Afghanistan, and in driving the Taliban from power, has created for many Americans the illusion that things have returned to normal. A few more metal detectors, a few more security guards, a longer line to board airplanes, but otherwise life seems to be getting back to the way it was before September 11. That is foolhardy thinking.

Sergeant Vance knew it, and he was doing his duty. The Vice President asserted, I think correctly, that there will be more attacks, that we are foolish if we are not prepared, if we are not mindful of this fact.

But if we Americans are managing to live our daily lives without fear, that may bring us some comfort, but it is entirely due to the courageous efforts being made by men such as Sergeant Vance and women in uniform in Afghanistan and elsewhere. Their efforts are not always the lead stories anymore, but they are taking the time to do the job right—eliminating the terrorists who perpetrated the attacks on this country on September 11.

In an era, as they say, of asymmetric threats, when small groups can develop weapons of mass destruction—and now we are looking at the probability of suicide bombers—and a group of 19 fanatics can carry out with relative ease an attack of unprecedented devastation on American soil, it is clear that our security will not be assured until we eliminate—not defeat but eliminate—the terrorists who are committed to hurting us.

Our forces in Afghanistan continue to perform a vital national task, and we had all darn well better recognize that. The death of Sergeant Vance is a reminder that they continue to put themselves at considerable risk, in unbelievably hostile territory, and often in a hostile society.

I do not know what it is that makes fine Americans feel so deeply the love of their country that they are prepared to risk their life for it. I want to say that I know what it is. But I think it is a mystery that all of us revere, and it is within the soul and the heart of each individual person who goes over to fight and to defend our way of life. In other words, we can never know that entirely. But we can know, and what we must never forget, is that we Americans, who enjoy the freedoms and comforts our society provides, only do so because men such as Sergeant Vance are willing to do what they did: Engage in firefight and lose their life.

So we mourn the death of Sergeant Vance in Afghanistan, and we are reminded yet again that America's strength is built on the individual decisions of hundreds of thousands of people who make those decisions in their own individual ways. Sometimes, of course, they cannot foresee what will happen. They sign up. They go. They cannot foresee what is going to happen. Sometimes what happens brings great sadness to many people.

To Sergeant Vance's wife and daughter, as you grieve, let your sense of loss be joined by the knowledge that Gene Vance died for a just and noble cause. He was prepared to put himself on the line for America, for Americans, and for the society that he wanted you, Lisa, and you, Amber, to be able to live in, in peace.

I thank the Presiding Officer and yield the floor.

REPORT TO THE NATION ON  
CANCER

Mrs. FEINSTEIN. Mr. President, this past February Senator GORDON SMITH and I introduced the National Cancer Act of 2002 with a bipartisan group of 28 cosponsors. This comprehensive bill, based largely on the recommendations of an advisory committee of cancer experts, is meant to update and reinvigorate the nation's war on cancer; a war President Nixon launched in 1971.

The need for our bill is greater and more urgent than ever before. Last week, the American Cancer Society, the National Cancer Institute, the North American Association of Central Cancer Registries, the Centers for Disease Control and Prevention, and the National Institute on Aging collectively released their joint Annual Report to the Nation on the Status of Cancer, 1973–1999.

The bottom line is that cancer death rates are declining—that's the good news. People are living longer with cancer; we are increasing the ranks of "cancer survivors." In 1997, we had approximately 8.9 million cancer survivors. This number continues to increase. But the incidence of cancer is increasing. That is the bad news. As our population ages, more and more people are being diagnosed with the disease. Researchers suggest that if this pattern continues, by the year 2050 there could be twice as many people being diagnosed with cancer each year as there are now. This year, about 1.3 million people will be diagnosed with cancer. By 2050, this number could reach 2.6 million.

That is why I introduced the National Cancer Act of 2002. It is a new battle plan for conquering cancer. My legislation focuses on finding better treatments and a cure for cancer by investing more funding in cancer research and clinical trials, and ensuring access to early detection and prevention measures. The challenges are plenty. But I believe, now more than ever, that a cure is within our reach.

This report being released today represents the fifth report of its kind, but it is the first report issued that documents a decline in cancer death rates. This is good news. While routine screening has improved the prognosis for cancer patients, and more people are getting screened, cancer still occurs disproportionately among older persons. As baby boomers age, the incidence of cancer will undoubtedly increase among this population. This population presents us with certain challenges and an increased burden on the system. More people will require cancer treatment, supportive and palliative care, home health services, general medical attention, and nursing services.

Finding cures and better treatments for cancers will demand more attention to be placed on the biology of older persons. For example, older persons are less likely to be enrolled in a clinical trial. There is also limited knowledge

of drug interactions. Will a person's cancer medication interact with that person's heart medication? These are just a few of the challenges. Finding a cure is within our reach. We must continue to focus funding on this goal. At the same time, there is an increased need for developing new strategies for prevention and early detection, looking in particular at age-specific interventions.

For 8 years I have co-chaired the Senate Cancer Coalition. We have held eight hearings on cancer. With each hearing, I become more and more convinced that with adequate resources we can find a cure. Polls by Research America show that the public wants their tax dollars spent on medical research. In fact, people will pay more in taxes for more medical research.

Cancer affects everyone. Everyone knows someone who has had cancer or will have cancer. I am thoroughly convinced that if we just marshal the resources, we can conquer cancer in the 21st century. The report released today is a clarion call for making the effort.

LOCAL LAW ENFORCEMENT ACT  
OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred July 14, 1991 in Eugene, OR. A gay man was attacked outside a bar by two people using offensive language about his sexual orientation. Pamela Joanne Richardson, 28, and Michael James Hughes, 21, were arrested in connection with the incident.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

## FOREIGN AFFAIRS DAY 2002

Mr. AKAKA. Mr. President, on May 10, 2002, our Nation celebrated Foreign Affairs Day, which honors the dedication and accomplishments of the men and women in the Foreign Service, the Civil Service, and as Foreign Service Nationals. It is also a day to remember those who have died in the line of duty.

We know that international problems can quickly become problems at home. American diplomats and their staff are on the front lines addressing these problems before they reach our shores, and these Federal employees are just as critical to our national security as modern weaponry and soldiers. Just as members of our armed services risk

their lives everyday in defense of freedom, civilians in the Federal foreign affairs workforce stand with the military on the front lines of the war on terrorism.

Those in the Civil Service and Foreign Service have protected America's interests overseas and the freedoms we enjoy at home since the earliest years of our Republic. Many have worked in perilous environments. The first to die was a diplomat in 1780, traveling to his duty post.

The attacks on Civil Service and Foreign Service personnel have risen in recent years. This month, 13 new names were added to the American Foreign Service Association Memorial honoring Foreign Service, Civil Service, and Foreign Service National employees who lost their lives in the line of duty or under heroic or inspirational circumstances. Among those heroes is a U.S. embassy employee who was killed with her daughter this year in a terrorist bombing during church services in Pakistan. As of today, a total of 209 men and women have lost their lives serving the United States as employees of the Civil Service and the Foreign Service.

Although not a member of the Foreign Service, a civilian Central Intelligence Agency case officer was among the first Americans to lose his life in Afghanistan in our Nation's fight against terrorism since September 11th.

Foreign Affairs Day reminds us all of the heroic dedication and sacrifices from people in the Foreign Service and Civil Service. They serve their country abroad using their talent and skills to defend freedom at home. Their service contributes enormously to our national security. As their personal safety is sacrificed for our freedom, we should always remember that they are the first line of defense in protecting the light of freedom which shines from America.

CELEBRATION OF EAST TIMOR'S  
INDEPENDENCE

Mr. REED. Mr. President, I rise to recognize the new nation of East Timor.

I want to congratulate and honor the people of East Timor for their perseverance and triumph of freedom in the face of tremendous odds. However, while we celebrate this victory we also must remember the long and arduous road by which they arrived here and recognize the challenging road which lies ahead. East Timor's road to independence—achieved on May 20, 2002—has been marked by years of suffering. Indonesia invaded East Timor shortly after Portugal withdrew in 1975 and forcefully tried to subdue a resentful people. Many suffered and died during Indonesia's 25-year occupation which ended in 1999.

Indonesia finally agreed 2 years ago to a referendum on independence for the East Timorese people. When the

referendum showed overwhelming support for independence, Indonesian loyalists murdered hundreds and reduced towns to ruins.

An international peacekeeping force halted the mayhem and paved the way for the United Nations to help East Timor back onto its feet. With U.N. assistance, the East Timorese have been rebuilding their nation. They have held their first democratic election, drafted and adopted their country's first constitution, and adopted their national flag and national anthem. On May 20, 2002, the United Nations handed over the reins to the newly established democratic government, and East Timor stands on its feet as the first new, free nation of the millennium.

Although the rebuilding of East Timor has been one of the U.N.'s more successful stories, East Timor is expected to remain reliant on outside help for many years since its poor infrastructure has been destroyed and it is drought-prone. According to a recent report, 41 percent of East Timorese live in poverty and 48 percent are illiterate. East Timor also faces the challenge of repatriating a large refugee population—approximately 55,000 East Timorese refugees continue to live in deplorable conditions in an environment of intimidation in Indonesia.

With this situation in mind, the world community's support for East Timor's future is critical over the next several years. The U.S. should work with the U.N. and its members to make sure the job of preparing East Timor for self-rule is completed. The U.S. and the world should ensure that children receive a quality education, adequate healthcare and shelter, and that other needs for a decent standard of living are met. This is especially crucial in light of the recently released UNDP report that classified East Timor as one of the 20 poorest countries in the world and the poorest in Asia.

It is equally important though, for East Timor to focus on the future. Now that the East Timorese people have their own independent nation they will need peaceful and constructive relations with their neighbor Indonesia and the international family of peaceful nations. I wish their new president, Mr. Xanana Gusmao, well as he continues to advocate a policy of reconciliation with Indonesia. He has said that his country must move on from the past and focus on issues such as education and healthcare.

Mr. Gusmao's vision and the will of the East Timorese people provide great hope and potential for East Timor as it faces these challenges. And as they do, let them know that the U.S. and other free, democratic nations will continue to offer our friendship and steadfast support.

So it is with great pride and honor that I recognize the dogged determination and perseverance of the East Timorese people, congratulate them on the birth of their free and democratic nation—the first new nation of this

new millennium, and welcome them into the family of peaceful nations.

#### WARTIME VIOLATION OF ITALIAN AMERICAN CIVIL LIBERTIES ACT

Mr. TORRICELLI. Mr. President, on October 19, 2000, more than 50 years after the end of World War II, Congress passed the Wartime Violation of Italian American Civil Liberties Act. I am pleased to have been the Senate sponsor of that bill which directed the U.S. Department of Justice to study the treatment of Italian-Americans at the hand of the Federal Government during the War and to deliver a report on its findings to the Congress.

This report has now been completed. The 42-page report, prepared by the Department's Civil Rights Division concludes: "After the December 7, 1941 attack on Pearl Harbor, citizens and aliens of Italian-American descent were subjected to restrictions, including curfews, searches, confiscations of property, the loss of livelihood, and internment." While the report can obviously not undo the injustices suffered by Italian Americans in the past, it is important that mistakes of the past be understood and acknowledged so that they are not repeated. This report will finally shine light on a largely unknown era of this nation's history—the injustices perpetrated by our government against thousands of Americans of Italian descent during the war.

While most Americans are aware of the mass evacuation and internment of Americans of Japanese descent shortly after the bombing of Pearl Harbor on 1941, very few are aware that because the United States was also at war with Mussolini's Italy, approximately 250 Americans of Italian descent were arrested and detained in internment camps throughout the United States. Like Japanese Americans, the internees were not informed of the charges against them or provided legal counsel, and the vast majority were arrested and detained without any evidence that they had done anything wrong. Their only crime was their Italian heritage or their involvement in Italian organizations.

By early 1942, all Italian immigrants, estimated to be approximately 600,000 people, were labeled "enemy aliens" and were forced to register at local post offices around the country. They were fingerprinted, photographed and required to carry photo-bearing "enemy alien registration cards" at all times. Their travel was restricted to no further than five miles from their home and any "signaling devices"—cameras, shortwave radios, flashlights—or weapons were considered contraband and had to be turned in to authorities or were confiscated.

Italian Americans living on the West coast were subject to a curfew from 8:00 p.m. to 6:00 a.m. and some were forced to evacuate areas the military deemed sensitive military zones, leaving their homes and jobs behind. Ironically, in

areas where Italian Americans were the majority population, these restrictions caused serious employment and food-supply problems at a time when all human and food resources were needed for the war effort.

The injustices suffered by Italian Americans during the war touched all socioeconomic classes. The parents of baseball legend Joe DiMaggio were forbidden to go any further than five miles from their home without a permit. Enrico Fermi, a leading Italian physicist who was instrumental in America's development of the atomic bomb, could not travel freely along the East Coast. The most disturbing irony was that at the time these injustices were being perpetrated, Italian Americans were the largest immigrant group in the United States Armed Forces and were fighting abroad to defend this country.

Twelve years ago, Congress passed the Civil Liberties Act of 1988 and rightfully admitted and apologized for the atrocities committed against American citizens and immigrants of Japanese ancestry during World War II. With the passage of the Wartime Violation of Italian American Civil Liberties Act, the truth has now been told about the mistreatment of Americans of Italian descent during the war. This should not only be important to the Italian-Americans whose rights were violated and unjustly disrupted during the war but to every American who values our Constitutional freedoms. By increasing our Nation's awareness of these tragic events, we ensure that such discrimination will never happen again in this country.

#### NOTICES OF INTENTION

Mr. HOLLINGS. Mr. President, in accordance with rule V of the standing rules of the Senate, I hereby give notice of my intention to suspend rule 22 paragraph (2) for the purposes of offering amendment No. 3465.

In accordance with rule V of the standing rules of the Senate, I hereby give notice of my intention to suspend rule 22 paragraph (2) for the purposes of offering amendment No. 3463.

#### ADDITIONAL STATEMENTS

JOSEPH LIMPRECHT, U.S. AMBASSADOR TO THE REPUBLIC OF ALBANIA

• Mr. HAGEL. Mr. President, I rise today to offer my thanks, the thanks of the U.S. Senate, and the thanks of the American people, to a dedicated public servant, Ambassador Joe Limprecht.

Ambassador Limprecht served as America's representative to Albania from 1999 until his death last week. At a challenging time in history, he was on the front lines of U.S. international outreach. He died while serving our Nation.

Joe Limprecht brought a strong Nebraska common sense and perspective to the daunting challenges facing our Ambassador in Albania. Joe was a fifth-generation Nebraskan. His wife, Nancy is also a native-born Nebraskan.

In 1964, Joe graduated from Omaha Westside High School. His wife also attended Westside, where she graduated in 1966. Joe then went on to get his undergraduate degree at the University of Chicago. He received a doctorate in history from Berkeley. During his Foreign Service Career, he also earned a Masters Degree in Public Administration from the Kennedy School at Harvard.

Joe entered the Foreign Service in 1975, but his ties to Nebraska remained strong. He remained a member of the Nebraska Historical Society. I knew his father well. Hollis Limprecht was an institution in Omaha. He worked at the Omaha World Herald for 40 years. For 23 of those years he edited the paper's "Midlands Magazine."

Joe took an unusual path up through the ranks of the Foreign Service. From 1985 to 1988, he essentially served as West Berlin's Chief of Police under the Four Powers Agreement. His formal title was the Public Safety Advisor to the U.S. Mission in Berlin. In this role, Joe was involved in law enforcement, intelligence, and national security issues at a level rarely available to members of the Foreign Service.

He followed this posting with another unusual assignment. From 1988 to 1991, Joe was the Counselor for Narcotics Affairs at the U.S. Embassy in Pakistan. This job also required strong problem-solving capabilities and a certain toughness. In recent months, Americans have gained a much greater understanding for the challenges this post had to have presented.

After 1991, Joe's career followed a more traditional route that emphasized his diplomatic and management skills. From 1993 to 1995 he served as Chief of Career Development and Training at the State Department. Prior to becoming Ambassador to Albania, he served as the Deputy Chief of Mission at the U.S. Embassy in Uzbekistan.

Joe Limprecht was the complete foreign service officer. He represented our nation on the front lines, in very difficult international territory. America owes him, and his family, a debt of gratitude for their selfless service.

Joe leaves behind his wife Nancy, and two daughters, Alma Klein and Eleanor Limprecht. But he also leaves behind a record of service that stands as a model to young Americans.

I am proud to say Joe Limprecht was a fellow Nebraskan, a friend, and an outstanding American.●

#### IN RECOGNITION OF THE RETIREMENT OF WILLIAM S. HARTSOCK

● Mr. LEVIN. Mr. President, I ask that the Senate join me today in commending William S. Hartsock for his 28 years of service on the Farmington

City Council. Originally elected to the city council in 1973, Bill has long been known for his diplomacy and commitment to community and his retirement will be celebrated on May 30.

When Bill first ran for City Council in 1971, he had to petition for permission to run because he was under 21, the voting age at the time. Though he lost his first election, he was not deterred and won 2 years later. Since that time, he has devoted countless hours to his community as an elected official, including four terms as Mayor of Farmington.

During his tenure on the City Council, Farmington has faced many of the same challenges which confront small towns and cities across the country. One of the most trying challenges is the emigration of business out of the downtown area to large malls on the fringes of Farmington. Despite this trend, he remains optimistic and has long worked to attract small business to the downtown area and enhance its appearance.

Bill has also invested a tremendous amount of time serving on local and national boards. He has been a board member of the Founders Day Festival, the Botsford Hospital Development Fund, and the Farmington YMCA. He also founded and was past president of the Farmington Area Division for the American Heart Association, and past president of the Farmington Exchange Club, and the Huron River Hunting and Fishing Club.

In these days of power politics, Bill's was concerned solely with what was best for his community. He believed that local government had the greatest impact on peoples everyday lives, and commented "All local politics are very personal." I believe that many of my Senate colleagues would concur with Bill's belief that the most enjoyable part of his job was talking to young people. He loved to travel to local schools and talk to students about government.

Bill has helped guide Farmington for nearly three decades. All of those whom he so faithfully served will miss his integrity and good humor. I know my Senate colleagues will join me in thanking William S. Hartsock for his distinguished career wish him well in the years ahead.●

#### HONORING THE STUDENTS OF DOBSON HIGH SCHOOL FROM MESA, AZ

● Mr. KYL. Mr. President, earlier this month, more than 1,200 students from across the United States were in Washington, D.C. to compete in the national finals of the "We the People . . . The Citizen and the Constitution" program. This program was designed specifically to educate young people about the Constitution and the Bill of Rights, and this year's event was, yet again, testament to its success.

The 3-day national competition is modeled after hearings in the United

States Congress. The hearings consist of oral presentations by high school students before a panel of adult judges on constitutional topics. The students' testimony is followed by a period of questioning by the judges who probe their depth of understanding and ability to apply their constitutional knowledge.

I am proud to announce that the class from Dobson High School from Mesa, AZ was selected as the national winner of this year's competition. These young scholars worked diligently to reach the national finals and I commend them on their fine accomplishment. Through their experience, they have gained a deep knowledge and understanding of the fundamental principles and values of our constitutional democracy, and hopefully, they have also helped to encourage other young students around the country to follow in their footsteps.

I would like to take a moment to mention the names of those students who competed for Dobson High: Dean Anderson, Nikki Best, Diana Capozzi, Adam Cronenberg, Adam Ekbohm, Ashley Emmons, Tammy Ho, Candice Howden, Chi-Chi Hsieh, Katherine Jennings, Amanda Keim, Brianne Kiley, Jimmy Martinez, Jr., Jordan Pendergrass, Ashley Rogers, Jake Seybert, Hiral Shah, Ashley Wearly, and Jeff Yost. I would also like to acknowledge their teacher, Abby Dupke, the district coordinator, Kathleen Williams, and the state coordinator, Debbie Shayo. Congratulations.

It is inspiring to see these young people advocate the fundamental principles of our government. These are ideas that identify us as a people and bind us together as a nation. It is important for our next generation to understand these values which we hold as standards, especially in our endeavor to preserve the promise of our constitutional democracy.

All of the students who participated in this program worked extremely hard, and they are all to be commended for their research and preparation. I wish all these budding constitutional experts the best of luck in their futures. They represent tomorrow's leaders of our Nation.●

#### CONGRATULATING THE STUDENTS OF WEST WARWICK SENIOR HIGH SCHOOL

● Mr. REED. Mr. President, I rise in recognition of the students of West Warwick Senior High School for representing the State of Rhode Island in the national competition for the We the People . . . The Citizen and the Constitution program. This year's national competition took place on May 4 to 6, 2002.

The We the People program and the competition is administered by the Center for Civic Education. The competition is modeled after hearings in the U.S. Congress and consists of oral presentations by high school students

before a panel of adult judges on constitutional topics. The students' testimony is followed by a period of questioning by the judges who probe their depth of understanding and ability to apply their constitutional knowledge.

It is inspiring to see these young people advocate the fundamental ideals and principles of our government. These are the ideals that bind us together as a nation. It is important for our next generation to understand these values and principles which we hold as standards in our endeavor to preserve and realize the promise of our constitutional democracy.

On behalf of all Rhode Islanders, I would like to congratulate Najiya Abdul-Hakim, Janice Abueg, Peter Calci III, Kristin Capaldo, Elizabeth Champagne, Tara Cooney, Tara Czop, Paul DiMartino, Thomas Driscoll, Christopher Ellis, Tinisha Goldson, Kenneth Halpern, Sarah Johnson, Alyssa Lavallee, Robert Martin, Michael Muschiano, Lindsay Nagel, Michael Ouellette, Anthony Politelli, Michael Ryan, Kendall Silva, Sarah Smith, Corey St. Sauveur, Kate Studley, Erin Watson, Shane Wilcox, and their teacher Marc Leblanc. I would also like to acknowledge Rhode Island State Coordinator Henry Cote and District Coordinators Carlo Gamba and Michael Trofi for their dedication to this program over the years. These students truly represent the future leaders of our Nation.●

#### TRIBUTE TO DEPUTY COOPER STEELE

● Mr. BUNNING. Mr. President, I rise today to pay tribute to a true hero; Deputy Cooper Steele of Kenton County, Kentucky. The Northern Kentucky Police Chiefs Association recently recognized Deputy Steele as the 2002 Outstanding Police Officer of the Year for his performance in the line of duty. Today, Court TV in conjunction with the Women's Caucus and several congressional members recognized Deputy Steele and six other heroic individuals around the Nation as a part of Court TV's "Everyday Heroes" Initiative. This is certainly a special day for Deputy Steele and the entire Commonwealth of Kentucky.

On November 2, 2001, while on what appeared to be a routine patrol, Deputy Steele observed black smoke coming from an apartment building. Without hesitation or fear, Deputy Steele immediately stopped his patrol car in front of the building and noticed a woman on the third floor desperately screaming for help. Deputy Steele attempted to enter the apartment building but was violently driven back by the thick and suffocating smoke. With complete disregard for his own well-being, Deputy Steele heroically climbed onto a second story balcony and directed the evacuation of the four member family from the third floor balcony by handing them down one-by-one to another officer and out of harms

way. There were many other families still trapped in the burning building, but they refused to attempt a floor-to-floor transfer as the first family had done. Once again demonstrating his selfless and heroic nature, Deputy Steele refused to leave the scene, continuing to place himself in harm's way. He remained with the other tenants advising, encouraging and keeping them calm until the fire department equipment arrived to safely extricate the people from the building.

I am truly honored and humbled to be representing amazing individuals such as Deputy Cooper Steele in the United States Senate. In these trying and turbulent times, men like Deputy Steele should serve as an inspiration to us all. His heroic actions saved lives. His selfless nature shed a ray of light on a seemingly hopeless situation. I ask that my fellow colleagues join me in thanking Deputy Steele for having the instincts and the heart to do what he did. This man is a true hero and deserves our sincerest admiration.●

#### RECOGNITION OF OLDER AMERICANS MONTH

● Mr. SARBANES. Mr. President, in 1963, President Kennedy began an important tradition of designating a time for our country to honor our older citizens for their many accomplishments and contributions to our Nation. I rise today to continue that tradition and recognize May as "Older Americans Month." Those of us who have worked diligently in the U.S. Senate to ensure that older Americans are able to live in dignity and independence during their later years, welcome this opportunity to pause and reflect on the contributions of those individuals who have played such a major role in shaping our great Nation. We honor them for their hard work and the countless sacrifices they have made throughout their lifetimes, and look forward to their continued contributions to our country's welfare.

Today's older citizens have witnessed more technological advances than any other generation in our Nation's history. Seniors today have lived through times of extreme economic depression and prosperity, times of war and peace, and have seen incredible advancements in the fields of science, medicine, transportation and communications. They have not only adapted to these changes remarkably well, but they have continued to make meaningful contributions to this country.

Recent Census figures reveal that the number of older Americans continues to grow. The population of those 85 and older grew 37 percent during the 1990s, while the Nation's overall population increased only 13 percent. Approximately 35 million people 65 and older were counted in the 2000 Census as well as 50,500 Americans who were 100 or older. Baby boomers, who represented one-third of all Americans in 1994, will enter the 65-years-and-older category

over the next 13 to 34 years, substantially increasing this segment of our population.

At the same time the number of older Americans is skyrocketing, they are in much better health and far less likely than their counterparts of previous generations to be impoverished, disabled or living in nursing homes. Older Americans are working and volunteering far beyond the traditional retirement age to give younger generations the benefit of their wisdom. In 2000, those 65 and over comprise 14 percent of the U.S. labor force.

These positive figures show that commitment to programs such as Medicare and Social Security, and investment in biomedical research and treatment are improving the quality of life for older Americans. One of our national goals must be to ensure all older Americans benefit from these improvements. In Congress, we must ensure our legislative priorities reflect the dedication that older Americans have provided to this country. This includes expanding and strengthening those programs that effectively aid older Americans, and addressing those that fall short of assisting this valuable and constantly expanding segment of our society.

By 2020, Medicare will be responsible for covering nearly 20 percent of the population. Though Medicare meets the health care needs of millions of Americans, it was created in a different time before the benefits of prescription medicines had become such an integral part of health care. Three in 5 Medicare beneficiaries lack affordable, prescription drug coverage. Although people 65 and older are 12.5 percent of the population, they fill 34 percent of all prescriptions. Today it is difficult to imagine quality healthcare coverage without including medicines that treat and prevent illnesses.

I have and will continue to fight for Medicare prescription drug coverage for all seniors. As a cosponsor of the Medicare Prescription Drug Coverage Act of 2001, I recognize the predicament of many older Americans as they struggle to live independently on a fixed income and afford costly prescription drugs. The huge advances in biomedical research that have led to the life saving drugs and treatment are of little use if the population that stands to benefit the most cannot afford them. It is imperative that we address the needs of the Americans who have devoted so much of their life experience and achievement to better our society. Like all Americans, they deserve access to comprehensive health care.

One of the strengths that I admire most about older generations is their devotion and concern for younger Americans. As we face the dilemma of funding Social Security and investigate proposals to privatize the program, older Americans have been the most outspoken advocates of ensuring its existence for future generations. Their determination to preserve this



important social insurance program is not weakened by reports that privatization proposals would not alter or reduce their benefits. Instead, they fight on, trying to ensure the benefits of Social Security will be there for others for years to come.

I have always been impressed with the degree to which our elders contribute to American society. Our Nation's older generations are an ever-growing resource that deserve our attention, our gratitude, and our heartfelt respect. As observance of Older Americans Month comes to a close, I look forward to working with my colleagues in the Senate to implement public policies that affirm the contributions of older Americans to our society and ensure that they all live their later years in dignity.●

#### FALLOUT FROM ENRON: LESSONS AND CONSEQUENCES

● Mr. HOLLINGS. Mr. President, when I was chairman of the Senate Budget Committee I worked closely with Henry Kaufman, who has, in my judgment, the most respected opinion on the economy. We can all benefit from his views, and I encourage my colleagues to read this speech that he gave last month to the Boston Economic Club, entitled "The Fallout from Enron: Lessons and Consequences."

I ask that the speech be printed in the RECORD.

The speech follows.

THE FALLOUT FROM ENRON: LESSONS AND CONSEQUENCES—AN ADDRESS BY HENRY KAUFMAN, PRESIDENT, HENRY KAUFMAN & CO., INC. TO THE BOSTON ECONOMIC CLUB, APRIL 3, 2002

Today I would like to talk about an event that has rocked the financial community: the collapse of the Enron Corporation. Much has been said and written about Enron in recent weeks, but it seems to me that too little attention has been paid to either the underlying issues posed by the demise of the Enron Corporation, or to the likely consequences of this failure for financial markets.

Not very long ago, Enron was widely heralded in the business and financial community for its spectacular growth, its innovative achievements, and its future potential. All of that changed suddenly and dramatically late last year. Since then, many pundits have pointed the finger of blame at Arthur Andersen. But it would be wrong to conclude that Enron's failure stemmed chiefly from the accounting shortcomings of its outside auditors. To be sure, Andersen probably was derelict in carrying out its responsibilities. No accounting firm should have the kind of intimate and conflicting relationship that Andersen had with Enron. Auditing and concurrent consulting arrangements with clients just don't mix, for they pose very real conflicts of interest that compromise objectivity and independence.

Even so, I am not convinced that a complete dismantling of Arthur Andersen would serve the larger interests of all stakeholders. To be sure, any senior officers and managers at Andersen found to have compromised sound accounting standards should be fired. But from a social perspective the thousands of Andersen employees who were innocent of

high-level misdeeds do not deserve to be displaced.

The issue here is even more complicated. On the one hand, dismantling Andersen would push forward by a giant step the concentration in the accounting business that already is quite high. On the other hand, no business organization should be considered to be too-big-to-fail. Otherwise, competition, which should be the market equalizer, will be distorted. In addition to these considerations is the fact that focusing on Andersen simply deflects the spotlight away from the misdeeds of Enron itself. It offers Enron's officials and all the others involved in the Enron relationship, from the private sector to people in government, a convenient scapegoat, and increases the likelihood that we will fail to learn important lessons from the energy trader's debacle. That would be very unfortunate.

The failure of Enron is a drama with many dimensions. It encapsulates a remarkable number of the kind of misbehaviors, shortcomings, and excesses that have plagued business and financial life in the last few decades. Even if we look back over financial crises in the half-century since World War II, it is difficult to find one with as many salient elements as the Enron failure.

Consider, for example, the volatile decade of the 1970s. The calamities began in 1970, with the staggering collapse of the Penn Central Railroad. The Pennsy was derailed by its excessive short-term borrowing, mainly in the form of commercial paper, supported by weak earnings. Later on, the Hunt brothers succeeded in cornering the silver market, but financed their manipulations with heavy short-term borrowings. Many of their lenders used silver as collateral, which led to a massive sell-off in the silver market when the hunts exhausted their borrowing capacity. Then there were the oil crises of the 1970s, which set off a crippling around of defaults among key Latin American nations that had borrowed heavily from large money market banks. Because these banks had failed to exercise prudent credit judgment, the financial pressure of the oil shocks plunged debtors and creditors alike into serious trouble.

The 1980s had its share of financial excesses. The decade's economic boom had been fed in large measure by the liberal lending policies of banks—especially savings and loan associations—and by the massive leveraging of many corporations through junk bond financing. These financial splurges later made it initially difficult to jumpstart the economic recovery in the early 1990s.

As for the 1990s: the serious financial strains in Mexico and in several Asian countries, as well as the recent debt default of Argentina—all remain fresh in our memories. Then, as the decade drew to a close, the financial world was rocked by a financial debacle that threatened the very viability of key money market institutions. I am referring here, of course, to the dramatic fall of Long Term Capital Management in late 1998. Enron's collapse, however, did not pose a systemic risk to the financial system the way LTCM's failure did, although some of Enron's senior managers and creditors have suggested as much during their negotiations with government officials. To their credit, regulators and central bankers did not step in to rescue the faltering energy giant from its own misdeeds.

Which brings us back to the lessons to be derived from the Enron case. It seems to me that Enron—by bringing together a range of issues and problems that have plagued the U.S. financial system for decades—raises a host of questions that we simply must address:

How effectively do boards of directors discharge their responsibilities?

What are the inadequacies of senior managers?

Are lenders conducting effective due diligence?

Are sell-side analysts objective in their analysis, or are they compromised?

Should employees be permitted to invest a high portion of their pensions in the equity of the corporations that employ them?

Is official oversight adequate?

Can elected officials be objective in dealing with financial excesses given that they may be conflicted by contributions?

Should the public accounting firm serve a client a both an auditor and a consultant?

These vexing questions lie at the heart of the Enron debacle. To a large extent, they point to a fundamental problem that has been festering for some time, namely, the separation of corporate ownership and control. This problem has become more acute in recent decades because of structural changes in finance and investments. But this issue hardly is new. In fact, it is a symptom of advanced industrial capitalism, in which firms become too large to be owned and managed by individuals or even wealthy families.

One of the most penetrating critiques of the concentration of corporate control appeared back in 1932, when Adolf Berle, a law professor and reformer, and economist Gardiner Means published their landmark book, *The Modern Corporation and Private Property*. As Berle and Means noted vividly:

"It has often been said that the owner of a horse is responsible. If the horse lives he must feed it. If the horse dies he must bury it. No such responsibility attaches to a share of stock. The owner is practically powerless through his own efforts to affect the underlying property. The spiritual values that formerly went with ownership have been separated from it. . . . [T]he responsibility and the substance which have been an integral part of ownership in the past are being transferred to a separate group in whose hands lies control."

In the financial markets of the last few decades, this problem has become more acute with the rise of hostile takeovers, leveraged buyouts, golden parachutes, green mail, and many other financial innovations that are associated with corporate control. Many corporate raiders have become instant celebrities.

At the same time, there have been some significant changes in the role that senior managers play within the corporation. In recent years, many are given incentives that encourage them to strive to achieve near-term objectives through a variety of compensation schemes. Rarely is management actually penalized for failing to achieve their objectives. Their cash bonuses may be reduced, but they still are entitled to stock options. If the price of the company's stock is down, many firms in the past lowered the exercise price of the outstanding options. More recently, many corporations simply issue more options at the lower prevailing price level. The gatekeepers for many of the compensation awards are outside consultants who rarely exercise strong control over the compensation process. Very often they merely codify what others are doing in the industry.

For their part, equity investors rarely are involved in the affairs of a corporation. Indeed, portfolio practices today have a short-term fuse. Portfolio performance is measured over very short-term horizons—monthly, quarterly, or at most yearly. Underperformance is penalized very quickly. Today, day trades and portfolio shifts based on the price momentum of the stock are commonplace. Institutional investors now

hold a majority of outstanding stocks, but they rarely want to be involved in their portfolio companies. Instead, a novel but powerful alliance often exists between the highest bidder in a corporate takeover and many of its institutional shareholders. Thus, stockholders are largely temporarily holders of a certificate that legally is called "equity."

This is clearly demonstrated by the huge increase in the turnover of the stocks listed on the New York Stock Exchange. As shown in the accompanying Figure 1, the turnover of these stocks has escalated sharply over the last forty years—from an average of 20% from 1960 to 1980, to 75% times in the 1990s, with last year's average reaching 94%. Only a few large investors, such as Warren Buffett, truly are involved as stockholders. In today's financial marketplace, they are a rare breed.

Because corporate control typically rests in the hands of senior managers, they and directors assume responsibilities that are difficult to fill in the current structure of the marketplace. Let me try to explain what I mean here by referring to the management of large financial institutions, where I spent a good part of my career. And much of what I have to say in this regard is applicable to the problems of Enron.

I first realized the enormity of the challenge of managing large financial institutions when I joined Salomon's board following our merger with Phibro in 1981. The outside members of the board brought diverse business backgrounds to the table. With the exception of Maurice "Hank" Greenberg, none had strong first-hand experience in a major financial institution. How, then, could they possibly understand, among other things: the magnitude of risk taking at Salomon, the dynamics of the matched book of securities lending, the true extent to which the firm was leveraging its capital, the credit risk in a large heterogeneous book of assets, the effectiveness of operating management in enforcing trading disciplines, or the amount of capital that was allocated to the various activities of the firm and the rates of return on this capital on a risk-adjusted basis? Compounding the problem, the formal reports prepared for the board were neither comprehensive enough nor detailed enough to educate the outside directors about the diversity and complexity of our operations.

Today, this problem is magnified as firms extend their global reach and their portfolio of activities. In recent years, quite a few major U.S. financial institutions have become truly international in scope. They underwrite, trade currencies, stocks, and bonds, and manage the portfolios and securities of industrial corporations and emerging nations. Some of the largest institutions contain in their holding company structures not only banks but also mutual funds, insurance companies, securities firms, finance companies, and real estate affiliates.

The outside directors on the boards of such firms are at a major disadvantage when trying to assess the institution's performance. They must rely heavily on the veracity and competency of senior managers, who in turn are responsible for overseeing a dazzling array of intricate risks undertaken by specialized, lower-level personnel working throughout the firm's wide-flung units. Indeed the senior managers of large institutions are beholden to the veracity of middle managers, who themselves are highly motivated to take risks through a variety of profit compensation formulas. It is easy for gaps in management control to open up between these two groups.

Unfortunately, the accounting profession has been of little help to outside board members. Few audit reports truly reflect a firm's

range of risk taking. Reports on assets and liabilities would be far more meaningful if they were shown in gross terms instead of net figures. The off-balance-sheet activities most often cited in footnotes should be integrated into reports to reveal the total flow of activities and liabilities. Unfortunately, when the FASB proposes conservative accounting rules, operating managers generally oppose them. This is because such rules tend to reduce stated profits and encourage conservative lending and investing policies, thus infringing on the stated profits. But managers should recognize that such rules, over the long run, will strengthen their institution's credit quality.

What often is missing for new directors is an intensive orientation program. Large financial institutions are very complex. As I noted earlier, they engage in a wide range of activities—traditional banking, underwriting and trading of securities, insurance, risk arbitrage, financial derivatives from the simple to the complex, and domestic and foreign transactions. The new directors should be given a detailed analysis of the institution's accounting procedures. They should be educated about exactly the kind of activities that Enron directors failed to appreciate: (1) transactions with affiliated companies, (2) transfer of assets/debts to special-purpose entities in order to achieve "off balance sheet" treatment; (3) related-party and insider transactions; (4) aggressive use of restructuring changes and acquisition reserves; and (5) aggressive derivative trading and use of exotic derivatives; and (6) aggressive revenue recognition policies.

Directors of financial institutions also should be familiarized with their institution's quantitative risk analysis techniques. Indeed, the risk analysis group should be independent of the trading and underwriting department. It should be well compensated and have reporting responsibilities to the chief executive, to the chief operating officer, and to the board of directors itself. As part of the orientation process, new directors should be required to meet with members of the official supervisory agencies such as the Federal Reserve, the Comptroller of the Currency, and the Securities and Exchange Commission, all whom should explain what these agencies require from the institution. Legal counsel should also meet with new directors to explain their responsibilities and liabilities from a legal perspective.

But this kind of orientation process alone is not enough to achieve effective board oversight. Board meetings should be allotted more time. Directors should be given more detailed information than highly sanitized and summarized financial information. Board expertise in accounting, quantitative risk analysis, and information technology will become more and more essential in our complex world of finance.

To be sure, the primary task of boards is to define strategy and set policy, to represent the interests of the shareholders and creditors, not to operate the institution. But unless boards devote enough time to handle their responsibilities, the financial industry will suffer even more upheavals, forcing government to step in to clean up messes—and, increasingly, to regulate and control.

I want to turn now to the question, "Can sell-side research be objective?" As many of you here know, when I was at Salomon I managed for many years a large research group that grew to more than 450 professionals by the time I left in 1988. In formulating my own forecasts over those many years, I was never urged to modify my views to confirm with the immediate underwriting or trading activities of the firm, and I know of no researcher in my department who was coerced to change his analytical conclusion.

To be sure, there were occasional complaints from trading and underwriting desks because of one or another view I expressed publicly (usually in written form); but as head of research, I was in a unique position to fend off any criticism. I was a senior partner and a member of the firm's Executive Committee, where no member ever asked that research accommodate the underwriting or trading activity.

In recent decades, however, the objectivity of sell-side research has been compromised more and more. One obvious result is that it is hard to find negative reports these days. Few, for instance, warned of the speculative bubble in the high tech industry. Many analysts wrote glowingly about companies with no earnings, high cash burn rates, and shares selling at high prices relative to sales volume and distant profit prospects. In place of rigorous analyses of firms and industries, one usually saw reports that parroted the views of corporate management and that of historical evaluation norms.

And the scope of the problem is vast. Public attention is most focused on the role that sell-side analysts play in attracting new issues of securities. But very few, if any, seem concerned about the potential for the sell-side institution to front-run trading positions on the basis of soon-to-be-released research reports. The fact is, traders typically have many opportunities in their conversations with equity analysts to ferret out a change in the analyst's view or to learn of the timing of upcoming press releases.

I believe that these problems facing the sell-side analyst can at best be mitigated. To begin with, my experience strongly suggests that the head of research should be a member of senior management. This would establish his authority to deal with research issues at the highest level. Of course, I agree with the suggestion that the relationship of the sell-side institution with the company being analyzed should be stated in the report in bold letters. But it would also be helpful if the analyst stated the performance of the company and the price movement of the stock since the last report, and drew explicit conclusions.

The logical solution to this conflict is for sell-side institutions to provide no research reports to clients. Research would serve only an in-house function by providing analyses that would help the institution assess the merits of the securities it is underwriting and trading. Institutional investors and independent research firms would then fill the gap. This method presumably would lower the cost of research at sell-side firms, which in turn would lower trading and underwriting costs and offset a healthy portion of the increased research costs on the buy side.

Let me also comment briefly on another matter raised by the Enron debacle. Should employees be required to limit their employee retirement investments in the stock of their company? Considering the losses suffered by the Enron employees, the tendency is to respond positively. There is, however, no simple quantitative rule that will be an equitable solution for all employees. They possess vast differences in ages, compensations, personal responsibilities, health, and person net worth. What government regulation can do justice to all of these factors? The alternative solution is for the employer to provide investment counseling where these characteristics are reviewed and discussed before the employee decides on the size of the investment to be made in the shares of the corporation.

While many of the consequences of the Enron's demise already are manifest in the market, it seems to me that the most important one is really unpredictable. This is

whether more “Enrons” will surface in the near future. If they do, market participants will pull away from equity markets and high yield bonds, because new doubts will be raised about the quality of earnings and the accuracy of other reported financial information.

But already we can see other repercussions from Enron’s fall quite clearly. In the securities industry, merger activity has slowed and—by the standards of recent years—will remain at a low volume for the foreseeable future. No conglomerate that is on the brink of going below a credit rating of “below investment grade” will be able to gain ready access to funds for sometime to come. And while initial public offerings of stock are trickling into the market again, I think we have seen the end of the kind of huge speculative offerings that have been fairly common in recent years. Meanwhile, financial institutions, with lower near-term profit margins, will be encouraged to shed more overhead. Research analysts will be particularly vulnerable if institutions cannot use them to help market new issues and trading positions.

For business corporations, financing costs are rising. This began last year when corporations issued a huge volume of bonds and reduced short-term debt, mainly outstanding commercial paper. In doing so, they paid off lower-cost debt and increased higher-cost debt. The financial problems of Enron and of a handful of other companies late last year has inspired commercial paper investors to become more discerning, thereby forcing corporate issuers to activate bank lines or new bond issuance to pay off maturing paper. The paper market is now virtually closed to all issuers below the top credit rating.

The liquidation of outstanding commercial paper held by nonfinancial corporations has

taken place on an unprecedented scale (see Figure 2). Since 2000, it has declined by \$175 billion, or a remarkable 49%. This trend has reduced commercial paper to levels that were outstanding in 1997. Moreover, this \$175 billion shift in borrowing probably has boosted corporate financing costs by anywhere from \$6 billion to \$8 billion. Financing costs probably also will rise, as banks raise their fees for back-up lines of credit, although these lines have an uncertain value. On the one hand, they do provide liquidity for the corporate issuer of paper when investors want their money. On the other hand, the runoff of paper tends to accelerate when market participants become aware of the utilization of the bank line.

While creditors generally will increase their alertness to corporate credit quality as a result of Enron, credit rating agencies surely will intensify the scope of their work and the speed of their responsiveness to changing corporate credit conditions. Already, we hear of the likely issuance of corporate liquidity ratings by the ratings agencies. This closer scrutiny will occur on top of another year in which more corporate credit ratings will be lowered rather than raised.

Yet another likely outcome from the Enron Episode is improved accounting standards. This will lower reported corporate profits in the short term, but the more conservative profit data will enhance investor confidence in the long run. Let us also hope that there may be an effort to put some of the off-balance-sheet financing onto the balance sheet. If so, the corporate debt data that I spoke about earlier will look worse—but again, the long-term effect for investors will be positive.

Incidentally, two other costs not related to financing costs are likely to rise as a consequence of Enron’s travails. These are audit

fees and the cost of liability insurance for directors and officers.

Of course, all of these costs could be more than offset through a sharp increase in corporate profits. I suspect that this is unlikely. Business does not have pricing power. Excess capacity is high here and around the world. Unfortunately, Enron unraveled at a time when the general financial condition of non-financial corporations was probably the worst—for the end of a recession and the start of a new economic recovery—for the entire post-World War II period. From 1995 to 2001, the equity position (retained earnings plus new issuance or minus retirement of stock) of non-financial corporations has contracted by \$423 billion, while net debt has increased by \$2.3 trillion in the same period. Indeed, this exceeded the debt-leveraging binge in the 1984–90 period when net equity contracted by \$457 billion and debt rose by \$1.3 trillion. Due to time constraint, the chart can’t be printed in the RECORD. (See table.)

The combination of the cyclically weak financial position of corporations, moderate profit recovery, and closer scrutiny of corporate activity by management, auditors, creditors, rating agencies, and officially supervisory agencies will—in the near term—inhibit corporate activity, especially capital expenditures. Thus, once the current inventory restocking ends a few months from now, the economic recovery will moderate significantly.

In short, there are likely to be some difficult adjustments in the near-term horizon, several of them a direct result of Enron’s wayward ways. But all would be a modest price to pay for a return to more reasonable and responsible conduct in business and financial markets.

FIGURE 3.—NET CHANGE IN EQUITY BOOK VALUE AND IN DEBT U.S. NONFARM NONFINANCIAL CORPORATE BUSINESS, 1982–2001  
(In billions of dollars)

	1982–83	1984–90	1991–94	1995–99	2000	2001
Pre-Tax Profits .....	\$291.4	\$1,446.1	\$1,163.5	\$2,303.8	\$502.2	\$379.3
Less:						
Taxes .....	105.6	606.7	409.0	768.4	186.0	141.8
Dividends .....	116.9	589.3	565.0	1,074.8	267.3	302.7
Plus:						
IVA .....	(19.1)	(66.3)	(14.5)	8.8	(12.4)	4.4
Net New Equity .....	21.9	(640.7)	21.7	(652.7)	(159.7)	(55.7)
Net Change In Equity .....	71.7	456.9	196.7	(183.3)	(123.2)	(116.5)
Net Increase In Debt .....	186.1	1,274.1	129.9	1,547.6	429.1	267.9

Source: Federal Reserve Board, Flow of Funds. •

IN RECOGNITION OF THE VALOR, DEDICATION, AND PATRIOTISM OF THE KERR FAMILY VETERANS

• Mr. LEVIN. Mr. President, this week-end communities will gather to pay tribute to the men and women who lost their lives while in service to our Nation. Throughout America, parades will be held on Memorial Day which will honor the soldiers, sailors, airmen and Marines who have served to protect our Nation and preserve our freedoms. The City of Royal Oak, in my home State of Michigan will be hosting its annual Memorial Day parade on Monday, May 27, 2002, and this year four brothers from the Kerr family, who are all Vietnam veterans will serve as the Grand Marshals of this parade. These four brothers all voluntarily joined the U.S. military, and went to Vietnam to bravely serve in our nation’s armed services. These brothers have proudly

carried the “Warrior” American flag in the Royal Oak parade in past years to honor their tribe, the Chippewa Tribe of Sault Sainte Marie, and to honor all of the American heroes who fought so fearlessly and valiantly in past conflicts to preserve our liberty and democratic values.

John Kerr, U.S. Marine Corps, Tom Kerr, U.S. Air Force, and Harvey Kerr, U.S. Navy, served in Vietnam simultaneously. Upon their safe return, a fourth brother, Michael Kerr, U.S. Army, voluntarily served in Vietnam and returned safely. These brothers reportedly owe their courage to their beloved mother, Rena Kerr, whose strength and conviction moved her to persevere beyond her personal challenges as a young widow and mother of nine children, to serve the needs of her fellow Americans. She was a devoted civil rights activist and committed herself to helping others. She taught

her seven sons and two daughters to highly value their priceless freedoms and the proud Chippewa heritage of their late father, Ted Kerr. With so great a legacy, four Kerr sons were impressed to respond courageously and patriotically to the wartime call, and chose to stand and valiantly serve their country in the Vietnam War. Tom Kerr, who bravely flew a State Flag of Michigan in a F-4 on a combat mission over North Vietnam, was honored to present that flag after his return to Governor William Milliken in 1968.

The Kerr brothers have made it a tradition to annually salute America’s fallen heroes of past conflicts and wars on the national day of observance. They proudly carry the flag to honor those who gave the ultimate sacrifice in service to our country, and to join with their many families and friends to honor their memory. The Kerr brothers

march as an expression of reverence for those who fought along side them in Vietnam, but did not return. And the Kerr brothers have called our attention to the importance of cherishing our great freedom that has come through the "blood of heroes."

The Kerr brothers can be proud of their dedication to their country, and their great commitment to honor the values of their family and the principles of democracy and freedom. We as a nation have benefitted from the sacrifices, extraordinary contributions and example of these four brothers who bravely went off to war after having lost their father. I know that my Senate colleagues join me and the Royal Oak Parade Council in paying tribute to the Kerr brothers for their service in our nation's armed forces and their great bravery and valor as Vietnam veterans.●

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on the Judiciary.

(The nominations received today are printed at the end of the Senate proceedings.)

#### MESSAGE FROM THE HOUSE

At 3:01 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that it has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3253. An act to amend title 38, United States Code, to provide for the establishment within the Department of Veterans Affairs of improved emergency medical preparedness, research, and education programs to combat terrorism, and for other purposes.

H.R. 4608. An act to name the Department of Veterans Affairs Medical and Regional Office Center in Wichita, Kansas, as the "Robert J. Dole Department of Veterans Affairs Medical and Regional Center."

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 165. Concurrent resolution expressing the sense of the Congress that continual research and education into the cause and cure of fibroid tumors be addressed.

H. Con. Res. 309. Concurrent resolution recognizing the importance of good cervical health and of detecting cervical cancer during its earliest stages.

H. Con. Res. 314. Concurrent resolution recognizing the members of AMVETS for their service to the Nation and supporting the goal of AMVETS National Charter Day.

The message further announced that pursuant to 22 U.S.C. 276h, notwith-

standing the provisions of that section regarding the Chairmanship, and clause 10 of rule I, the Speaker appoints the following Members of the House of Representatives to the Mexico-United States Interparliamentary Group: Mr. KOLBE of Arizona, Chairman, Mr. DREIER of California, Mr. STENHOLM of Texas, Mr. BARTON of Texas, Mr. DOOLEY of California, Mr. PASTOR of Arizona, Mr. FILNER of California, Ms. ROYBAL-ALLARD of California, Mr. CANNON of Utah, Mr. REYES of Texas, Mr. TANCREDO of Colorado, and Mr. UDALL of New Mexico.

The message also announced that pursuant to 22 U.S.C. 276d and clause 10 of rule I, the Speaker appoints the following Members of the House of Representatives to the Canada-United States Interparliamentary Group: Mr. HOUGHTON of New York, Chairman, Mr. GILMAN of New York, Mr. LAFALCE of New York, Mr. SHAW of Florida, Mr. LIPINSKI of Illinois, Ms. SLAUGHTER of New York, Mr. STEARNS of Florida, Mr. MANZULLO of Illinois, Mr. DAN MILLER of Florida, Mr. SOUDER of Indiana, and Mr. ENGLISH of Pennsylvania.

#### MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 3253. An act to amend title 38, United States Code, to provide for the establishment within the Department of Veterans Affairs of improved emergency medical preparedness, research, and education programs to combat terrorism, and for other purposes; to the Committee on Veterans' Affairs.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 165. Concurrent resolution expressing the sense of the Congress that continual research and education into the cause and cure for fibroid tumors be addressed; to the Committee on Health, Education, Labor, and Pensions.

H. Con. Res. 309. Concurrent resolution recognizing the importance of good cervical health and of detecting cervical cancer during its earliest stages; to the Committee on Health, Education, Labor, and Pensions.

H. Con. Res. 314. Concurrent resolution recognizing the members of AMVETS for their service to the Nation and supporting the goal of AMVETS National Charter Day; to the Committee on the Judiciary.

#### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-7164. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the law, a report relative to a Determination and Certification under Section 40A of the Arms Export Control Act; to the Committee on Foreign Relations.

EC-7165. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report of the list of General Accounting Office reports for

January 2002; to the Committee on Governmental Affairs.

EC-7166. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, the OMB Cost Estimate for Pay-As-You-Go Calculations for report numbers 575 and 576; to the Committee on the Budget.

EC-7167. A communication from the Vice Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to a transaction involving U.S. exports to the Republic of Korea; to the Committee on Banking, Housing, and Urban Affairs.

EC-7168. A communication from the Secretary of Veterans' Affairs, transmitting, a draft of proposed legislation entitled "Veterans' Employment, Business Opportunity, and Training Act of 2002; to the Committee on Veterans' Affairs.

EC-7169. A communication from the Assistant Secretary of Indian Affairs, Department of the Interior, transmitting, pursuant to law, a report relative to the Hoopa-Yurok Settlement Act; to the Committee on Indian Affairs.

EC-7170. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Changes in Accounting Periods" ((RIN1545-AX15)(TD8996)) received on May 16, 2002; to the Committee on Finance.

EC-7171. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule "Ridge and Marjory Harlan v. Commissioner" received on May 17, 2002; to the Committee on Finance.

EC-7172. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Extension of the Remedial Amendment Period" (Rev. Proc. 2001-55) received on May 17, 2002; to the Committee on Finance.

EC-7173. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Valuation of Option for Golden Parachute Payment" (Rev. Proc. 2002-13) received on May 17, 2002; to the Committee on Finance.

EC-7174. A communication from the Chairman, Federal Election Commission, transmitting, pursuant to law, the report of a rule entitled "Revision of Reporting Forms Implementing FEC Rule Transmitted on March 15, 2002" received on May 9, 2002; to the Committee on Rules and Administration.

EC-7175. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, twenty-three recommendations for legislative action; to the Committee on Rules and Administration.

EC-7176. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Nicotine; Tolerance Revocations" (FRL6836-7) received on May 16, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7177. A communication from the Chief, Forest Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "National Forest System Land and Resource Management Planning; Extension of Compliance Deadline; Interim Final Rule" (RIN0596-AB87) received on May 17, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7178. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department

of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Pink Bollworm Regulated Areas; Removal of Oklahoma" (Doc. No. 02-031-1) received on May 17, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-7179. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; New Hampshire; Post-1996 Rate of Progress Plans" (FRL7171-7) received on May 16, 2002; to the Committee on Environment and Public Works.

EC-7180. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Land Disposal Restrictions: Grating of Two Site-Specific Treatment Variances to U.S. Ecology Idaho, Incorporated in Grandview, Idaho and CWM Chemical Services, LLC in Model City, New York" (FRL7214-4) received on May 16, 2002; to the Committee on Environment and Public Works.

EC-7181. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Coil" (FRL7214-6) received on May 16, 2002; to the Committee on Environment and Public Works.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LIEBERMAN, from the Committee on Governmental Affairs:

Report to accompany S. 1271, a bill to amend chapter 35 of title 44, United States Code, for the purpose of facilitating compliance by small business concerns with certain Federal paperwork requirements, to establish a task force to examine information collection and dissemination, and for other purposes. (Rept. No. 107-153).

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 1742: A bill to prevent the crime of identity theft, mitigate the harm to individuals victimized by identity theft, and for other purposes.

## EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted:

By Mr. SARBANES for the Committee on Banking, Housing, and Urban Affairs.

\*Anthony Lowe, of Washington, to be Federal Insurance Administrator, Federal Emergency Management Agency.

\*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

## 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. BIDEN (for himself and Mr. SPECTER):

S. 2534. A bill to reduce crime and prevent terrorism at America's seaports; to the Committee on Finance.

By Mrs. BOXER:

S. 2535. A bill to designate certain public lands as wilderness and certain rivers as wild and scenic rivers in the State of California, to designate Salmon Restoration Areas, to establish the Sacramento River National Conservation Area and Ancient Bristlecone Pine Forest, and for other purposes; to the Committee on Energy and Natural Resources.

By Ms. STABENOW (for herself, Mr. DURBIN, Mr. LEAHY, Mr. JEFFORDS, Mrs. BOXER, Mr. LEVIN, Mr. DORGAN, Mr. SCHUMER, and Mr. JOHNSON):

S. 2536. A bill to amend title XIX of the Social Security Act to clarify that section 1927 of that Act does not prohibit a State from entering into drug rebate agreements in order to make outpatient prescription drugs accessible and affordable for residents of the State who are not otherwise eligible for medical assistance under the Medicaid program; to the Committee on Finance.

By Mr. DORGAN (for himself and Mr. ENSIGN):

S. 2537. A bill to facilitate the creation of a new, second-level Internet domain within the United States country code domain that will be a haven for material that promotes positive experiences for children and families using the Internet, provides a safe online environment for children, and helps to prevent children from being exposed to harmful material on the Internet, and for other purposes; to the Committee on Commerce, Science, and Transportation.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SMITH of Oregon (for himself and Mr. WYDEN):

S. Res. 273. A resolution recognizing the centennial of the establishment of Crater Lake National Park; considered and agreed to.

By Mr. KENNEDY:

S. Con. Res. 115. A concurrent resolution expressing the sense of the Congress that all workers deserve fair treatment and safe working conditions, and honoring Dolores Huerta for her commitment to the improvement of working conditions for children, women, and farm worker families; considered and agreed to.

## ADDITIONAL COSPONSORS

S. 281

At the request of Mr. HAGEL, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 281, a bill to authorize the design and construction of a temporary education center at the Vietnam Veterans Memorial.

S. 701

At the request of Mr. BAUCUS, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 701, a bill to amend the Internal Revenue Code of 1986 to provide special rules for the charitable deduction for conservation contributions of land by eligible farmers and ranchers, and for other purposes.

S. 782

At the request of Mr. ALLARD, his name was added as a cosponsor of S. 782, a bill to amend title III of the Americans with Disabilities Act of 1990 to require, as a precondition to commencing a civil action with respect to a place of public accommodation or a commercial facility, that an opportunity be provided to correct alleged violations, and for other purposes.

S. 871

At the request of Mr. CLELAND, the name of the Senator from Hawaii (Mr. INOUE) was added as a cosponsor of S. 871, a bill to amend chapter 83 of title 5, United States Code, to provide for the computation of annuities for air traffic controllers in a similar manner as the computation of annuities for law enforcement officers and firefighters.

S. 1140

At the request of Mr. HATCH, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 1140, a bill to amend chapter 1 of title 9, United States Code, to provide for greater fairness in the arbitration process relating to motor vehicle franchise contracts.

S. 1152

At the request of Mr. DURBIN, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 1152, a bill to ensure that the business of the Federal Government is conducted in the public interest and in a manner that provides for public accountability, efficient delivery of services, reasonable cost savings, and prevention of unwarranted Government expenses, and for other purposes.

S. 1278

At the request of Mrs. LINCOLN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1278, a bill to amend the Internal Revenue Code of 1986 to allow a United States independent film and television production wage credit.

S. 1282

At the request of Mr. HATCH, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 1282, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income of individual taxpayers discharges of indebtedness attributable to certain forgiven residential mortgage obligations.

S. 1329

At the request of Mr. JEFFORDS, the names of the Senator from Ohio (Mr. DEWINE) and the Senator from West Virginia (Mr. ROCKEFELLER) were added as cosponsors of S. 1329, a bill to amend the Internal Revenue Code of 1986 to provide a tax incentive for land sales for conservation purposes.

S. 1339

At the request of Mr. CAMPBELL, the names of the Senator from Florida (Mr. NELSON), the Senator from Oklahoma (Mr. INHOFE) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of S. 1339, a bill to amend

the Bring Them Home Alive Act of 2000 to provide an asylum program with regard to American Persian Gulf War POW/MIAs, and for other purposes.

At the request of Mr. SANTORUM, his name was added as a cosponsor of S. 1339, *supra*.

S. 1742

At the request of Mr. LEAHY, his name was added as a cosponsor of S. 1742, a bill to prevent the crime of identity theft, mitigate the harm to individuals victimized by identity theft, and for other purposes.

S. 1777

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1777, a bill to authorize assistance for individuals with disabilities in foreign countries, including victims of landmines and other victims of civil strife and warfare, and for other purposes.

S. 1839

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1839, a bill to amend the Bank Holding Company Act of 1956, and the Revised Statutes of the United States to prohibit financial holding companies and national banks from engaging, directly or indirectly, in real estate brokerage or real estate management activities, and for other purposes.

S. 1859

At the request of Mr. SCHUMER, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1859, a bill to extend the deadline for granting posthumous citizenship to individuals who die while on active-duty service in the Armed Forces.

S. 1867

At the request of Mr. LIEBERMAN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1867, a bill to establish the National Commission on Terrorist Attacks Upon the United States, and for other purposes.

S. 1924

At the request of Mr. SANTORUM, the names of the Senator from Colorado (Mr. ALLARD) and the Senator from Alabama (Mr. SESSIONS) were added as cosponsors of S. 1924, a bill to promote charitable giving, and for other purposes.

S. 1957

At the request of Mr. WARNER, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1957, a bill to amend the Internal Revenue Code of 1986 to provide for additional designations of renewal communities.

S. 1991

At the request of Mr. HOLLINGS, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 1991, to establish a national rail passenger transportation system, reauthorize Amtrak, improve security and service on Amtrak, and for other purposes.

S. 2017

At the request of Mr. CAMPBELL, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2017, a bill to amend the Indian Financing Act of 1974 to improve the effectiveness of the Indian loan guarantee and insurance program.

S. 2085

At the request of Ms. COLLINS, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 2085, a bill to amend title XVIII of the Social Security Act to clarify the definition of homebound with respect to home health services under the medicare program.

S. 2116

At the request of Mr. KERRY, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 2116, a bill to reform the program of block grants to States for temporary assistance for needy families to help States address the importance of adequate, affordable housing in promoting family progress towards self-sufficiency, and for other purposes.

S. 2215

At the request of Mrs. BOXER, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2215, a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and by so doing hold Syria accountable for its role in the Middle East, and for other purposes.

S. 2249

At the request of Mrs. CLINTON, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 2249, a bill to amend the Public Health Service Act to establish a grant program regarding eating disorders, and for other purposes.

S. 2317

At the request of Mr. DURBIN, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 2317, a bill to provide for fire safety standards for cigarettes, and for other purposes.

S. 2428

At the request of Mr. KERRY, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2428, a bill to amend the National Sea Grant College Program Act.

S. 2430

At the request of Mr. NICKLES, the names of the Senator from Kansas (Mr. ROBERTS) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 2430, a bill to provide for parity in regulatory treatment of broadband services providers and of broadband access services providers, and for other purposes.

S. 2444

At the request of Mr. KENNEDY, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of

S. 2444, a bill to amend the Immigration and Nationality Act to improve the administration and enforcement of the immigration laws, to enhance the security of the United States, and to establish the Office of Children's Services within the Department of Justice, and for other purposes.

S. 2484

At the request of Mr. BAUCUS, the name of the Senator from Hawaii (Mr. INOUE) was added as a cosponsor of S. 2484, a bill to amend part A of title IV of the Social Security Act to reauthorize and improve the operation of temporary assistance to needy families programs operated by Indian tribes, and for other purposes.

S. 2489

At the request of Mrs. CLINTON, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 2489, a bill to amend the Public Health Service Act to establish a program to assist family caregivers in accessing affordable and high-quality respite care, and for other purposes.

S. 2492

At the request of Mr. CLELAND, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 2492, a bill to amend title 5, United States Code, to require that agencies, in promulgating rules, take into consideration the impact of such rules on the privacy of individuals, and for other purposes.

S. 2505

At the request of Mr. KENNEDY, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2505, a bill to promote the national security of the United States through international educational and cultural exchange programs between the United States and the Islamic world, and for other purposes.

S. 2525

At the request of Mr. KERRY, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 2525, a bill to amend the Foreign Assistance Act of 1961 to increase assistance for foreign countries seriously affected by HIV/AIDS, tuberculosis, and malaria, and for other purposes.

S. CON. RES. 77

At the request of Mr. MCCONNELL, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. Con. Res. 77, a concurrent resolution expressing the sense of the Congress that a postage stamp should be issued to honor coal miners.

S. CON. RES. 107

At the request of Mr. CRAIG, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. Con. Res. 107, a concurrent resolution expressing the sense of Congress that Federal land management agencies should fully support the Western Governors Association "Collaborative 10-year Strategy for Reducing Wildland Fire Risks to Communities and the Environment," as signed August 2001, to



reduce the overabundance of forest fuels that place national resources at high risk of catastrophic wildfire, and prepare a National prescribed Fire Strategy that minimizes risks of escape.

AMENDMENT NO. 3430

At the request of Mr. KERRY, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of amendment No. 3430 proposed to H.R. 3009, a bill to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes.

AMENDMENT NO. 3431

At the request of Mrs. BOXER, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of amendment No. 3431 proposed to H.R. 3009, a bill to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes.

AMENDMENT NO. 3433

At the request of Mr. REID, his name was added as a cosponsor of amendment No. 3433 proposed to H.R. 3009, a bill to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes.

STATEMENTS ON INTRODUCED  
BILLS AND JOINT RESOLUTIONS

By Mr. BIDEN (for himself and Mr. SPECTER):

S. 2534. A bill to reduce crime and prevent terrorism at America's seaports; to the Committee on Finance.

Mr. BIDEN. Mr. President, I rise today to introduce the "Reducing Crime and Terrorism at America's Seaports Act." This important legislation will update Federal law to address critical security issues at seaports in the United States and, in concert with recent efforts by my good friend Senator HOLLINGS and others, will help keep America safe and secure.

Last October, I chaired a hearing of the Senate Judiciary Subcommittee on Crime and Drugs on "Defending America's Transportation Infrastructure." At the hearing, we heard testimony from experts that confirmed what many of us have known and preached for years: this Nation's transportation infrastructure, our railways, our highways, our seaports, is especially vulnerable to terrorist threats and other nefarious activity. Our trains, trucks and sea vessels, and the systems that carry them, are ripe targets and, if compromised, could jeopardize American lives and devastate the American economy.

The U.S. Government has known of this tremendous vulnerability but, until the tragic events of September 11, assessed the risk of an actual attack, at least with respect to seaports, as relatively low. Well, we all know how mistaken that assessment is now. While no one can predict with certainty where the next attack might be,

most clear thinkers agree that there will be another attempt. The real question before us is will we cower in a web of fear and bureaucratic inaction, or will we focus on creative problem-solving, building partnerships, and collaboratively fighting the well-funded and well-organized network of criminals that seek to topple us. The choice, my friends, is clear.

In the aftermath of September 11, Congress moved expeditiously to bridge the gaps in homeland security, passing landmark anti-terrorism legislation, strengthening security at airports, and providing additional funding for emergency law enforcement and domestic preparedness. Despite our early efforts, however, there is much that remains to be done. We have tackled the obvious and the easy. We must now move as swiftly to resolve the more difficult, but no less pressing, problems. And, as gateways to our largest cities and industries, the protection of U.S. seaports must be at the top of our priority list.

Failing to protect our Nation's ports will jeopardize American lives, as well as property. It threatens to undermine national security, especially where terrorists and other criminals illegally traffic weapons, munitions and critical technology. And it will significantly disrupt the free and steady flow of commerce.

Let me say a word about the threat to commerce. Ports connect American consumers with global products, and U.S. farmers and manufacturers with overseas markets. The U.S. marine transportation system moves more than 2 billion tons of domestic and international freight and imports 3.3 billion tons of oil. By some estimates, the port industry generates more than 13 million jobs and \$494 billion in personal income; it contributes nearly \$743 billion to the Nation's gross domestic product, and \$200 billion in Federal, State and local taxes. These extraordinary numbers underscore the critical role that seaports play in fueling economic growth. More importantly, they make the point, more forcefully than any number of speeches or platitudes, that port security will be a key element to building and sustaining a stable national economy.

With that in mind, I introduce legislation today that would substantially improve the inadequate protections currently contained in the Federal code: first, the effectiveness of Federal, State and local efforts to secure ports is compromised in part by criminals' ability to evade detection by underreporting and misreporting the content of cargo, with little more than a slap on the wrist, if that. The existing statutes simply do not provide adequate sanctions to deter criminal or civil violations. As a consequence, vessel manifest information is often wrong or incomplete, and our ability to assess risks, make decisions about which containers to inspect more closely, or simply control the movement of cargo is

made virtually impossible. This bill would substantially increase the penalties for non-compliance with these reporting requirements.

Second, we know that cargo is especially vulnerable to theft once it arrives at shore and is transported between facilities within a seaport. To deter such larceny, this bill would significantly increase penalties for theft of goods from Customs' custody.

Third, there currently exists no standard system for safeguarding cargo; no requirement that all containers be sealed; and no consistent guidance or protocol to direct action in the event that a container's seal is compromised. This legislation would require the U.S. Customs Service to develop a uniform system of securing or sealing at loading all containers originating in or destined for the U.S.

Fourth, my friends at the Customs Service tell me that their ability to conduct "sting" operations to detect illicit arms trafficking is significantly curtailed by onerous pre-certification requirements. This bill would give Customs agents the flexibility they need to conduct these investigations where American lives and property are threatened.

Fifth, the bill would impose strict criminal penalties for the use of a dangerous weapon or explosive with the intent to cause death or serious bodily injury at a seaport. Notably, such a provision already exists with respect to international airports and other mass transportation systems. If my bill is enacted, we would take the common-sense step of extending that same coverage to seaports.

Finally, while by all accounts the amount of crime at U.S. seaports is great, there exists no national data collection and reporting systems that capture the magnitude of serious crime at seaports. Indeed, the Interagency Commission on Crime and Security in U.S. Seaports concluded that it was unable to determine the full extent of serious crime at the nation's 361 seaports, primarily because there is no consolidated database. This legislation would help correct this dearth of reliable information by authorizing pilot programs at several seaports that would enable victims to report cargo theft and direct the Attorney General to create a database of these crimes, which would be available to appropriate Federal, State and local agencies.

Let me be clear: my legislation is not a cure-all. Comprehensive and effective port security will require an interagency, intergovernmental strategy that works to prevent and deter criminal and terrorist activity, and, where those efforts fail, detect any wrongdoing before harm or destruction results. The Federal Government, with my support and oftentimes at my insistence, has established formal strategies and protocols to address drug trafficking, domestic and international crime, and airport security. But seaport security remains largely

unaddressed. If we are to win this new war and truly secure the homeland, not just in word, but also in deed, we must focus the attention of both the public and private sectors on safeguarding America's seaports. We must do it now, and we must do it without sacrificing the country's economic health.

My friends, September 11 was our clarion call. How we respond to that call to action will be the real challenge of leadership, and citizenship, in the 21st century.

By Mrs. BOXER:

S. 2535. A bill to designate certain public lands as wilderness and certain rivers as wild and scenic rivers in the State of California, to designate Salmon Restoration Areas, to establish the Sacramento River National Conservation Area and Ancient Bristlecone Pine Forest, and for other purposes; to the Committee on Energy and Natural Resources.

Mrs. BOXER. Mr. President, history books written about California always comment on the natural beauty of the State because our natural treasures have always been one of the things that makes California unique. But that beauty must not be taken for granted. That is why I am introducing the California Wild Heritage Act of 2002, the first statewide wilderness bill for California since 1984.

This legislation will protect more than 2.5 million acres of public lands in 81 different areas, as well as the free-flowing portions of 22 rivers. Every acre of wild land is treasure. But the areas protected in this bill are some of California's most precious, including: the old growth redwood forest near the Trinity Alps in Trinity and Humboldt Counties; 35 miles of pristine coastline in the King Range in Humboldt and Mendocino Counties; the Nation's sixth highest waterfall, Feather Falls, in Butte County; the ancient Bristlecone Pines in the White Mountains in Inyo and Mono Counties; and the oak woodlands in the San Diego River area.

The bill protects these treasures by designating these public lands as "wilderness" and by naming 22 rivers, including the Clavey in Tuolumne County, as "wild and scenic" rivers. These destinations mean no new logging, no new dams, no new construction, no new mining, no new drilling, and no motorized vehicles. Protection of the areas in this bill is necessary to ensure that these previous places will be there for future generations. Because much of our State's drinking water supply is made up of watersheds in our national forest, this bill also helps ensure California has safe, reliable supply of clean drinking water. This bill would also mean that the hundreds of plant and animal species that make their homes in these areas will continue to have a safe haven. Endangered and threatened species whose habitats will be protected by this bill include: the bald eagle; Sierra Nevada Red Fox, and Spring Run Chinook Salmon among others.

In short, this bill preserves, prevents, and it protects. It preserves our most important lands, it prevents pollution, and it protects our most endangered wildlife. That is why so many supporters are throwing their weight behind this bill. Thousands of diverse organizations, businesses, and others see the importance of this legislation and have given it their support. Additionally, hundreds of local elected officials have voiced support for the protection of their local areas. Unfortunately, despite the tremendous support of this bill, it is not without opponents. They will say this bill is too large and goes too far. Yet this bill is similar in size to other statewide wilderness bills that have already passed Congress. The 1984 California Wilderness Act protected approximately 2 million acres and 83 miles of the Tuolumne River. The most recent Wilderness bill, the California Desert Protection Act, protected approximately 6 million acres. And this must be taken in context. Only 13 percent of California is currently protected as wilderness. This bill would raise that amount to 15 percent.

The question is, how much wilderness is enough? For every Californian, there is currently less than half an acre of wilderness set aside. I think this is too little. During the last 20 years, 675,000 acres of unprotected wilderness, approximately the size of Yosemite National Park, lost their wilderness character due to activities such as logging and mining. As our population increases, and California becomes home to almost 50 million people by the middle of the century, these development pressures are going to skyrocket. If we fail to act now, there simply will not be any wild lands or wild rivers left to protect.

We must reverse this. Many of the areas in this bill would have been protected by the Clinton administration's Roadless Rule, but this rule has been gutted by the Bush Administration, leaving these lands with no guarantee of protection. That just makes the need for this bill even greater. The other big question that has been raised is whether this bill will limit public access to these areas. I do not believe this will be the case. While wilderness designation means the wilderness areas are closed to mountain bikers, they remain open to a myriad of recreational activities, including: horseback riding, fishing, hiking, backpacking, rock climbing, cross country skiing, and canoeing. Mountain bikers and motorized vehicles have 100,000 miles of road and trails in California that are not touched in my bill. Furthermore, numerous economic studies suggest wilderness areas are a big draw that attract outdoor recreation visitors, and tourism dollars, to areas that have received this special designation.

Those of us who live in California have a very special responsibility to protect our natural heritage. Past generations have done it. They have left us with the wonderful and amazing gifts

of Yosemite, Big Sur and Joshua Tree. These are places that Californians cannot imagine living without. Now it is our turn to protect this legacy for future generations, for our children's children, and their children. This bill is the place to start and the time to start is now.

By Ms. STABENOW (for herself, Mr. DURBIN, Mr. LEAHY, Mr. JEFFORDS, Mrs. BOXER, Mr. LEVIN, Mr. DORGAN, Mr. SCHUMER, and Mr. JOHNSON):

S. 2536. A bill to amend title XIX of the Social Security Act to clarify that section 1927 of that Act does not prohibit a State from entering into drug rebate agreements in order to make outpatient prescription drugs accessible and affordable for residents of the State who are not otherwise eligible for medical assistance under the Medicaid program; to the Committee on Finance.

Ms. STABENOW. I am pleased to rise today to introduce the Rx Flexibility for States Act along with Senators DURBIN, LEAHY, JEFFORDS, BOXER, LEVIN, DORGAN, SCHUMER and JOHNSON.

This legislation would give States the flexibility to set up programs to pass along Medicaid rebates and discounts to their citizens who do not have prescription drug coverage and who are not currently eligible for Medicaid.

One of the biggest challenges facing businesses, senior citizens, families and State governments is the rising cost of prescription drug prices. From 2000-2001, prescription drug prices rose 17 percent. This is causing health expenditures and health insurance premiums to go up rapidly.

In an attempt to respond to these skyrocketing prices, 30 States have enacted laws providing some type of prescription drug coverage to those without insurance, according to the National Governors' Association, NGA.

However, the drug makers' trade association, PhRMA, has mounted legal challenges against several States because it opposes State efforts to lower prescription drug prices and increase coverage for those without it. Specifically, they have filed lawsuits against Maine and Vermont because the drug lobby does not want to extend Medicaid rebates and discounts to non-Medicaid recipients.

While Maine's two programs have been upheld in Court, Vermont's has not and both States are embroiled in lengthy appeals processes. These legal challenges are very costly and may have deterred other States from establishing similar demonstration projects.

In the absence of a Federal Medicare prescription drug benefit and soaring price of prescription drugs, States should have the unfettered ability to pass on Medicaid rebate to their residents! We need this legislation now, because even if Congress passes a Medicare prescription drug program, it will be several years before it is fully phased in.

The Rx Flexibility for States Act would seek to remove the legal hurdles that are preventing States from providing lower priced prescription drugs to all their citizens.

Specifically, States would be able to extend Medicaid rebates and discounts for prescription drugs to non-Medicaid eligible persons.

State governments are closer to the people and deserve the flexibility to set up their own programs to lower the costs of prescription drugs for their citizens.

This bill will give them that flexibility. I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 2536

*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 "Rx Flexibility for States Act".

#### SEC. 2. CLARIFICATION OF STATE AUTHORITY RELATING TO MEDICAID DRUG REBATE AGREEMENTS.

Section 1927 of the Social Security Act (42 U.S.C. 1396r-8) is amended by adding at the end the following:

"(1) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as prohibiting a State from—

"(1) directly entering into rebate agreements that are similar to a rebate agreement described in subsection (b) with a manufacturer for purposes of ensuring the affordability of outpatient prescription drugs in order to provide access to such drugs by residents of a State who are not otherwise eligible for medical assistance under this title; or

"(2) making prior authorization (that satisfies the requirements of subsection (d) and that does not violate any requirements of this title that are designed to ensure access to medically necessary prescribed drugs for individuals enrolled in the State program under this title) a condition of not participating in such a similar rebate agreement.".

#### SUBMITTED RESOLUTIONS

#### SENATE RESOLUTION 273—RECOGNIZING THE CENTENNIAL OF THE ESTABLISHMENT OF CRATER LAKE NATIONAL PARK

Mr. SMITH of Oregon (for himself and Mr. WYDEN) submitted the following resolution; which was considered and agreed to:

S. RES. 273

Whereas Crater Lake, at 1,943 feet deep, is the deepest lake in the United States;

Whereas Crater Lake is a significant natural feature, the creation of which, through the eruption of Mount Mazama 7,700 years ago, dramatically affected the landscape of an area that extends from southern Oregon into Canada;

Whereas legends of the formation of Crater Lake have been passed down through generations of the Klamath Tribe, Umpqua Tribe, and other Indian tribes;

Whereas on June 12, 1853, while in search of the legendary Lost Cabin gold mine, John Wesley Hillman, Henry Klippel, and Isaac Skeeters discovered Crater Lake;

Whereas William Gladstone Steele dedicated 17 years to developing strong local support for the conservation of Crater Lake, of which Steele said, "All ingenuity of nature seems to have been exerted to the fullest capacity to build a grand awe-inspiring temple the likes of which the world has never seen before";

Whereas on May 22, 1902, President Theodore Roosevelt signed into law a bill establishing Crater Lake as the Nation's sixth national park, mandating that Crater Lake National Park be "dedicated and set apart forever as a public park or pleasure ground for the benefit of the people of the United States" (32 Stat. 202);

Whereas Crater Lake National Park is a monument to the beauty of nature and the importance of providing public access to the natural treasures of the United States; and

Whereas May 22, 2002, marks the 100th anniversary of the designation of Crater Lake as a national park: Now, therefore, be it

*Resolved*, That the Senate recognizes May 22, 2002, as the centennial of the establishment of Crater Lake National Park.

#### SENATE CONCURRENT RESOLUTION 115—EXPRESSING THE SENSE OF THE CONGRESS THAT ALL WORKERS DESERVE FAIR TREATMENT AND SAFE WORKING CONDITIONS, AND HONORING DOLORES HUERTA FOR HER COMMITMENT TO THE IMPROVEMENT OF WORKING CONDITIONS FOR CHILDREN, WOMEN, AND FARM WORKER FAMILIES

Mr. KENNEDY submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 115

Whereas Dolores Huerta is a preeminent civil rights leader who has been fighting for the rights of the underserved for more than 40 years;

Whereas Dolores Huerta was born on April 10, 1930, in Dawson, New Mexico;

Whereas Dolores Huerta was raised, along with her 2 brothers and 2 sisters, in the San Joaquin Valley town of Stockton, California, where she was witness to her mother's care and generosity for local, poverty-stricken farm worker families;

Whereas after earning a teaching credential from Stockton College, Dolores Huerta was motivated to become a public servant and community leader upon seeing her students suffer from hunger and poverty;

Whereas Dolores Huerta defied cultural and gender stereotypes by becoming a powerful and distinguished champion for farm worker families;

Whereas in addition to her unyielding support for farm workers' rights, Dolores Huerta has been a stalwart advocate for the protection of women and children;

Whereas notwithstanding her intensity of spirit and her willingness to brave challenges, Dolores Huerta has always espoused peaceful, nonviolent tactics to promote her ideals and achieve her goals;

Whereas Dolores Huerta established her career as a social activist in 1955 when she founded the Stockton chapter of the Community Service Organization, a Latino association based in California, and became involved in the association's civic and educational programs;

Whereas in 1962, together with Cesar Chavez, Dolores Huerta founded the National Farm Workers Association, a precursor to the United Farm Workers Organizing Committee, which was formed in 1967;

Whereas Dolores Huerta is the proud mother of 11 children and has 14 grandchildren; and

Whereas Dolores Huerta was inducted into the Women's Hall of Fame in 1993 for her relentless dedication to farm worker issues: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring)*, That—

(1) it is the sense of the Congress that all workers deserve fair treatment and safe working conditions; and

(2) the Congress honors Dolores Huerta for her commitment to the improvement of working conditions for children, women, and farm worker families.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 3467. Mr. WELLSTONE submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table.

SA 3468. Mr. WELLSTONE submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra; which was ordered to lie on the table.

SA 3469. Mr. WELLSTONE (for himself and Mr. FEINGOLD) submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra; which was ordered to lie on the table.

SA 3470. Mr. REID (for Ms. LANDRIEU) proposed an amendment to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra.

SA 3471. Mr. BAYH (for himself, Mr. DURBIN, Mr. DAYTON, and Ms. MIKULSKI) submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra; which was ordered to lie on the table.

SA 3472. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra; which was ordered to lie on the table.

SA 3473. Mrs. LINCOLN (for herself and Mr. BUNNING) submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra; which was ordered to lie on the table.

SA 3474. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 3446 proposed by Mr. BROWNBACK to the amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra.

SA 3475. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra; which was ordered to lie on the table.

SA 3476. Mr. KYL (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra; which was ordered to lie on the table.

SA 3477. Mr. CONRAD submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) supra; which was ordered to lie on the table.

SA 3529. Mr. HOLLINGS submitted an amendment intended to be proposed by him

to the bill H.R. 3009, supra; which was ordered to lie on the table.

SA 3530. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill H.R. 3009, supra; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

**SA 3467.** Mr. WELLSTONE submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

On page 246, between lines 15 and 16, insert the following new paragraph:

(12) **HUMAN RIGHTS AND DEMOCRACY.**—The principal negotiating objective regarding human rights and democracy is to obtain provisions in trade agreements that require parties to those agreements to strive to protect intentionally recognized civil, political, and human rights.

**SA 3468.** Mr. WELLSTONE submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 224, strike line 1, and all that follows through page 345, line 19.

**SA 3469.** Mr. WELLSTONE (for himself and Mr. FEINGOLD) submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

Title XLII is amended by adding at the end the following new section:

#### **SEC. 4203. PROHIBITION ON USE OF TANF FUNDS FOR CONTRACTING WITH ENTITIES THAT EMPLOY WORKERS LOCATED OUTSIDE OF THE UNITED STATES TO CARRY OUT THE CONTRACT.**

(a) **IN GENERAL.**—Section 408(a) of the Social Security Act (42 U.S.C. 608(a)) is amended by adding at the end the following:

“(12) **CONTRACTING WITH ENTITIES THAT EMPLOY WORKERS LOCATED OUTSIDE OF THE UNITED STATES.**—

“(A) **IN GENERAL.**—Subject to subparagraph (B), a State to which a grant is made under section 403 shall not use any part of the grant to enter into a contract with an entity that employs workers who are located outside of the United States to carry out the activities required under the contract.

“(B) **WAIVER.**—The Secretary may waive the application of subparagraph (A) with respect to a State upon certification from the State that the State has taken good faith steps to enter into a contract with an entity that employs United States workers to carry out the activities required under the contract.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) takes effect on the date of enactment of this Act and applies to contracts entered into or renewed by a State on or after that date.

**SA 3470.** Mr. REID (for Ms. LANDRIEU) proposed an amendment to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

On page 86, between lines 17 and 18, insert the following new section:

#### **SEC. 113. TRADE ADJUSTMENT ASSISTANCE FOR MARITIME EMPLOYEES.**

Not later than 6 months after the date of enactment of the Trade Adjustment Assistance Reform Act of 2002, the Secretary of Labor shall establish a program to provide health care coverage assistance under title VI of that Act, and program benefits under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) to longshoremen, harbor and port pilots, port personnel, stevedores, crane operators, warehouse personnel, and other harbor workers who have become totally or partially separated, or are threatened to become totally or partially separated, as a result of the decline in the importation of steel products into the United States caused by the safeguard measures taken by the United States on March 5, 2002, under chapter 1 of title II of such Act (19 U.S.C. 2251 et seq.).

**SA 3471.** Mr. BAYH (for himself, Mr. DURBIN, Mr. DAYTON, and Ms. MIKULSKI) submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title III, add the following:

#### **SEC. 303. COMMUNITY WORKFORCE PARTNERSHIPS.**

(a) **SHORT TITLE.**—This section may be cited as the “Community Workforce Development and Modernization Partnership Act”.

(b) **GENERAL AUTHORITY.**—Title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.) (as amended by sections 401 and 501) is further amended by inserting after chapter 7 the following:

#### **“CHAPTER 8—COMMUNITY WORKFORCE PARTNERSHIPS**

##### **“SEC. 299K. AUTHORIZATION.**

“(a) **IN GENERAL.**—From amounts made available to carry out this chapter, the Secretary of Labor (referred to in this chapter as the ‘Secretary’), in consultation with the Secretary of Commerce and the Secretary of Education, shall award grants on a competitive basis to eligible entities described in subsection (b) to assist each entity to—

“(1) help workers improve those job skills that are necessary for employment by businesses in the industry with respect to which the entity was established;

“(2) help dislocated workers find employment; and

“(3) upgrade the operating and competitive capacities of businesses that are members of the entity.

“(b) **ELIGIBLE ENTITIES.**—An eligible entity described in this subsection is a consortium (either established prior to the date of enactment of the Community Workforce Development and Modernization Partnership Act or established specifically to carry out programs under this chapter) that—

“(1) shall include—

“(A) 2 or more businesses (or nonprofit organizations representing businesses) that are facing similar workforce development or business modernization challenges;

“(B) labor organizations, if the businesses described in subparagraph (A) employ workers who are covered by collective bargaining agreements; and

“(C) 1 or more businesses (or nonprofit organizations that represent businesses) with resources or expertise that can be brought to bear on the workforce development and business modernization challenges referred to in subparagraph (A); and

“(2) may include—

“(A) State governments and units of local government;

“(B) educational institutions;

“(C) labor organizations; or

“(D) nonprofit organizations.

“(c) **COMMON GEOGRAPHIC REGION.**—To the maximum extent practicable, the organizations that are members of an eligible entity described in subsection (b) shall be located within a single geographic region of the United States.

“(d) **PRIORITY CONSIDERATION.**—In awarding grants under subsection (a), the Secretary shall give priority consideration to—

“(1) eligible entities that serve dislocated workers or workers who are threatened with becoming totally or partially separated from employment;

“(2) eligible entities that include businesses with fewer than 250 employees; or

“(3) eligible entities from a geographic region in the United States that has been adversely impacted by the movement of manufacturing operations or businesses to other regions or countries, due to corporate restructuring, technological advances, Federal law, international trade, or another factor, as determined by the Secretary.

“(e) **APPLICATION.**—To be eligible to receive a grant under this section, an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

#### **“SEC. 299L. PARTNERSHIP ACTIVITIES.**

“(a) **USE OF GRANT AMOUNTS.**—Each eligible entity that receives a grant under section 299K shall use the amount made available through the grant to carry out a program that provides—

“(1) workforce development activities to improve the job skills of individuals who have, are seeking, or have been dislocated from, employment with a business that is a member of that eligible entity, or with a business that is in the industry of a business that is a member of that eligible entity;

“(2) business modernization activities; or

“(3) activities that are—

“(A) workforce investment activities (including such activities carried out through one-stop delivery systems) carried out under subtitle B of title I of the Workforce Investment Act of 1998 (42 U.S.C. 2811 et seq.); or

“(B) activities described in section 25 of the National Institute of Standards and Technology Act (15 U.S.C. 278k).

“(b) **ACTIVITIES INCLUDED.**—

“(1) **WORKFORCE DEVELOPMENT ACTIVITIES.**—The workforce development activities referred to in subsection (a)(1) may include activities that—

“(A) develop skill standards and provide training, including—

“(i) assessing the training and job skill needs of the industry involved;

“(ii) developing a sequence of skill standards that are benchmarked to advanced industry practices;

“(iii) developing curricula and training methods;

“(iv) purchasing, leasing, or receiving donations of training equipment;

“(v) identifying and developing the skills of training providers;

“(vi) developing apprenticeship programs; and

“(vii) developing training programs for dislocated workers;

“(B) assist workers in finding new employment; or

“(C) provide supportive services to workers who—

“(i) are participating in a program carried out by the entity under this chapter; and

“(ii) are unable to obtain the supportive services through another program providing the services.

“(2) BUSINESS MODERNIZATION ACTIVITIES.—The business modernization activities referred to in subsection (a)(2) may include activities that upgrade technical or organizational capabilities in conjunction with improving the job skills of workers in a business that is a member of that entity.

**“SEC. 299M. SEED GRANTS AND OUTREACH ACTIVITIES.**

“(a) SEED GRANTS.—The Secretary may provide technical assistance and award financial assistance (not to exceed \$150,000 per award) on such terms and conditions as the Secretary determines to be appropriate—

“(1) to businesses, nonprofit organizations representing businesses, and labor organizations, for the purpose of establishing an eligible entity; and

“(2) to entities described in paragraph (1) and established eligible entities, for the purpose of preparing such application materials as may be required under section 299K(e).

“(b) OUTREACH AND PROMOTIONAL ACTIVITIES.—The Secretary may undertake such outreach and promotional activities as the Secretary determines will best carry out the objectives of this chapter.

“(c) LIMITATIONS ON EXPENDITURES.—The Secretary may not use more than 10 percent of the amount authorized to be appropriated under section 299P to carry out this section.

**“SEC. 299N. LIMITATIONS ON FUNDING.**

“(a) REQUIREMENT OF MATCHING FUNDS.—The Secretary may not award a grant under this chapter to an eligible entity unless such entity agrees that the entity will make available non-Federal contributions toward the costs of carrying out activities funded by that grant in an amount that is not less than \$2 for each \$1 of Federal funds made available through the grant.

“(b) IN-KIND CONTRIBUTIONS.—The Secretary—

“(1) shall, in awarding grants under this chapter, give priority consideration to those entities whose members offer in-kind contributions; and

“(2) may not consider any in-kind contribution in lieu of or as any part of the contributions required under subsection (a).

“(c) SENIOR MANAGEMENT TRAINING AND DEVELOPMENT.—An eligible entity may not use any amount made available through a grant awarded under this chapter for training and development activities for senior management, unless that entity certifies to the Secretary that expenditures for the activities are—

“(1) an integral part of a comprehensive modernization plan; or

“(2) dedicated to team building or employee involvement programs.

“(d) PERFORMANCE MEASURES.—Each eligible entity shall, in carrying out the activities referred to in section 299L, provide for development of, and tracking of performance according to, performance outcome measures.

“(e) ADMINISTRATIVE COSTS.—Each eligible entity may use not more than 20 percent of the amount made available to that entity through a grant awarded under this chapter to pay for administrative costs.

“(f) MAXIMUM AMOUNT OF GRANT.—No eligible entity may receive—

“(1) a grant under this chapter in an amount of more than \$1,000,000 for any fiscal year; or

“(2) grants under this chapter in any amount for more than 3 fiscal years.

**“(g) SUPPORT FOR EXISTING OPERATIONS.—**

“(1) IN GENERAL.—In making grants under this chapter, the Secretary may use a portion equal to not more than 50 percent of the funds appropriated to carry out this chapter for a fiscal year, to support the existing training and modernization operations of existing eligible entities.

“(2) ENTITIES.—The Secretary may award a grant to an existing eligible entity for existing training and modernization operations only if the entity—

“(A) currently offers (as of the date of the award of the grant) a combination of training, modernization, and business assistance services;

“(B) targets industries with jobs that traditionally have low wages;

“(C) targets industries that are faced with chronic job loss; and

“(D) has demonstrated success in accomplishing the objectives of activities described in section 299L.

“(3) APPLICATION.—Paragraph (1) shall not apply to support for the expansion of training and modernization operations of existing eligible entities.

“(4) DEFINITIONS.—In this subsection:

“(A) EXISTING TRAINING AND MODERNIZATION ACTIVITY.—The term ‘existing training and modernization activity’ means a training and modernization activity carried out prior to the date of enactment of the Community Workforce Development and Modernization Partnership Act.

“(B) EXISTING ELIGIBLE ENTITY.—The term ‘existing eligible entity’ means an eligible entity that was established prior to the date of enactment of the Community Workforce Development and Modernization Partnership Act.

**“SEC. 299O. EVALUATION.**

“Not later than 3 years after the date of enactment of the Community Workforce Development and Modernization Partnership Act, the Secretary shall prepare and submit to Congress a report on the effectiveness of the activities carried out under this chapter.

**“SEC. 299P. AUTHORIZATION OF APPROPRIATIONS.**

“There are authorized to be appropriated to carry out this chapter—

“(1) \$10,000,000 for fiscal year 2003;

“(2) \$15,000,000 for fiscal year 2004;

“(3) \$20,000,000 for fiscal year 2005;

“(4) \$25,000,000 for fiscal year 2006; and

“(5) \$30,000,000 for fiscal year 2007.”

(c) TABLE OF CONTENTS.—The table of contents for the Trade Act of 1974 (19 U.S.C. 2101 et seq.) (as amended in section 701(a)) is further amended by inserting after the items relating to chapter 7 of title II the following:

**“CHAPTER 8—COMMUNITY WORKFORCE PARTNERSHIPS**

“Sec. 299K. Authorization.

“Sec. 299L. Partnership activities.

“Sec. 299M. Seed grants and outreach activities.

“Sec. 299N. Limitations on funding.

“Sec. 299O. Evaluation.

“Sec. 299P. Authorization of appropriations.”

**SA 3472.** Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

Section 4102 is amended by striking the matter preceding paragraph (1) and inserting the following:

(a) ELIGIBILITY FOR GENERALIZED SYSTEM OF PREFERENCES.—Section 502(b)(2)(F) of the Trade Act of 1974 (19 U.S.C. 2462(b)(2)(F)) is amended by striking the period at the end and inserting “or such country has not taken steps to support the efforts of the United States to combat terrorism.”

(b) DEFINITION OF INTERNATIONALLY RECOGNIZED WORKER RIGHTS.—Section 507(4) of the Trade Act of 1974 (19 U.S.C. 2467(4)) is amended—

**SA 3473.** Mrs. LINCOLN (for herself and Mr. BUNNING) submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table, as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ EXCLUSION OF INCOME DERIVED FROM CERTAIN WAGERS ON HORSE RACES FROM GROSS INCOME OF NONRESIDENT ALIEN INDIVIDUALS.**

(a) IN GENERAL.—Section 872(b) of the Internal Revenue Code of 1986 is amended by redesignating paragraphs (5), (6), and (7) as paragraphs (6), (7), and (8), respectively, and inserting after paragraph (4) the following new paragraph:

“(5) INCOME DERIVED FROM WAGERING TRANSACTIONS IN CERTAIN PARIMUTUEL POOLS.—Gross income derived by a nonresident alien individual from a legal wagering transaction initiated outside the United States in a parimutuel pool with respect to a live horse race in the United States.”

(b) CONFORMING AMENDMENT.—Section 883(a)(4) of such Code is amended by striking “(5), (6), and (7)” and inserting “(6), (7), and (8)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to proceeds from wagering transactions after September 30, 2002.

**SA 3474.** Mr. CRASSLEY submitted an amendment intended to be proposed to amendment SA 3446 proposed by Mr. BROWNBACK to the amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ SENSE OF THE SENATE REGARDING THE UNITED STATES-RUSSIAN FEDERATION SUMMIT MEETING, MAY 2002.**

(a) FINDINGS.—The Senate finds that—

(1) President George W. Bush will visit the Russian Federation May 23-25, 2002, to meet with his Russian counterpart, President Vladimir V. Putin;

(2) the President and President Putin, and the United States and Russian governments, continue to cooperate closely in the fight against international terrorism;

(3) the President seeks Russian cooperation in containing the war-making capabilities of Iraq, including that country's ongoing program to develop and deploy weapons of mass destruction;



(4) during his visit, the President expects to sign a treaty to significantly reduce American and Russian stockpiles of nuclear weapons by 2012;

(5) the President and his NATO partners have further institutionalized United States-Russian security cooperation through establishment of the NATO-Russia Permanent Joint Council, which meets for the first time on May 28, 2002, in Rome, Italy;

(6) during his visit, the President will continue to address religious freedom and human rights concerns through open and candid discussions with President Putin, with leading Russian activists, and with representatives of Russia's revitalized and diverse Jewish community; and

(7) recognizing Russia's progress on religious freedom and a broad range of other mechanisms to address remaining concerns, the President has asked the Congress to terminate application to Russia of title IV of the Trade Act of 1974 (commonly known as the "Jackson-Vanik Amendment") and authorize the extension of normal trade relations to the products of Russia.

(b) SENSE OF THE SENATE.—The Senate—

(1) supports the President's efforts to deepen the friendship between the American and Russian peoples;

(2) further supports the policy objectives of the President mentioned in this section with respect to the Russian Federation;

(3) supports terminating the application of title IV of the Trade Act of 1974 to Russia in an appropriate and timely manner; and

(4) looks forward to learning the results of the President's discussions with President Putin and other representatives of the Russian government and Russian society.

**SA 3475.** Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the end of Division B, add the following:  
**SEC. —. MODIFICATION TO CELLAR TREATMENT OF NATURAL WINE.**

(a) IN GENERAL.—Subsection (a) of section 5382 of the Internal Revenue Code of 1986 (relating to cellar treatment of natural wine) is amended to read as follows:

“(a) PROPER CELLAR TREATMENT.—

“(1) IN GENERAL.—Proper cellar treatment of natural wine constitutes—

“(A) subject to paragraph (2), those practices and procedures in the United States, whether historical or newly developed, of using various methods and materials to stabilize the wine, or the fruit juice from which it is made, so as to produce a finished product acceptable in good commercial practice, and

“(B) subject to paragraph (3), in the case of imported wine, those practices and procedures acceptable to the United States under an international agreement or treaty with respect to wines produced subject to that international agreement or treaty.

“(2) RECOGNITION OF CONTINUING TREATMENT.—For purposes of paragraph (1)(A), where a particular treatment has been used in customary commercial practice in the United States, it shall continue to be recognized as a proper cellar treatment in the absence of regulations prescribed by the Secretary finding such treatment not to be proper cellar treatment within the meaning of this subsection.

“(3) CERTIFICATION OF PRACTICES AND PROCEDURES FOR IMPORTED WINE.—

“(A) IN GENERAL.—In the case of imported wine which is not subject to an international agreement or treaty under paragraph (1)(B), the Secretary shall accept the practices and procedures used to produce such wine, if, at the time of importation—

“(i) the importer provides the Secretary with a certification from the government of the producing country, accompanied by an affirmed laboratory analysis, that the practices and procedures used to produce the wine constitute proper cellar treatment under paragraph (1), or

“(ii) in the case of an importer that owns or controls or that has an affiliate that owns or controls a winery operating under a basic permit issued by the Secretary, the importer certifies that the practices and procedures used to produce the wine constitute proper cellar treatment under paragraph (1).

“(B) AFFILIATE DEFINED.—For purposes of this paragraph, the term ‘affiliate’ has the meaning given such term by section 117(a)(4) of the Federal Alcohol Administration Act (27 U.S.C. 211(a)(4)) and includes a winery's parent or subsidiary or any other entity in which the winery's parent or subsidiary has an ownership interest.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on January 1, 2004.

**SA 3476.** Mr. KYL (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. —. CERTAIN STEAM OR OTHER VAPOR GENERATING BOILERS USED IN NUCLEAR FACILITIES.**

(a) IN GENERAL.—Subheading 9902.84.02 of the Harmonized Tariff Schedule of the United States is amended—

(1) by striking “4.9%” and inserting “Free”; and

(2) by striking “12/31/2003” and inserting “12/31/2006”.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply to goods entered, or withdrawn from warehouse for consumption, on or after January 2, 2002.

(2) RETROACTIVE APPLICATION.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, and subject to paragraph (4), the entry of any article—

(A) that was made on or after January 1, 2002, and

(B) to which duty-free treatment would have applied if the amendment made by this section had been in effect on the date of such entry,

shall be liquidated or reliquidated as if such duty-free treatment applied, and the Secretary of the Treasury shall refund any duty paid with respect to such entry.

(3) ENTRY.—As used in this subsection, the term “entry” includes a withdrawal from warehouse for consumption.

(4) REQUESTS.—Liquidation or reliquidation may be made under paragraph (2) with respect to an entry only if a request therefor is filed with the Customs Service, within 180 days after the date of the enactment of this Act, that contains sufficient information to enable the Customs Service—

(A) to locate the entry; or

(B) to reconstruct the entry if it cannot be located.

**SA 3477.** Mr. CONRAD submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

On page 305, strike lines 1–13 and insert the following:

(5) IMPORT SENSITIVE AGRICULTURAL PRODUCT.—The term “import sensitive agricultural product” means an agricultural product—

(A) with respect to which, as a result of the Uruguay Round Agreements the rate of duty was the subject of tariff reductions by the United States and, pursuant to such Agreements, was reduced on January 1, 1995, to a rate that was not less than 97.5 percent of the rate of duty that applied to such article on December 31, 1994; or

(B) which was subject to a tariff-rate quota on the date of enactment of this Act.

**SA 3478.** Mr. CONRAD submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

On page 278, between lines 6 and 7, insert the following:

(4) CURRENCY STABILITY.—Not later than 60 calendar days after the date on which the President transmits the notification described in paragraph (3)(A), if the President intends to enter into an agreement or change an existing agreement, the President shall provide written assurance to Congress that the President has sufficient information regarding the macro-economic position of the other party to the agreement to determine that the currency of the other party is stable and that the President does not expect a significant reduction in the value of the currency of the other party that could significantly offset the value of any tariff or non-tariff concessions achieved by the United States in the proposed agreement.

**SA 3479.** Mr. CONRAD submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 2103(b), insert the following:

(4) DISAPPROVAL OF NEGOTIATIONS.—Except with respect to the agreements set forth in section 2106(a), the trade authorities procedures shall not apply to any implementing bill that contains a provision approving of any trade agreement which is entered into under this subsection if the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives disapproves of the negotiation of such agreement before the close of the 60-day period which begins on the date notice is provided under section 2104(a)(1) with respect to the negotiation of such agreement.

**SA 3480.** Mr. INOUE submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr.

BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XXXII, insert the following new section:

**SEC. 3204. TUNA PRODUCTS.**

(a) **STUDY AND REPORT.**—

(1) **REQUIREMENT.**—Within 90 days of the date of enactment of this Act, the ITC shall study the issues set forth in paragraph (2), and submit a report to the President setting forth the results of the study.

(2) **ISSUE TO BE STUDIED.**—The issues to be studied pursuant to paragraph (1) are—

(A) the probable economic effect of providing preferential trade treatment for Philippine tuna on the United States tuna industry; and

(B) the probable impact of providing preferential trade treatment for Philippine tuna on the success of achieving the objectives of the Andean Trade Preference Act.

(b) **PREFERENTIAL TRADE TREATMENT FOR PHILIPPINE TUNA.**—After receiving the report described in subsection (a), the President is authorized to proclaim preferential trade treatment for Philippine tuna, if the President determines that providing such treatment—

(1) will not cause serious injury to the United States tuna industry;

(2) will not significantly impair the ability of the United States to achieve the objectives of the Andean Trade Preference Act; and

(3) is in the national interest.

(c) **MODIFIED TRADE BENEFIT.**—If the President does not proclaim preferential trade treatment for Philippine tuna as described in subsection (b), the President shall seek further advice from the ITC to determine if a modified trade benefit for tuna products may be extended to the Philippines. The President is authorized to proclaim such a modified trade benefit if the President determines that providing such a modified trade benefit would satisfy the criteria described in paragraphs (1), (2), and (3) of subsection (b).

(d) **EXPIRATION.**—Preferential trade treatment proclaimed under subsection (b) or a modified trade benefit proclaimed under subsection (c) shall expire at the end of the transition period.

(e) **GATT WAIVER.**—If the President proclaims preferential trade treatment under subsection (b) or a modified trade benefit under subsection (c), the President shall request, at the earliest possible opportunity, a waiver from the World Trade Organization of the United States obligations under paragraph 1 of Article I of the GATT 1994 with respect to such preferential trade treatment or modified trade benefit.

(f) **DEFINITIONS.**—In this section:

(1) **GATT 1994.**—The term “GATT 1994” has the meaning given that term in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501).

(2) **HTS.**—The term “HTS” means the Harmonized Tariff Schedule of the United States.

(3) **ITC.**—The term “ITC” means the International Trade Commission.

(4) **MODIFIED TRADE BENEFIT FOR TUNA PRODUCTS.**—The term “modified trade benefit for tuna products” means any trade preference provided to tuna that is harvested by a Philippine vessel, and prepared or preserved in any manner, in airtight containers in the Philippines, other than the preferential trade treatment for Philippine tuna described in paragraph (6).

(5) **PHILIPPINE VESSEL.**—The term “Philippine vessel” means a vessel—

(A) which is registered or recorded in the Philippines;

(B) which sails under the flag of the Philippines;

(C) which is at least 75 percent owned by nationals of the Philippines or by a company having its principal place of business in the Philippines, of which the manager or managers, chairman of the board of directors or of the supervisory board, and the majority of the members of such boards are nationals of the Philippines and of which, in the case of a company, at least 50 percent of the capital is owned by the Philippines or by public bodies or nationals of the Philippines;

(D) of which the master and officers are nationals of the Philippines; and

(E) of which at least 75 percent of the crew are nationals of the Philippines.

(6) **PREFERENTIAL TRADE TREATMENT FOR PHILIPPINE TUNA.**—The term “preferential trade treatment for Philippine tuna” means duty-free treatment for tuna that is harvested by Philippine vessels, and is prepared or preserved in any manner, in airtight containers in the Philippines for a quantity of such tuna in any calendar year that does not exceed 20 percent of the domestic United States tuna pack in the preceding calendar year.

(7) **TRANSITION PERIOD.**—The term “transition period” has the meaning given that term in section 204(b)(5)(D) of the Andean Trade Preference Act, as amended by section 3102.

(8) **TUNA PACK.**—The term “tuna pack” means tuna pack as defined by the National Marine Fisheries Service of the United States Department of Commerce for purposes of subheading 1604.14.20 of the HTS as in effect on the date of enactment of the Andean Trade Preference Expansion Act.

(9) **UNITED STATES TUNA INDUSTRY.**—The term “United States tuna industry” means the industry in the United States, including American Samoa, that prepares or preserves tuna, in any manner, in airtight containers.

**SA 3481.** Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill H.R. 3009, to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. . TRADE ADJUSTMENT ASSISTANCE AND HEALTH BENEFITS FOR TEXTILE AND APPAREL WORKERS.**

(a) **IN GENERAL.**—An individual employed in the textile or apparel industry before the date of enactment of this Act who, after December 31, 1993—

(1) lost, or loses, his or her job (other than by termination for cause); and

(2) has not been re-employed in that industry, is deemed to be eligible for adjustment assistance under subchapter A of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.).

(b) **NEW BENEFITS.**—If this Act, by amendment or otherwise, makes additional or different trade adjustment assistance or health benefits available to groups of workers with respect to whom the Secretary makes a certification under section 222 of the Trade Act of 1974 (19 U.S.C. 2272) after the date of enactment of this Act, then any individual described in subsection (a) is deemed to be eligible for such additional or different trade adjustment assistance or health benefits without regard to any eligibility requirements that may be imposed by law under this or any other Act.

(c) **ADDITIONAL OR DIFFERENT BENEFITS DEFINED.**—In this section, the term “additional

or different trade adjustment assistance or health benefits” means—

(1) adjustment assistance under subchapter A of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) that was not available under that subchapter on the day before the date of enactment of this Act but that becomes available under that subchapter thereafter; and

(2) health care benefits for which groups of workers with respect to whom the Secretary makes a certification under section 222 of the Trade Act of 1974 (19 U.S.C. 2272) after the date of enactment of this Act are eligible under this Act or any amendment made by this Act.

**SA 3482.** Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill H.R. 3009, to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table, as follows:

In lieu of the matter proposed insert the following:

**SEC. . TRADE ADJUSTMENT ASSISTANCE AND HEALTH BENEFITS FOR TEXTILE AND APPAREL WORKERS.**

(a) **IN GENERAL.**—An individual employed in the textile or apparel industry before the date of enactment of this Act who, after December 31, 1993—

(1) lost, or loses, his or her job (other than by termination for cause); and

(2) has not been re-employed in that industry, is deemed to be eligible for adjustment assistance under subchapter A of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.).

(b) **NEW BENEFITS.**—If this Act, by amendment or otherwise, makes additional or different trade adjustment assistance or health benefits available to groups of workers with respect to whom the Secretary makes a certification under section 222 of the Trade Act of 1974 (19 U.S.C. 2272) after the date of enactment of this Act, then any individual described in subsection (a) is deemed to be eligible for such additional or different trade adjustment assistance or health benefits without regard to any eligibility requirements that may be imposed by law under this or any other Act.

(c) **ADDITIONAL OR DIFFERENT BENEFITS DEFINED.**—In this section, the term “additional or different trade adjustment assistance or health benefits” means—

(1) adjustment assistance under subchapter A of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) that was not available under that subchapter on the day before the date of enactment of this Act but that becomes available under that subchapter thereafter; and

(2) health care benefits for which groups of workers with respect to whom the Secretary makes a certification under section 222 of the Trade Act of 1974 (19 U.S.C. 2272) after the date of enactment of this Act are eligible under this Act or any amendment made by this Act.

**SA 3483.** Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. . EXTRADITION REQUIREMENT.**

(a) IN GENERAL.—The benefits provided under any preferential tariff program authorized by this Statute shall not apply to any product of a country that fails to comply within 30 days with a United States government request for the extradition of an individual for trial in the United States if that individual has been indicted by a Federal grand jury for a crime involving a violation of the Controlled Substances Act (21 U.S.C. 101 et seq.).

**SA 3484.** Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed insert the following:

**SEC. . EXTRADITION REQUIREMENT.**

(a) IN GENERAL.—The benefits provided under any preferential tariff program authorized by this statute shall not apply to any product of a country that fails to comply within 30 days with a United States government request for the extradition of an individual for trial in the United States if that individual has been indicted by a Federal grand jury for a crime involving a violation of the Controlled Substances Act (21 U.S.C. 101 et seq.).

**SA 3485.** Mr. BREAU submitted an amendment intended to be proposed by him to the bill H.R. 3009, to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

Title XI is amended by adding at the end of chapter 3 of subtitle A, the following new section:

**SEC. 1137. VESSEL REPAIR DUTIES.**

Section 466(h) of the Tariff Act of 1930 (19 U.S.C. 1466(h)) is amended—

(1) in paragraph (1), by striking the comma at the end, and inserting a semicolon;

(2) in paragraph (2), by striking the comma at the end and “or” and inserting a semicolon;

(3) in paragraph (3), by striking the period at the end, and inserting a semicolon and “or”; and

(4) by adding at the end the following new paragraph:

(4) the cost of repairs to a vessel documented under the laws of the United States and engaged in the foreign or coasting trade, made by members of the regular crew of such vessel while the vessel is on the high seas.

**SA 3486.** Mr. BREAU submitted an amendment intended to be proposed by him to the bill H.R. 3009, to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 3203.

**SA 3487.** Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 3009, to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**“SEC. . EXTRANEIOUS MATTER IN IMPLEMENTING BILLS.**

“(a) IN GENERAL.—Notwithstanding any other provision of law, upon a point of order being made by any Senator against material extraneous to trade (as defined in subsection (b)) which is contained in any provision of an implementing bill, and the point of order is sustained by the Presiding Officer, any part of said provision that contains material extraneous to trade shall be deemed stricken from the bill and may not be offered as an amendment from the floor.

“(b) EXTRANEIOUS PROVISIONS.—A provision of an implementing bill shall be considered extraneous if it—

“(1) is not directly related to a trade negotiating objective specified in section 2102 of this Act; or

“(2) produces effects related to a trade negotiating objective that are merely incidental to the effects of the provision that are not related to a trade negotiating objective.

“(c) LISTING OF POSSIBLY EXTRANEIOUS MATERIALS.—Upon the reporting or discharge of an implementing bill or upon the receipt by the Senate of a message conveying an implementing bill from the House of Representatives, the Committee on Finance of the Senate shall submit for the record a list of material considered to be extraneous under subsection (b) to trade negotiating objectives. The inclusion or exclusion of a provision shall not constitute a determination of extraneity by the Presiding Officer of the Senate.

“(d) CONFERENCE REPORTS AND AMENDMENTS BETWEEN HOUSES.—When the Senate is considering a conference report on, or an amendment between the Houses in relation to an implementing bill, upon—

“(1) a point of order being made by any Senator against extraneous material meeting the definition of subsection (b), and

“(2) such point of order being sustained, such material contained in such conference report or amendment shall be deemed stricken, and the Senate shall proceed, without intervening action or motion, to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report or House amendment, as the case may be, not so stricken. Any such motion in the Senate shall be debatable for 2 hours. In any case in which such point of order is sustained against a conference report (or Senate amendment derived from such conference report by operation of this subsection), no further amendment shall be in order.

“(e) GENERAL POINT OF ORDER.—Notwithstanding any other law or rule of the Senate, it shall be in order for a Senator to raise a single point of order that several provisions of an implementing bill or conference report violate this section. The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order. If the Presiding Officer so sustains the point of order as to some of the provisions against which the Senator raised the point of order, then only those provisions against which the Presiding Officer sustains the point of order shall be deemed stricken pursuant to this section. Before the Presiding Officer rules on such a point of order, any Senator may move to waive such a point of order as it applies to some or all of the provisions against which the point of order was raised. Such a motion to waive is amendable in accordance with the rules and precedents of the Senate. After

the Presiding Officer rules on such point of order, any Senator may appeal the ruling of the Presiding Officer on such a point of order as it applies to some or all of the provisions on which the Presiding Officer ruled.

“(f) WAIVER.—Any provision of this section may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

“(g) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the implementing bill. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.”

**SA 3488.** Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

After section 2103(b), insert the following:

**(5) LIMITATIONS ON TRADE AUTHORITIES PROCEDURES.—**

(A) IN GENERAL.—Notwithstanding any other provision of law, the provisions of section 151 of the Trade Act of 1974 shall not apply to any provision in an implementing bill that increases revenue.

**(B) POINT OF ORDER IN SENATE.—**

(i) IN GENERAL.—When the Senate is considering an implementing bill, upon a point of order being made by any Senator against any part of the implementing bill that contains material in violation of subparagraph (A), and the point of order is sustained by the Presiding Officer, the part of the implementing bill against which the point of order is sustained shall be stricken from the bill.

**(ii) WAIVERS AND APPEALS.—**

(I) WAIVERS.—Before the Presiding Officer rules on a point of order described in clause (i), any Senator may move to waive the point of order and the motion to waive shall not be subject to amendment. A point of order described in clause (i) is waived only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(II) APPEALS.—After the Presiding Officer rules on a point of order under this subparagraph, any Senator may appeal the ruling of the Presiding Officer on the point of order as it applies to some or all of the provisions on which the Presiding Officer ruled. A ruling of the Presiding Officer on a point of order described in clause (i) is sustained unless three-fifths of the Members, duly chosen and sworn, vote not to sustain the ruling.

(III) DEBATE.—Debate on a motion to waive under subclause (I) or on an appeal of the ruling of the Presiding Officer under subclause (II) shall be limited to 1 hour. The time shall be equally divided between, and controlled by, the majority leader and the minority leader, or their designees.

**SA 3489.** Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

“ANALYSES OF THE EFFECTS OF TRADE  
LEGISLATION ON AMERICAN JOBS

“Section 308 of the Congressional Budget Act of 1974 (2 U.S.C. §639) is amended by inserting at the end thereof the following new subsection:

“(d) ANALYSES OF THE EFFECTS OF TRADE  
LEGISLATION ON AMERICAN JOBS.—

“1“(1) Whenever a committee of either House reports to its House a bill or resolution, or committee amendment thereto, providing for the implementation of a trade agreement, the report accompanying that bill or resolution shall contain a statement, or the committee shall make available such a statement in the case of an approved committee amendment which is not reported to its House, prepared after consultation with the Director of the Congressional Budget Office—

“(A) analyzing the effect of such agreement on employment in the United States, in affected regions of the United States, and in affected industries of the United States; and

“(B) containing a projection by the Congressional Budget Office of how such measure will affect the levels of such employment for such fiscal year (Or fiscal years) and each of the four ensuing fiscal years, if timely submitted before such report is filed.

“(2) Whenever a conference report is filed in either House and such conference report or any amendment reported in disagreement or any amendment contained in the joint statement of managers to be proposed by the conferees in the case of technical disagreement on such bill or resolution provides for the implementation of a trade agreement, the statement of managers accompanying such conference report shall contain the information described in paragraph (1), if available on a timely basis. If such information is not available when the conference report is filed, the committee shall make such information available to Members as soon as practicable prior to the consideration of such conference report.

“(3) The Director of the Congressional Budget Office shall prepare estimates required under this subsection in the same fashion as the Director prepares budgetary cost estimates for legislation under this Act, and the Director may combine the analyses under this subsection with the budgetary cost estimates that the Director prepares under this Act.”

**SA 3490.** Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits that Act, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 2103(b)(3)(A), and insert the following:

“(A) APPLICATION OF EXPEDITED PROCEDURES.—

“(i) IN GENERAL.—Except as provided in clause (ii), the provisions of section 151 of the Trade Act of 1974 (in this title referred to as ‘trade authorities procedures’) apply to a bill of either House of Congress which contains provisions described in subparagraph (B) to the same extent as such section 151 applies to implementing bills under that section. A bill to which this paragraph applies shall hereafter in this title be referred to as an ‘implementing bill’.

“(ii) VOTE TO INVOKE TRADE AUTHORITIES PROCEDURES.—Notwithstanding any other provision of law, upon the adoption of a motion to proceed to an implementing bill, the

Senate shall immediately consider the question of whether to invoke trade authorities procedures. Debate in the Senate on the question of whether to invoke trade authorities procedures shall be limited to not more than 2 hours, which shall include any debate on any debatable motion or appeal in relation to the question of whether to invoke trade authorities procedures. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees, except that in the event that the minority leader favors invoking trade authorities procedures, the time in opposition thereto shall be controlled by the first Senator recognized by the Presiding Officer (in accordance with rule XIX of the Standing Rules of the Senate) who opposes invoking trade authorities procedures. No amendment to the question of whether to invoke trade authorities procedures shall be in order. Debate on any debatable motion or appeal shall be limited to 30 minutes, to be equally divided between, and controlled by, the mover and the majority leader or the majority leader’s designee. The Senators who control time on the question of whether to invoke trade authorities procedures may, from the time under their control on the question, allot additional time to any Senator during the consideration of any debatable motion or appeal. A motion to further limit debate is not in order. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days, not to exceed 3, not counting any day on which the Senate is not in session) is not in order. Upon the expiration or yielding back of time on the question of whether to invoke trade authorities procedures, the Senate shall proceed, without any intervening action, to vote on the question. An affirmative vote of three-fifths of the Members, duly chosen and sworn, shall be required in the Senate to invoke trade authorities procedures. If the Senate votes to invoke trade authorities procedures, trade authorities procedures shall apply to the bill as provided in clause (i). If the Senate fails to invoke trade authorities procedures, then the bill shall be fully debatable in accordance with the Standing Rules of the Senate.

**SA 3491.** Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 2103(b)(3)(A), and insert the following:

“(A) APPLICATION OF EXPEDITED PROCEDURES.—

“(i) IN GENERAL.—Except as provided in clause (ii), the provisions of section 151 of the Trade Act of 1974 (in this title referred to as ‘trade authorities procedures’) apply to a bill of either House of Congress which contains provisions described in subparagraph (B) to the same extent as such actions 151 applies to implementing bills under that section. A bill to which this paragraph applies shall hereafter in this title be referred to as an ‘implementing bill’.

“(ii) CERTIFICATION THAT TRADING PARTNERS ARE DEMOCRACIES.—Notwithstanding any other provision of law, before trade authorities procedures may apply to a bill under clause (i), the President must certify that all parties to the trade agreement that is the subject of the implementing bill are democracies.

**SA 3492.** Mr. FEINGOLD submitted an amendment intended to be proposed

to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1143.

**SA 3493.** Mr. EDWARDS submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 231(a) of the Trade Act of 1974, as amended by section 111, insert the following:

“(5) ADDITIONAL RULE FOR TEXTILE AND APPAREL WORKERS.—

“(A) PRESUMPTIVE CERTIFICATION.—A group of workers at a textile or apparel firm shall be presumptively certified by the Secretary as adversely affected and eligible for trade adjustment assistance benefits under this chapter and benefits under title VI of the Trade Adjustment Assistance Reform Act of 2002 during the period described in subsection (c)(1) if—

“(i) a significant number or proportion of the workers in the workers’ firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

“(ii)(I) the sales or production of the workers’ firm has decreased; or

“(II) the workers’ plant or facility has closed or relocated; and

“(iii) the occurrence described in clause (ii) contributed importantly to the workers’ separation or threat of separation.

“(B) PERMANENT CERTIFICATION.—The presumptive certification under subparagraph (A) shall become permanent 40 days after the submission of a petition under subsection (b) unless the Secretary determines within such period, after giving the group of workers notice and an opportunity to be heard, that the workers do not satisfy the criteria for certification in paragraph (1), (2), or (3) of subsection (a).

**SA 3494.** Mr. EDWARDS submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title IX of division A add the following:

**SEC. \_\_\_\_ DESIGNATION OF AND TAX INCENTIVES  
FOR ECONOMIC REVITALIZATION  
ZONES.**

(a) IN GENERAL.—Chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subchapter:

**“Subchapter Z—Economic Revitalization  
Zones**

“Sec. 1400M. Designation of economic revitalization zones.

“Sec. 1400N. Incentives for economic revitalization zones.

**“SEC. 1400M. DESIGNATION OF ECONOMIC REVITALIZATION ZONES.**

“(a) DESIGNATION.—

“(1) DEFINITIONS.—For purposes of this title, the term ‘economic revitalization zone’ means any area—

“(A) which is nominated by 1 or more local governments and the State or States in which it is located for designation as an economic revitalization zone (hereafter in this section referred to as a ‘nominated area’), and

“(B) which the Secretary of Labor designates as an economic revitalization zone.

“(2) NUMBER OF DESIGNATIONS.—Not more than 40 nominated areas may be designated as economic revitalization zones.

“(3) AREAS DESIGNATED BASED ON DEGREE OF UNEMPLOYMENT, ETC.—The nominated areas designated as economic revitalization zones under this subsection shall be those nominated areas with the highest average ranking with respect to the criteria described in subparagraphs (A) and (B) of subsection (c)(3). For purposes of the preceding sentence, an area shall be ranked within each such criterion on the basis of the amount by which the area exceeds such criterion, with the area which exceeds such criterion by the greatest amount given the highest ranking.

“(4) LIMITATION ON DESIGNATIONS.—

“(A) PUBLICATION OF REGULATIONS.—The Secretary of Labor shall prescribe by regulation no later than 4 months after the date of the enactment of this section—

“(i) the procedures for nominating an area under paragraph (1)(A), and

“(ii) the parameters relating to the size characteristics of an economic revitalization zone.

“(B) TIME LIMITATIONS.—The Secretary of Labor may designate nominated areas as economic revitalization zones only during the period beginning on the first day of the first month following the month in which the regulations described in subparagraph (A) are prescribed and ending on December 31, 2002.

“(C) PROCEDURAL RULES.—The Secretary of Labor shall not make any designation of a nominated area as an economic revitalization zone under paragraph (2) unless—

“(i) the local governments and the States in which the nominated area is located have the authority to nominate such area for designation as an economic revitalization zone,

“(ii) a nomination regarding such area is submitted in such a manner and in such form, and contains such information, as the Secretary of Labor shall by regulation prescribe, and

“(iii) the Secretary of Labor determines that any information furnished is reasonably accurate.

“(b) PERIOD FOR WHICH DESIGNATION IS IN EFFECT.—

“(1) IN GENERAL.—Any designation of an area as an economic revitalization zone shall remain in effect during the period beginning on January 1, 2003, and ending on the earliest of—

“(A) December 31, 2012,

“(B) the termination date designated by the State and local governments in their nomination, or

“(C) the date the Secretary of Labor revokes such designation.

“(2) REVOCATION OF DESIGNATION.—The Secretary of Labor may revoke the designation under this section of an area if such Secretary determines that the local government or the State in which the area is located has modified the boundaries of the area.

“(c) AREA AND ELIGIBILITY REQUIREMENTS.—

“(1) IN GENERAL.—The Secretary of Labor may designate a nominated area as an economic revitalization zone under subsection (a) only if the area meets the requirements of paragraphs (2) and (3) of this subsection.

“(2) AREA REQUIREMENTS.—A nominated area meets the requirements of this paragraph if—

“(A) the area is within the jurisdiction of one or more local governments in one or more trade-affected States, and

“(B) the boundary of the area is continuous.

“(3) ELIGIBILITY REQUIREMENTS.—A nominated area meets the requirements of this paragraph if the States and the local governments in which it is located certify in writing (and the Secretary of Labor, after such review of supporting data as the Secretary deems appropriate, accepts such certification) that—

“(A) the unemployment rate in the area during 2001 was at least 150 percent of the national unemployment rate during 2001,

“(B) of the total employment in the area during 1993—

“(i) more than 10 percent consisted of employment in a trade-affected industry located in such area, or

“(ii) more than 15 percent consisted of employment in all of the trade-affected industries located in such area, and

“(C) employment in a trade-affected industry located in such area decreased by more than 20 percent during the period from 1993 through 2001.

“(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this subchapter—

“(1) TRADE-AFFECTED STATE.—The term ‘trade-affected State’ means any State in which the total number of workers located in such State who were certified through the trade adjustment assistance and the NAFTA transitional adjustment assistance programs under chapter 2 of title II of the Trade Act of 1974 during the period from 1994 through 2001 was not less than an amount equal to 2.5 percent of the State’s total labor force in 1994.

“(2) TRADE-AFFECTED INDUSTRY.—The term ‘trade-affected industry’ means any 2-digit Standard Industrial Code industry—

“(A) which had a total labor force of at least 500,000 during 1994, as determined by the Bureau of Labor Statistics, and

“(B) in which the total number of workers who were certified through the trade adjustment assistance and the NAFTA transitional adjustment assistance programs under chapter 2 of title II of the Trade Act of 1974 during the period from 1994 through 2001 was not less than an amount equal to 10 percent of such industry’s total labor force in 1994.

“(3) LOCAL GOVERNMENT.—The term ‘local government’ means—

“(A) any county, city, town, township, parish, village, or other general purpose political subdivision of a State, and

“(B) any combination of political subdivisions described in subparagraph (A) recognized by the Secretary of Labor.

“(4) GOVERNMENTS.—If more than one government seeks to nominate an area as an economic revitalization zone, any reference to, or requirement of, this section shall apply to all such governments.

“SEC. 1400N. INCENTIVES FOR ECONOMIC REVITALIZATION ZONES.

“(a) IN GENERAL.—An economic revitalization zone shall be treated for the period of its designation as an empowerment zone for purposes of applying—

“(1) section 1394 (relating to tax-exempt enterprise zone facility bonds),

“(2) section 1396 (relating to empowerment zone employment credit),

“(3) section 1397A (relating to increase in expensing under section 179), and

“(4) section 1397B (relating to nonrecognition of gain on rollover of empowerment zone investments).

“(b) NEW MARKETS TAX CREDIT.—An economic revitalization zone shall be treated for the period of its designation as a low-income

community for purposes of applying section 45D (relating to new markets tax credit).”

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

“Subchapter Z. Economic Revitalization Zones.”.

#### SEC. \_\_\_\_ ENHANCED DEDUCTION FOR CORPORATE DONATIONS OF COMPUTER TECHNOLOGY TO COMMUNITY TECHNOLOGY CENTERS.

(a) EXPANSION OF COMPUTER TECHNOLOGY DONATIONS TO COMMUNITY TECHNOLOGY CENTERS.—Section 170(e)(6)(B)(i)(II) of the Internal Revenue Code of 1986 (relating to qualified computer contribution) is amended by striking “or” at the end of subclause (II), by adding “or” at the end of subclause (III), and by inserting after subclause (III) the following:

“(IV) a nonprofit or governmental community technology center located in an economic revitalization zone (as defined in section 1400M(a)(1)), including any center within which an after-school or employment training program is operated.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after December 31, 2002.

SA 3495. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill H.R. 3009, to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

#### SEC. \_\_\_\_ DEBT LIMIT INCREASE.

Subsection (b) of Section 3101 of title 31, United States Code, is amended by striking “\$5,950,000,000,000” and inserting “\$6,128,000,000,000”.

SA 3496. Mr. EDWARDS (for Mr. HELMS) submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

On page 203, after line 25, insert the following new section:

#### SEC. 1137. TRANSSHIPMENTS.

(a) IN GENERAL.—The Commissioner of Customs shall report on a quarterly basis to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate regarding all instances of transshipments of textiles and apparel articles occurring in the 3-month period preceding the report. The report shall detail with respect to each instance of transshipment—

(1) the amount of textiles and apparel articles involved;

(2) the names of the exporter and importer of the articles;

(3) each country through whose territory the transshipment has occurred; and

(4) any action taken with respect to the transshipment.

(b) PENALTIES.—

(1) IN GENERAL.—In addition to any other penalty, if the President determines, based on sufficient evidence, that an exporter has engaged in transshipment as defined in paragraph (3), the President shall permanently suspend export privileges for such exporter,

any successor of such exporter, any other entity owned or operated by the principal of the exporter, and any entity employing a factory manager who was a manager of a production facility or exporter found to have engaged in the transshipment.

(2) **QUOTA CHARGE-BACKS.**—To the extent consistent with United States international obligations, in addition to any other penalty, the country of origin of the transshipment pursuant to paragraph (1) shall have its quota for the category of the transshipment textiles or apparel charged in an amount equal to three times the amount of the goods involved in the transshipment.

(3) **TRANSSHIPMENT DESCRIBED.**—Transshipment has occurred when preferential treatment for a textile or apparel article under any provision of law has been claimed on the basis of material false information concerning the country of origin, manufacture, processing, or assembly of the article or any of its components. For purposes of this paragraph, false information is material if disclosure of the true information would mean or would have meant that the article is or was ineligible for such preferential treatment.

**SA 3497.** Mr. EDWARDS (for Mr. HELMS) submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the end, insert the following new section:

**SEC. 4203. MARKING OF IMPORTED FURNITURE PRODUCTS.**

Notwithstanding any other provision of law, not later than 180 days after the date of enactment of this Act, the Secretary of the Treasury shall require all furniture products imported into the United States to be clearly marked with respect to the country of origin consistent with the provisions of section 304(a) of the Tariff Act of 1930 (19 U.S.C. 1304(a)).

**SA 3498.** Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

On page 31 after line 12 add the following:

(vi) The extent to which the country reaches an agreement with the United States to require the extradition of an individual for trial in the United States if that individual has been indicted by a Federal grand jury for a crime involving a violation of the Controlled Substances Act (21 U.S.C. 101 et seq.).

**SA 3499.** Mr. HATCH (for himself and Mr. LEAHY) submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the matter proposed, insert the following:

**TITLE XLIII—INTELLECTUAL PROPERTY RIGHTS PROTECTION**

**SEC. 4301. USTR DETERMINATIONS IN TRIPS AGREEMENT INVESTIGATIONS.**

(a) **IN GENERAL.**—Section 304(a)(2)(A) of the Trade Act of 1974 (19 U.S.C. 2414(a)(2)(A)) is amended by inserting after “agreement,” the following: “except an investigation initiated pursuant to section 302(b)(2)(A) involving rights under the Agreement on Trade-Related Aspects of Intellectual Property Rights (defined in section 101(d)(15) of the Uruguay Round Agreements Act) or the GATT 1994 (referred to in section 101(d)(1) of such Act) relating to products subject to intellectual property protection.”.

(b) **TIMEFRAME FOR TRIPS AGREEMENT DETERMINATIONS.**—Section 304(a)(3)(A) of the Trade Act of 1974 is amended to read as follows:

“(A) If an investigation is initiated under this chapter by reason of section 302(b)(2) and—

“(i) the Trade Representative considers that rights under the Agreement on Trade-Related Aspects of Intellectual Property Rights or the GATT 1994 relating to products subject to intellectual property protection are involved, the Trade Representative shall make the determination required under paragraph (1) not later than 30 days after the date on which the dispute settlement procedure is concluded; or

“(ii) the Trade Representative does not consider that a trade agreement, including the Agreement on Trade-Related Aspects of Intellectual Property Rights, is involved or does not make a determination described in subparagraph (B) with respect to such investigation, the Trade Representative shall make the determinations required under paragraph (1) with respect to such investigation by no later than the date that is 6 months after the date on which such investigation is initiated.”.

(c) **CONFORMING AMENDMENT.**—Section 305(a)(2)(B) of the Trade Act of 1974 is amended by striking “section 304(a)(3)(A)” and inserting “section 304(a)(3)(A)(ii)”.

**SEC. 4302. PETITIONS FOR REVIEW UNDER ATPA AND CBERA.**

(a) **ATPA.**—Section 203 of the Andean Trade Preference Act (19 U.S.C. 3202) is amended by adding at the end the following new subsection:

“(g) **PETITIONS FOR REVIEW.**—The President shall promulgate regulations regarding the filing, review, and timely disposition of petitions from any interested party requesting that action be taken with regard to the status of a country as a beneficiary country under this Act.”.

(b) **CBERA.**—Section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702) is amended by adding at the end the following new subsection:

“(g) **PETITIONS FOR REVIEW.**—The President shall promulgate regulations regarding the filing, review, and timely disposition of petitions from any interested party requesting that action be taken with regard to the status of a country as a beneficiary country under this Act.”.

**SEC. 4303. WITHDRAWAL AND SUSPENSION OF TREATMENT UNDER ATPA.**

Section 203(e)(1) of the Andean Trade Preference Act (19 U.S.C. 3202(e)(1)) is amended by striking “should be barred” and all that follows through the end period and inserting: “no longer satisfies one or more of the conditions for designation as a beneficiary country under subsection (c) or such country insufficiently fulfills one or more of the factors set forth in subsection (d).”.

**SEC. 4304. WITHDRAWAL AND SUSPENSION OF TREATMENT UNDER CBERA.**

Section 212(e)(1) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(e)(1))

is amended by striking “would be barred” and all that follows through the end period and inserting: “no longer satisfies one or more of the conditions for designation as a beneficiary country under subsection (b) or such country insufficiently fulfills one or more of the factors set forth in subsection (c).”.

**SEC. 4305. COUNTRIES ELIGIBLE UNDER ATPA AND CBERA.**

(a) **ATPA.**—Section 203(c) of the Andean Trade Preference Act (19 U.S.C. 3202(c)) is amended—

(1) by striking “and” at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting “; and”;

(3) by inserting after paragraph (7), the following new paragraph:

“(8) if any act, policy, or practice of such country violates, or is inconsistent with, the provisions of, or otherwise denies benefits to the United States under, any bilateral trade agreement.”; and

(4) in the flush paragraph at the end, by striking “and (7)” and inserting “(7), and (8)”.

(b) **CBERA.**—Section 212(b) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(b)) is amended—

(1) by striking “and” at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting “; and”;

(3) by inserting after paragraph (7), the following new paragraph:

“(8) if any act, policy, or practice of such country violates, or is inconsistent with, the provisions of, or otherwise denies benefits to the United States under, any bilateral trade agreement.”; and

(4) in the flush paragraph at the end, by striking “and (7)” and inserting “(7), and (8)”.

**SEC. 4306. ADEQUATE AND EFFECTIVE PROTECTION OF INTELLECTUAL PROPERTY RIGHTS UNDER GSP.**

Section 502(c) of the Trade Act of 1974 (19 U.S.C. 2462(c)) is amended by striking the semicolon at the end of paragraph (5) and adding the following: “notwithstanding the fact that the foreign country may be in compliance with the specific obligations of the Agreement on Trade-Related Aspects of Intellectual Property Rights referred to in section 101(d)(15) of the Uruguay Round Agreements Act.”.

**SEC. 4307. ADEQUATE AND EFFECTIVE PROTECTION OF INTELLECTUAL PROPERTY RIGHTS UNDER CBI.**

(a) **IN GENERAL.**—Section 212(c) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(c)) is amended by striking the semicolon at the end of paragraph (9) and adding the following: “notwithstanding the fact that the foreign country may be in compliance with the specific obligations of the Agreement on Trade-Related Aspects of Intellectual Property Rights referred to in section 101(d)(15) of the Uruguay Round Agreements Act.”.

(b) **CBTPA BENEFICIARY COUNTRY.**—Section 213(b)(5)(B)(ii) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(b)(5)(B)(ii)) is amended to read as follows:

“(ii) The extent to which the country provides adequate and effective protection of intellectual property rights notwithstanding the fact that the foreign country may be in compliance with the specific obligations of the Agreement on Trade-Related Aspects of Intellectual Property Rights referred to in section 101(d)(15) of the Uruguay Round Agreements Act.”.



**SEC. 4308. ADEQUATE AND EFFECTIVE PROTECTION OF INTELLECTUAL PROPERTY RIGHTS UNDER THE ATPA.**

Section 203(d) of the Andean Trade Preference Act (19 U.S.C. 3202(d)) is amended by striking the semicolon at the end of paragraph (9) and adding the following: “notwithstanding the fact that the foreign country may be in compliance with the specific obligations of the Agreement on Trade-Related Aspects of Intellectual Property Rights referred to in section 101(d)(15) of the Uruguay Round Agreements Act;”.

**SA 3500.** Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

On page 267, strike lines 11 through 14, and insert the following:

“or discharged from the Committee on Finance;

“(ii) the House of Representatives to consider any extension disapproval resolution not reported by or discharged from the Committee on”.

**SA 3501.** Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, add the following new section:

**“SEC. . WILD FISH AND SHELLFISH.**

“Section 2106 of the Organic Foods Production Act of 1990 (7 U.S.C. 6505) is amended by adding the following new subsection (c) and renumbering accordingly:

“(c) Notwithstanding section 6506(a)(1)(A)), domestically produced wild fish and shellfish products may be labeled as organic if the Secretary finds that they meet standards for wholesomeness that are equivalent to standards adopted for fish and shellfish produced from certified organic farms. In the event that standards do not exist for fish or shellfish produced from certified organic farms, the Secretary shall establish appropriate standards to allow labeling of wild fish and shellfish as organic. In establishing such standards for wild fish and shellfish, the Secretary shall consult with wild fish and shellfish producers, processors and sellers, as well as other interested members of the public.”

**SA 3502.** Mr. BROWNBACK submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

On page 310, strike lines 1 through 5, and insert the following:

“(B) footwear provided for in any of subheadings 6401.10.00, 6401.91.00, 6401.92.90, 6401.99.30, 6401.99.60, 6401.99.90, 6402.30.50, 6402.30.70, 6402.30.80, 6402.91.50, 6402.91.80, 6402.91.90, 6402.99.20, 6402.99.90, 6404.11.90, or 6404.19.20 of the Harmonized Tariff Schedule of the United States that was not designated at the time of the effective date of this title

as eligible articles for the purpose of the generalized system of preferences under title V of the Trade Act of 1974;

On page 328, strike lines 1 through 13, and insert the following:

“(II) ARTICLES DESCRIBED.—An article described in this subclause means an article described in subheading 6401.10.00, 6401.91.00, 6401.92.90, 6401.99.30, 6401.99.60, 6401.99.90, 6402.30.50, 6402.30.70, 6402.30.80, 6402.91.50, 6402.91.80, 6402.91.90, 6402.99.20, 6402.99.90, 6404.11.90, or 6404.19.20 of the HTS.

At the end of title XXXI, insert the following:

**SEC. 3104. CBI.**

Section 213(b)(1)(B) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(b)(1)(B)) is amended to read as follows:

“(B) Footwear provided for in any of subheadings 6401.10.00, 6401.91.00, 6401.92.90, 6401.99.30, 6401.99.60, 6401.99.90, 6402.30.50, 6402.30.70, 6402.30.80, 6402.91.50, 6402.91.80, 6402.91.90, 6402.99.20, 6402.99.90, 6404.11.90, or 6404.19.20 of the Harmonized Tariff Schedule of the United States that was not designated at the time of the effective date of this title as eligible articles for the purpose of the generalized system preferences under title V of the Trade Act of 1974.”.

**SA 3503.** Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

On page 288, strike lines 7 through 12, and insert the following:

“approval resolution not reported by or discharged from the Committee on Ways and Means and, in addition, by the Committee on Rules.

“(iv) It is not in order for the Senate to consider any procedural disapproval resolution not reported by or discharged from the Committee on Finance.”.

**SA 3504.** Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which as ordered to lie on the table; as follows:

On page 267, line 11, insert “or discharged from” before “the”.

On page 267, line 14, insert “or discharged from” before “the”.

On page 288, line 7 insert “or discharged from” before “the”.

On page 288, line 12, insert “or discharged from” before “the”.

**SA 3506.** Mr. DURBIN (for himself and Mr. SPECTER) submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act; to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

After section 3201, insert the following:

**SEC. 3204. DUTY SUSPENSION ON WOOL.**

(a) EXTENSION OF TEMPORARY DUTY REDUCTIONS.—

(1) HEADING 9902.51.11.—Heading 9902.51.11 of the Harmonized Tariff Schedule of the United States is amended by striking “2003” and inserting “2005”.

(2) HEADING 9902.51.12.—Heading 9902.51.12 of the Harmonized Tariff Schedule of the United States is amended—

(A) by striking “2003” and inserting “2005”; and

(B) by striking “6%” and inserting “Free”.

(3) HEADING 9902.51.13.—Heading 9902.51.13 of the Harmonized Tariff Schedule of the United States is amended by striking “2003” and inserting “2005”.

(4) HEADING 9902.51.14.—Heading 9902.51.14 of the Harmonized Tariff Schedule of the United States is amended by striking “2003” and inserting “2005”.

(b) LIMITATION ON QUANTITY OF IMPORTS.—

(1) NOTE 15.—U.S. Note 15 to subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended—

(A) by striking “from January 1 to December 31 of each year, inclusive”; and

(B) by striking “, or such other” and inserting the following: “in calendar year 2001, 3,500,000 square meter equivalents in calendar year 2002, and 4,500,000 square meter equivalents in calendar year 2003 and each calendar year thereafter, or such greater”.

(2) NOTE 16.—U.S. Note 16 to subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended—

(A) by striking “from January 1 to December 31 of each year, inclusive”; and

(B) by striking “, or such other” and inserting the following: “in calendar year 2001, 2,500,000 square meter equivalents in calendar year 2002, and 3,500,000 square meter equivalents in calendar year 2003 and each calendar year thereafter, or such greater”.

(c) EXTENSION OF DUTY REFUNDS AND WOOL RESEARCH TRUST FUND.—

(1) IN GENERAL.—The United States Customs Service shall pay each manufacturer that receives a payment under section 505 of the Trade and Development Act of 2000 (Public Law 106-200) for calendar year 2002, and that provides an affidavit that it remains a manufacturer in the United States as of January 1 of the year of the payment, 2 additional payments, each payment equal to the payment received for calendar year 2002 as follows:

(A) The first payment to be made after January 1, 2004, but on or before April 15, 2004.

(B) The second payment to be made after January 1, 2005, but on or before April 15, 2005.

(2) CONFORMING AMENDMENT.—Section 506(f) of the Trade and Development Act of 2000 (Public Law 106-200) is amended by striking “2004” and inserting “2006”.

(3) AUTHORIZATION.—There is authorized to be appropriated and is appropriated out of amounts in the general fund of the Treasury not otherwise appropriated such sums as are necessary to carry out the provisions of this subsection.

(d) EFFECTIVE DATE.—The amendment made by subsection (a)(2)(B) applies to goods entered, or withdrawn from warehouse for consumption, on or after January 1, 2002.

**SA 3506.** Mr. CORZINE submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

Strike Section 1143, and insert in lieu thereof, the following:

**"SEC. 1143. BORDER SEARCH AUTHORITY FOR CERTAIN CONTRABAND IN OUTBOUND MAIL."**

The Tariff Act of 1930 is amended by inserting after section 582 the following:

**"SEC. 583. EXAMINATION OF OUTBOUND MAIL."**

“(a) EXAMINATION.—

“(1) IN GENERAL.—For purposes of ensuring compliance with the Customs laws of the United States and other laws enforced by the Customs Service, including the provisions of law described in paragraph (2), a Customs officer may, subject to the provisions of this section, require the United States Postal Service to hold, and not continue to transport, mail of domestic origin transmitted for export by the United States Postal Service and foreign mail transiting the United States that is being imported or exported by the United States Postal Service for up to 15 days for the purpose of allowing the Customs Service to seek a warrant to search such mail.

“(2) PROVISIONS OF LAW DESCRIBED.—The provisions of law described in this paragraph are the following:

“(A) Section 5316 of title 31, United States Code (relating to reports on exporting and importing monetary instruments).

“(B) Sections 1461, 1463, 1465, and 1466 and chapter 110 of title 18, United States Code (relating to obscenity and child pornography).

“(C) Section 1003 of the Controlled Substances Import and Export Act (21 U.S.C. 953; relating to exportation of controlled substances).

“(D) The Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.).

“(E) Section 38 of the Arms Export Control Act (22 U.S.C. 2778).

“(F) The International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

“(b) SEARCH OF MAIL NOT SEALED AGAINST INSPECTION AND OTHER MAIL.—Mail not sealed against inspection under the postal laws and regulations of the United States, mail which bears a customs declaration, and mail with respect to which the sender or addressee has consented in writing to search, may be searched by a Customs officer.

(c) SEARCH OF MAIL SEALED AGAINST INSPECTION.—(1) A Customs officer may require that the United States Postal Service hold, and not continue to transport, mail sealed against inspection under the postal laws and regulations of the United States, subject to paragraph (2), upon reasonable cause to suspect that such mail contains one or more of the following:

“(A) Monetary instruments, as defined in section 1956 of title 18, United States Code.

“(B) A weapon of mass destruction, as defined in section 2332a(b) of title 18, United States Code.

“(C) A drug or other substance listed in schedule I, II, III, or IV in section 202 of the Controlled Substances Act (21 U.S.C. 812).

“(D) National defense and related information transmitted in violation of any of sections 793 through 798 of title 18, United States Code.

“(E) Merchandise mailed in violation of section 1715 or 1716 of title 18, United States Code.

“(F) Merchandise mailed in violation of any provision of chapter 71 (relating to obscenity) or chapter 110 (relating to sexual exploitation and other abuse of children) of title 18, United States Code.

“(G) Merchandise mailed in violation of the Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.).

“(H) Merchandise mailed in violation of section 38 of the Arms Export Control Act (22 U.S.C. 2778).”

“(I) Merchandise mailed in violation of the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

“(J) Merchandise mailed in violation of the Trading with the Enemy Act (50 U.S.C. App. 1 et seq.).

“(K) Merchandise subject to any other laws enforced by the Customs Service.”

**SA 3507.** Mrs. BOXER submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

On page 250, line 24, after the comma, insert “environmental, employment opportunity,”.

**SA 3508.** Mrs. BOXER submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

On page 250, line 24, after the comma, insert “environmental, employment opportunity, gender equity,”.

**SA 3509.** Mrs. BOXER submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert “environmental, employment opportunity,”.

**SA 3510.** Mrs. BOXER submitted an amendment intended to be proposed by her to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert “environmental, employment opportunity, gender equity,”.

**SA 3511.** Mrs. BOXER submitted an amendment intended to be proposed by her to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. . DEFINITION OF SHIFT IN PRODUCTION.**

In this Act, the term “shift in production” means the transfer of a firm or subdivision of a firm to a foreign country, or the transfer of the means of importing articles (including agricultural products) to foreign owned and operated motor carriers.

**SA 3512.** Mrs. BOXER submitted an amendment intended to be proposed by her to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

**SEC. . DEFINITION OF SHIFT IN PRODUCTION.**

(a) IN GENERAL.—In this Act, the term “shift in production” means the transfer of a firm or subdivision of a firm to a foreign country, or the transfer of the means of importing articles (including agricultural products) to foreign owned and operated motor carriers.

(b) EFFECTIVE DATE.—This section shall be effective one day after the enactment of this Act.

**SA 3513.** Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title I, insert the following new section:

**SEC. 113. INFORMATION TECHNOLOGY TRAINING.**  
Section 240 of the Trade Act of 1974, as amended by section 111, is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A), by inserting “, including a program that trains an adversely affected worker for employment in a new career field” after “customized training”;

(B) in subparagraph (D), by striking “and” at the end;

(C) by redesignating subparagraph (E) as subparagraph (F);

(D) after subparagraph (D), by inserting the following new subparagraph:

“(E) information technology training.”;

and

(E) in the flush language following subparagraph (F), as redesignated, by striking “(E)” and inserting “(F)”;

(2) in subsection (b), by adding at the end the following new paragraph:

“(3) MULTIPLE TRAINING PROGRAMS.—The Secretary may pay the costs of multiple training programs for an adversely affected worker covered by a certification issued under section 231, provided that those training programs are not duplicative.”; and

(3) in subsection (f), by striking paragraph (3), and inserting the following new paragraph:

“(3) DEFINITIONS.—For purposes of this section:

“(A) SUITABLE EMPLOYMENT.—The term ‘suitable employment’ means, with respect to a worker, work of a substantially equal or higher skill level than the worker’s past adversely affected employment, and wages for such work at not less than 80 percent of the worker’s average weekly wage.

“(B) INFORMATION TECHNOLOGY TRAINING.—The term ‘information technology training’ means a training program that is designed to result in the awarding of an industry-accepted information technology certification that is provided by—

“(i) any information technology trade association or corporation to the employees of such association or corporation;

“(ii) the employer of an adversely affected worker;

“(iii) a State;

“(iv) a school district, university system, or an institution of higher education (as defined in section 101 of the Higher Education Act of 1965) (20 U.S.C. 1001); or

“(v) a certified commercial information technology training provider.”.

**SA 3514.** Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant

additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title I, insert the following new section:

**SEC. 113. INFORMATION TECHNOLOGY TRAINING.**  
Section 240 of the Trade Act of 1974, as amended by section 111, is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A), by inserting “, including a program that trains an adversely affected worker for employment in a new career field” after “customized training”;

(B) in subparagraph (D), by striking “and” at the end;

(C) by redesignating subparagraph (E) as subparagraph (F);

(D) after subparagraph (D), by inserting the following new subparagraph:

“(E) information technology training.”;

and  
(E) in the flush language following subparagraph (F), as redesignated, by striking “(E)” and inserting “(F)”;

(2) in subsection (b), by adding at the end the following new paragraph:

“(3) MULTIPLE TRAINING PROGRAMS.—The Secretary may pay the costs of multiple training programs for an adversely affected worker covered by a certification issued under section 231, provided that those training programs are not duplicative.”; and

(3) in subsection (f), by striking paragraph (3), and inserting the following new paragraph:

“(3) DEFINITIONS.—For purposes of this section:

“(A) SUITABLE EMPLOYMENT.—The term ‘suitable employment’ means, with respect to a worker, work of a substantially equal or higher skill level than the worker’s past adversely affected employment, and wages for such work at not less than 80 percent of the worker’s average weekly wage.

“(B) INFORMATION TECHNOLOGY TRAINING.—The term ‘information technology training’ means a training program that is designed to result in the awarding of an industry-accepted information technology certification that is provided by—

“(i) any information technology trade association or corporation to the employees of such association or corporation;

“(ii) the employer of an adversely affected worker;

“(iii) a State;

“(iv) a school district, university system, or an institution of higher education (as defined in section 101 of the Higher Education Act of 1965) (20 U.S.C. 1001); or

“(v) a certified commercial information technology training provider.”.

**SA 3515.** Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XXI, insert the following:

**SEC. 2114. REPORT FROM THE INTERNATIONAL TRADE COMMISSION ON IMPORT SENSITIVE PRODUCTS.**

(a) IMPORT SENSITIVE LIST.—Notwithstanding any other provision of law, at least 90 days before initiating negotiations on import sensitive products, the President shall publish and furnish the International Trade Commission with a list of import sensitive products which may be considered for modification or continuance of duties, continuance of duty-free or excise treatment, or additional duties.

(b) REPORT.—Within 120 days after receipt of the list described in subsection (a) or on the day the President enters into negotiations, whichever is later, the Commission shall, with respect to each import sensitive product, provide a written report to the President and Congress as to the probable economic effect of modifying duties or removing nontariff measure on United States industries producing like or directly competitive product. The report may include the advice of the Commission as to whether any reduction in the rate of duty should take place over a longer period of time than the minimum period provided for in section 2103(a)(2) of this title.

**(c) ACTIONS OF THE COMMISSION.—**

(1) REPORT.—In preparing the report to the President and Congress, the Commission shall, to the extent practicable, act in accordance with section 131 (d) and (e) of the Trade Act of 1974 (19 U.S.C. 2151).

(2) PUBLIC COMMENT.—Notwithstanding any other provision of law, the Commission shall, in preparing the report required by this section seek public comment through public hearings, written statements, or any other method practicable.

(d) DEFINITION.—The term “import sensitive product” means a product or industry to which section 2104(b)(2)(A)(i) applies and as defined in section 503(b)(1) of the Trade Act of 1974.

**SA 3516.** Mr. REED (for himself, Mr. BINGAMAN, Mr. CORZINE, and Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 9, strike line 24, and all that follows through page 12, line 24, and insert the following:

“(11) DOWNSTREAM PRODUCER.—The term ‘downstream producer’ means a firm that performs additional, value-added production processes, including a firm that performs final assembly, finishing, or packaging of articles produced by another firm.

“(12) EXTENDED COMPENSATION.—The term ‘extended compensation’ has the meaning given that term in section 205(4) of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

“(13) JOB FINDING CLUB.—The term ‘job finding club’ means a job search workshop which includes a period of structured, supervised activity in which participants attempt to obtain jobs.

“(14) JOB SEARCH PROGRAM.—The term ‘job search program’ means a job search workshop or job finding club.

“(15) JOB SEARCH WORKSHOP.—The term ‘job search workshop’ means a short (1- to 3-day) seminar, covering subjects such as labor market information, résumé writing, interviewing techniques, and techniques for finding job openings, that is designed to provide participants with knowledge that will enable the participants to find jobs.

“(16) ON-THE-JOB TRAINING.—The term ‘on-the-job training’ has the same meaning as that term has in section 101(31) of the Workforce Investment Act.

“(17) PARTIAL SEPARATION.—A partial separation shall be considered to exist with respect to an individual if—

“(A) the individual has had a 20-percent or greater reduction in the average weekly hours worked by that individual in adversely affected employment; and

“(B) the individual has had a 20-percent or greater reduction in the average weekly wage of the individual with respect to adversely affected employment.

“(18) REGULAR COMPENSATION.—The term ‘regular compensation’ has the meaning given that term in section 205(2) of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

“(19) REGULAR STATE UNEMPLOYMENT.—The term ‘regular State unemployment’ means unemployment insurance benefits other than an extension of unemployment insurance by a State using its own funds beyond either the 26-week period mandated by Federal law or any additional period provided for under the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

“(20) SECRETARY.—The term ‘Secretary’ means the Secretary of Labor.

“(21) STATE.—The term ‘State’ includes each State of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

“(22) STATE AGENCY.—The term ‘State agency’ means the agency of the State that administers the State law.

“(23) STATE LAW.—The term ‘State law’ means the unemployment insurance law of the State approved by the Secretary under section 3304 of the Internal Revenue Code of 1986.

“(24) SUPPLIER.—The term ‘supplier’ means a firm that produces component parts for, or articles considered to be a part of, the production process for articles produced by a firm or subdivision covered by a certification of eligibility under section 231. The term ‘supplier’ also includes a firm that provides services under contract to a firm or subdivision covered by such certification.

**SA 3517.** Mr. BAUCUS (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 135, line 9, strike all through page 164, line 16, and insert the following:

**TITLE VI—HEALTH CARE COVERAGE OPTIONS FOR WORKERS ELIGIBLE FOR TRADE ADJUSTMENT ASSISTANCE**

**SEC. 601. TRADE ADJUSTMENT ASSISTANCE HEALTH INSURANCE CREDIT.**

(a) IN GENERAL.—Subchapter B of chapter 65 of the Internal Revenue Code of 1986 (relating to abatements, credits, and refunds) is amended by inserting after section 6428 the following new section:

**“SEC. 6429. TRADE ADJUSTMENT ASSISTANCE HEALTH INSURANCE CREDIT.**

“(a) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by subtitle A an amount equal to 70 percent of the amount paid by the taxpayer during the taxable year for coverage for the taxpayer, the taxpayer’s spouse, and dependents of the taxpayer under qualified health insurance during eligible coverage months.

“(b) ELIGIBLE COVERAGE MONTH.—For purposes of this section—

“(1) IN GENERAL.—The term ‘eligible coverage month’ means any month if, as of the first day of such month—

“(A) the taxpayer is an eligible individual,

“(B) the taxpayer is covered by qualified health insurance,

“(C) the premium for coverage under such insurance for such month is paid by the taxpayer, and

“(D) the taxpayer does not have other specified coverage.

“(2) SPECIAL RULES.—

“(A) JOINT RETURNS.—In the case of a joint return, the requirements of paragraph (1) shall be treated as met if at least 1 spouse satisfies such requirements.

“(B) EXCLUSION OF MONTHS IN WHICH INDIVIDUAL IS IMPRISONED.—Such term shall not include any month with respect to an individual if, as of the first day of such month, such individual is imprisoned under Federal, State, or local authority.

“(3) OTHER SPECIFIED COVERAGE.—For purposes of this subsection, an individual has other specified coverage for any month if, as of the first day of such month—

“(A) SUBSIDIZED COVERAGE.—

“(i) FOR TAA PROGRAM INDIVIDUALS.—In the case of an individual described in subsection (c)(1), such individual is covered under any qualified health insurance (other than insurance described in subparagraph (A), (B), or (F) of subsection (d)(1)) under which at least 50 percent of the cost of coverage (determined under section 4980B(f)(4)) is paid or incurred by an employer (or former employer) of the taxpayer or the taxpayer's spouse.

“(ii) FOR WAGE INSURANCE PROGRAM INDIVIDUALS.—In the case of an individual described in subsection (c)(2), such individual is either—

“(I) eligible for coverage under any qualified health insurance (other than insurance described in subparagraph (A), (B), or (F) of subsection (d)(1)) under which at least 50 percent of the cost of coverage (determined under section 4980B(f)(4)) is paid or incurred by an employer (or former employer) of the taxpayer or the taxpayer's spouse, or

“(II) covered under any such qualified health insurance under which any portion of the cost of coverage (as so determined) is paid or incurred by an employer (or former employer) of the taxpayer or the taxpayer's spouse.

“(iii) TREATMENT OF CAFETERIA PLANS.—For purposes of clause (i) or (ii), the cost of coverage shall be treated as paid or incurred by an employer to the extent the coverage is in lieu of a right to receive cash or other qualified benefits under a cafeteria plan (as defined in section 125(d)).

“(B) COVERAGE UNDER MEDICARE, MEDICAID, OR SCHIP.—Such individual—

“(i) is entitled to benefits under part A of title XVIII of the Social Security Act or is enrolled under part B of such title, or

“(ii) is enrolled in the program under title XIX or XXI of such Act (other than under section 1928).

“(C) CERTAIN OTHER COVERAGE.—Such individual—

“(i) is enrolled in a health benefits plan under chapter 89 of title 5, United States Code,

“(ii) is entitled to receive benefits under chapter 55 of title 10, United States Code, or

“(iii) is entitled to receive benefits under chapter 17 of title 38, United States Code.

“(c) ELIGIBLE INDIVIDUAL.—For purposes of this section, the term ‘eligible individual’ means an individual who—

“(1) would be eligible to participate in the trade adjustment allowance program under section 235 of the Trade Act of 1974, as amended by section 111 of the Trade Adjustment Assistance Reform Act of 2002, if section 235 (as so amended) were applied without regard to subsection (a)(3)(B) thereof; or

“(2) is participating in the wage insurance program under section 243(b) of such Act (as so amended).

“(d) QUALIFIED HEALTH INSURANCE.—

“(1) IN GENERAL.—For purposes of this section, subject to paragraph (2), the term ‘qualified health insurance’ means health insurance coverage or coverage under a group health plan through—

“(A) COBRA continuation coverage,

“(B) continuation coverage under a similar State program,

“(C) the enrollment of the eligible worker and the eligible worker's spouse and dependents in health insurance coverage offered through a qualified State high risk pool or other comparable State-based health insurance coverage alternative,

“(D) the enrollment of the eligible worker and the eligible worker's spouse and dependents in the health insurance program offered for State employees,

“(E) the enrollment of the eligible worker and the eligible worker's spouse and dependents in a State-based health insurance program that is comparable to the health insurance program offered for State employees,

“(F) a direct payment arrangement entered into by the State and a group health plan (including a multiemployer plan as defined in section 414(f)), an issuer of health insurance coverage, an administrator of health insurance coverage or a group health plan, or an employer, as appropriate, on behalf of the eligible worker and the eligible worker's spouse and dependents,

“(G) the enrollment of the eligible worker and the eligible worker's spouse and dependents in a State-operated health plan that does not receive any Federal financial participation,

“(H) the enrollment of the eligible worker and the eligible worker's spouse and dependents in health insurance coverage offered through a State arrangement with a private sector health care coverage purchasing pool,

“(I) in the case of an eligible worker who was enrolled in individual health insurance coverage during the 6-month period that ends on the date on which the worker became unemployed, enrollment in such individual health insurance coverage, or

“(J) enrollment of the eligible worker and the eligible worker's spouse and dependents in coverage under a group health plan that is available through the employment of the worker's spouse and is not described in subsection (b)(3)(A)(i).

“(2) REQUIREMENTS.—Health insurance coverage or coverage under a group health plan shall not be treated as being described in any of subparagraphs (B) through (H) of paragraph (1) unless, with respect to such coverage provided to eligible workers and the eligible worker's spouse or dependents—

“(A) enrollment is guaranteed for workers who provide a qualified health insurance credit eligibility certificate described in section 7527 and who pay the remainder of the premium for such enrollment,

“(B) no pre-existing condition limitations are imposed with respect to such eligible workers,

“(C) the worker is not required (as a condition of enrollment or continued enrollment under the coverage) to pay a premium or contribution that is greater than the premium or contribution for an individual who is not an eligible worker who has comparable coverage,

“(D) benefits under the coverage are the same as (or substantially similar to) the benefits provided to individuals who are not eligible workers who have comparable coverage,

“(E) the standard loss ratio for the coverage is not less than 65 percent,

“(F) in the case of coverage provided under paragraph (1)(E), the premiums and benefits are comparable to the premiums and benefits applicable to State employees, and

“(G) such coverage otherwise meets requirements established by the Secretary.

“(3) DEFINITIONS.—For purposes of this section:

“(A) COBRA CONTINUATION COVERAGE.—The term ‘COBRA continuation coverage’ means coverage under a group health plan provided by an employer pursuant to section 4980B.

“(B) GROUP HEALTH PLAN.—The term ‘group health plan’ has the meaning given such term by section 5001(b)(1).

“(C) HEALTH INSURANCE COVERAGE.—Except to the extent provided by the Secretary, the term ‘health insurance coverage’ has the meaning given such term by section 9832(b)(1) (other than insurance if substantially all of its coverage is of excepted benefits described in section 9832(c) or provided under a flexible spending arrangement, as determined under section 106(c)).

“(D) INDIVIDUAL HEALTH INSURANCE COVERAGE.—The term ‘individual health insurance coverage’ means health insurance coverage offered to individuals other than in connection with a group health plan. Such term does not include Federal- or State-based health insurance coverage.

“(E) QUALIFIED STATE HIGH RISK POOL.—The term ‘qualified State high risk pool’ has the meaning given that term in section 2744(c)(2) of the Public Health Service Act (42 U.S.C. 300gg-44(c)(2)).

“(F) STANDARD LOSS RATIO.—The term ‘standard loss ratio’, with respect to the pool of insured individuals under coverage described in subparagraph (B) through (H) of paragraph (1) for a year, means—

“(i) the amount of claims incurred with respect to the pool of insured individuals in each such type of coverage for such year; divided by

“(ii) the premiums paid for enrollment in each such coverage for such year.

“(e) COORDINATION WITH ADVANCE PAYMENTS OF CREDIT.—

“(1) RECAPTURE OF EXCESS ADVANCE PAYMENTS.—If any payment is made by the Secretary under section 7527 during any calendar year to a provider of qualified health insurance for an individual, then the tax imposed by this chapter for the individual's last taxable year beginning in such calendar year shall be increased by the aggregate amount of such payments.

“(2) RECONCILIATION OF PAYMENTS ADVANCED AND CREDIT ALLOWED.—Any increase in tax under paragraph (1) shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit (other than the credit allowed by subsection (a)) allowable under part IV of subchapter A of chapter 1.

“(f) SPECIAL RULES.—

“(1) COORDINATION WITH OTHER DEDUCTIONS.—Amounts taken into account under subsection (a) shall not be taken into account in determining any deduction allowed under section 162(l) or 213.

“(2) MSA DISTRIBUTIONS.—Amounts distributed from an Archer MSA (as defined in section 220(d)) shall not be taken into account under subsection (a).

“(3) DENIAL OF CREDIT TO DEPENDENTS.—No credit shall be allowed under this section to any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

“(4) CREDIT TREATED AS REFUNDABLE CREDIT.—For purposes of this title, the credit allowed under this section shall be treated as a credit allowable under subpart C of part IV of subchapter A of chapter 1.

“(5) EXPENSES MUST BE SUBSTANTIATED.—A payment for qualified health insurance to which subsection (a) applies may be taken into account under this section only if the

taxpayer substantiates such payment in such form as the Secretary may prescribe.”.

(b) INFORMATION REPORTING.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to information concerning transactions with other persons) is amended by inserting after section 6050S the following new section:

**“SEC. 6050T. RETURNS RELATING TO TRADE ADJUSTMENT ASSISTANCE HEALTH INSURANCE CREDIT.”**

“(a) REQUIREMENT OF REPORTING.—Every person—

“(1) who, in connection with a trade or business conducted by such person, receives payments during any calendar year from any individual for coverage of such individual or any other individual under qualified health insurance (as defined in section 6429(d)), and

“(2) who claims a reimbursement for an advance credit amount,

shall, at such time as the Secretary may prescribe, make the return described in subsection (b) with respect to each individual from whom such payments were received or for whom such a reimbursement is claimed.

“(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

“(1) is in such form as the Secretary may prescribe, and

“(2) contains—

“(A) the name, address, and TIN of each individual referred to in subsection (a),

“(B) the aggregate of the advance credit amounts provided to such individual and for which reimbursement is claimed,

“(C) the number of months for which such advance credit amounts are so provided, and

“(D) such other information as the Secretary may prescribe.

“(c) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

“(1) the name and address of the person required to make such return and the phone number of the information contact for such person, and

“(2) the information required to be shown on the return with respect to such individual.

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) is required to be made.

“(d) ADVANCE CREDIT AMOUNT.—For purposes of this section, the term ‘advance credit amount’ means an amount for which the person can claim a reimbursement pursuant to a program established by the Secretary under section 7527.”.

(2) ASSESSABLE PENALTIES.—

(A) Subparagraph (B) of section 6724(d)(1) of such Code (relating to definitions) is amended by redesignating clauses (xi) through (xvii) as clauses (xii) through (xviii), respectively, and by inserting after clause (x) the following new clause:

“(xi) section 6050T (relating to returns relating to trade adjustment assistance health insurance credit).”.

(B) Paragraph (2) of section 6724(d) of such Code is amended by striking “or” at the end of subparagraph (Z), by striking the period at the end of subparagraph (AA) and inserting “, or”, and by adding after subparagraph (AA) the following new subparagraph:

“(BB) section 6050T (relating to returns relating to trade adjustment assistance health insurance credit).”.

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of sub-

chapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6050S the following new item:

“Sec. 6050T. Returns relating to trade adjustment assistance health insurance credit.”.

(c) CRIMINAL PENALTY FOR FRAUD.—

(1) IN GENERAL.—Subchapter B of chapter 75 of the Internal Revenue Code of 1986 (relating to other offenses) is amended by adding at the end the following:

**“SEC. 7276. PENALTIES FOR OFFENSES RELATING TO TRADE ADJUSTMENT ASSISTANCE HEALTH INSURANCE CREDIT.”**

“Any person who knowingly misuses Department of the Treasury names, symbols, titles, or initials to convey the false impression of association with, or approval or endorsement by, the Department of the Treasury of any insurance products or group health coverage in connection with the credit for trade adjustment assistance health insurance under section 6429 shall on conviction thereof be fined not more than \$10,000, or imprisoned not more than 1 year, or both.”.

(2) The table of sections for subchapter B of chapter 75 of such Code is amended by adding at the end the following:

“Sec. 7276. Penalties for offenses relating to trade adjustment assistance health insurance credit.”.

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period “, or from section 6429 of such Code”.

(2) The table of sections for subchapter B of chapter 65 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

“Sec. 6429. Trade adjustment assistance health insurance credit.”.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2001, without regard to whether final regulations to carry out such amendments have been promulgated by such date.

(2) PENALTIES.—The amendments made by subsection (c) shall take effect on the date of the enactment of this Act.

**SEC. 602. ADVANCE PAYMENT OF TRADE ADJUSTMENT ASSISTANCE HEALTH INSURANCE CREDIT.**

(a) IN GENERAL.—Chapter 77 of the Internal Revenue Code of 1986 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

**“SEC. 7527. ADVANCE PAYMENT OF TRADE ADJUSTMENT ASSISTANCE HEALTH INSURANCE CREDIT.”**

“(a) GENERAL RULE.—The Secretary shall establish a program for making payments on behalf of eligible individuals (as defined in section 6429(c)) to providers of health insurance for such individuals for whom a qualified health insurance credit eligibility certificate is in effect.

“(b) QUALIFIED HEALTH INSURANCE CREDIT ELIGIBILITY CERTIFICATE.—For purposes of this section, except as provided by the Secretary, a qualified health insurance credit eligibility certificate is a statement certified by a designated local agency (as defined in section 51(d)(11)) (or by any other entity designated by the Secretary) which—

“(1) certifies that the individual was an eligible individual (as defined in section 6429(c)) as of the first day of any month, and

“(2) provides such other information as the Secretary may require for purposes of this section.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

“Sec. 7527. Advance payment of trade adjustment assistance health insurance credit.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, without regard to whether final regulations to carry out such amendments have been promulgated by such date.

**SEC. 603. HEALTH INSURANCE COVERAGE FOR ELIGIBLE INDIVIDUALS.**

(a) ELIGIBILITY FOR GRANTS.—Section 173(a) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(a)) is amended—

(1) in paragraph (2), by striking “and” at the end;

(2) in paragraph (3) by striking the period and inserting “; and”; and

(3) by adding at the end the following:

“(4) from funds appropriated under section 174(c)—

“(A) to a State to provide the assistance described in subsection (f) to any eligible worker (as defined in subsection (f)(4)(B)); and

“(B) to a State to provide the assistance described in subsection (g) to any eligible worker (as defined in subsection (g)(5)).”.

(b) USE OF FUNDS FOR HEALTH INSURANCE COVERAGE.—Section 173 of the Workforce Investment Act of 1998 (29 U.S.C. 2918) is amended by adding at the end the following:

“(f) HEALTH INSURANCE COVERAGE ASSISTANCE FOR ELIGIBLE WORKERS.—

“(1) IN GENERAL.—Funds made available to a State under paragraph (4)(A) of subsection (a) may be used by the State for the following:

“(A) HEALTH INSURANCE COVERAGE.—To assist an eligible worker (as defined in paragraph (4)(B)) in enrolling in health insurance coverage or coverage under a group health plan through—

“(i) COBRA continuation coverage;

“(ii) continuation coverage under a similar State program;

“(iii) the enrollment of the eligible worker and the eligible worker's spouse and dependents in health insurance coverage offered through a qualified State high risk pool or other comparable State-based health insurance coverage alternative;

“(iv) the enrollment of the eligible worker and the eligible worker's spouse and dependents in the health insurance program offered for State employees;

“(v) the enrollment of the eligible worker and the eligible worker's spouse and dependents in a State-based health insurance program that is comparable to the health insurance program offered for State employees;

“(vi) a direct payment arrangement entered into by the State and a group health plan (including a multiemployer plan as defined in section 3(37) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(37))), an issuer of health insurance coverage, an administrator of health insurance coverage or a group health plan, or an employer, as appropriate, on behalf of the eligible worker and the eligible worker's spouse and dependents;

“(vii) the enrollment of the eligible worker and the eligible worker's spouse and dependents in a State-operated health plan that does not receive any Federal financial participation;

“(viii) the enrollment of the eligible worker and the eligible worker's spouse and dependents in health insurance coverage offered through a State arrangement with a private sector health care coverage purchasing pool;

“(ix) in the case of an eligible worker who was enrolled in individual health insurance coverage during the 6-month period that ends on the date on which the worker became unemployed, enrollment in such individual health insurance coverage; or

“(x) enrollment of the eligible worker and the eligible worker's spouse and dependents in coverage under a group health plan that is available through the employment of the worker's spouse and is not described in paragraph (4)(C)(i)(I).

“(B) ESTABLISHMENT OF HEALTH INSURANCE COVERAGE MECHANISMS.—To establish or administer—

“(i) a qualified State high risk pool for the purpose of providing health insurance coverage to an eligible worker and the eligible worker's spouse and dependents;

“(ii) a State-based program for the purpose of providing health insurance coverage to an eligible worker and the eligible worker's spouse and dependents that is comparable to the State health insurance program for State employees; or

“(iii) a program under which the State enters into arrangements described in subparagraph (A)(vi).

“(C) ADMINISTRATIVE EXPENSES.—To pay the administrative expenses related to the enrollment of eligible workers and the eligible workers spouses and dependents in health insurance coverage or coverage under a group health plan described in subparagraph (A), including—

“(i) eligibility verification activities;

“(ii) the notification of eligible workers of available health insurance coverage options;

“(iii) processing qualified health insurance credit eligibility certificates provided for under section 7527 of the Internal Revenue Code of 1986;

“(iv) providing assistance to eligible workers in enrolling in health insurance coverage;

“(v) the development or installation of necessary data management systems; and

“(vi) any other expenses determined appropriate by the Secretary.

“(2) REQUIREMENTS.—With respect to health insurance coverage or coverage under a group health plan provided to eligible workers under any of clauses (ii) through (viii) of paragraph (1)(A), the State shall ensure that—

“(A) enrollment is guaranteed for workers who provide a qualified health insurance credit eligibility certificate described in section 7527 of the Internal Revenue Code of 1986 and who pay the remainder of the premium for such enrollment;

“(B) no pre-existing condition limitations are imposed with respect to such eligible workers;

“(C) the worker is not required (as a condition of enrollment or continued enrollment under the coverage) to pay a premium or contribution that is greater than the premium or contribution for a individual who is not an eligible worker who has comparable coverage;

“(D) benefits under the coverage are the same as (or substantially similar to) the benefits provided to individuals who are not eligible workers who have comparable coverage;

“(E) the standard loss ratio for the coverage is not less than 65 percent;

“(F) in the case of coverage provided under paragraph (1)(A)(v), the premiums and benefits are comparable to the premiums and benefits applicable to State employees; and

“(G) such coverage otherwise meets requirements established by the Secretary.

“(3) AVAILABILITY OF FUNDS.—

“(A) EXPEDITED PROCEDURES.—With respect to applications submitted by States for grants under this subsection, the Secretary shall—

“(i) not later than 15 days after the date on which the Secretary receives a completed application from a State, notify the State of the determination of the Secretary with respect to the approval or disapproval of such application;

“(ii) in the case of a State application that is disapproved by the Secretary, provide technical assistance, at the request of the State, in a timely manner to enable the State to submit an approved application; and

“(iii) develop procedures to expedite the provision of funds to States with approved applications.

“(B) AVAILABILITY AND DISTRIBUTION OF FUNDS.—The Secretary shall ensure that funds made available under section 174(c)(1)(A) to carry out subsection (a)(4)(A) are available to States throughout the period described in section 174(c)(2)(A).

“(4) DEFINITIONS.—For purposes of this subsection:

“(A) COBRA CONTINUATION COVERAGE.—The term ‘COBRA continuation coverage’ means coverage under a group health plan provided by an employer pursuant to title XXII of the Public Health Service Act, section 4980B of the Internal Revenue Code of 1986, part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, or section 8905a of title 5, United States Code.

“(B) ELIGIBLE WORKER.—The term ‘eligible worker’ means an individual—

“(i) who—

“(I) would be eligible to participate in the trade adjustment allowance program under section 235 of the Trade Act of 1974, as amended by section 111 of the Trade Adjustment Assistance Reform Act of 2002, if section 235 (as so amended) were applied without regard to subsection (a)(3)(B) thereof; or

“(II) is participating in the wage insurance program under section 243(b) of such Act (as so amended);

“(ii) who does not have other specified coverage; and

“(iii) who is not imprisoned under Federal, State, or local authority.

“(C) OTHER SPECIFIED COVERAGE.—With respect to any individual, the term ‘other specified coverage’ means—

“(i) SUBSIDIZED COVERAGE.—

“(I) FOR TAA PROGRAM INDIVIDUALS.—In the case of an individual described in subparagraph (B)(i)(I), such individual is covered under any qualified health insurance (other than insurance described in clause (i), (ii), or (vi) of paragraph (1)(A)) under which at least 50 percent of the cost of coverage (determined under section 4980B(f)(4) of the Internal Revenue Code of 1986) is paid or incurred by an employer (or former employer) of the taxpayer or the taxpayer's spouse.

“(II) FOR WAGE INSURANCE PROGRAM INDIVIDUALS.—In the case of an individual described in subparagraph (B)(i)(II), such individual is either—

“(aa) eligible for coverage under any qualified health insurance (other than insurance described in clause (i), (ii), or (vi) of paragraph (1)(A)) under which at least 50 percent of the cost of coverage (determined under section 4980B(f)(4) of such Code) is paid or incurred by an employer (or former employer) of the taxpayer or the taxpayer's spouse; or

“(bb) covered under any such qualified health insurance under which any portion of the cost of coverage (as so determined) is paid or incurred by an employer (or former employer) of the taxpayer or the taxpayer's spouse.

“(III) TREATMENT OF CAFETERIA PLANS.—For purposes of subclause (I) or (II), the cost of coverage shall be treated as paid or incurred by an employer to the extent the coverage is in lieu of a right to receive cash or other qualified benefits under a cafeteria

plan (as defined in section 125(d) of such Code).

“(ii) COVERAGE UNDER MEDICARE, MEDICAID, OR SCHIP.—Such individual—

“(I) is entitled to benefits under part A of title XVIII of the Social Security Act or is enrolled under part B of such title; or

“(II) is enrolled in the program under title XIX or XXI of such Act (other than under section 1928).

“(iii) CERTAIN OTHER COVERAGE.—Such individual—

“(I) is enrolled in a health benefits plan under chapter 89 of title 5, United States Code;

“(II) is entitled to receive benefits under chapter 55 of title 10, United States Code; or

“(III) is entitled to receive benefits under chapter 17 of title 38, United States Code.

“(D) GROUP HEALTH PLAN.—The term ‘group health plan’ has the meaning given that term in section 2791(a) of the Public Health Service Act (42 U.S.C. 300gg–91(a)), section 607(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(1)), and section 5001(b)(1) of the Internal Revenue Code of 1986.

“(E) HEALTH INSURANCE COVERAGE.—Except to the extent provided by the Secretary, the term ‘health insurance coverage’ has the meaning given that term in section 2791(b)(1) of the Public Health Service Act (42 U.S.C. 300gg–91(b)(1)) (other than insurance if substantially all of its coverage is of excepted benefits described in section 2791(c) of such Act (42 U.S.C. 300gg–91(c)) or provided under a flexible spending arrangement, as determined under section 106(c) of the Internal Revenue Code of 1986.

“(F) INDIVIDUAL HEALTH INSURANCE COVERAGE.—The term ‘individual health insurance coverage’ means health insurance coverage offered to individuals other than in connection with a group health plan. Such term does not include Federal- or State-based health insurance coverage.

“(G) QUALIFIED STATE HIGH RISK POOL.—The term ‘qualified State high risk pool’ has the meaning given that term in section 2744(c)(2) of the Public Health Service Act (42 U.S.C. 300gg–44(c)(2)).

“(H) STANDARD LOSS RATIO.—The term ‘standard loss ratio’, with respect to the pool of insured individuals under coverage described in clauses (ii) through (viii) of subparagraph (A) for a year, means—

“(i) the amount of claims incurred with respect to the pool of insured individuals in each such type of coverage for such year; divided by

“(ii) the premiums paid for enrollment in each such coverage for such year.

“(g) INTERIM HEALTH INSURANCE COVERAGE AND OTHER ASSISTANCE.—

“(1) IN GENERAL.—Funds made available to a State under paragraph (4)(B) of subsection (a) may be used by the State to provide assistance and support services to eligible workers, including health care coverage, transportation, child care, dependent care, and income assistance.

“(2) INCOME SUPPORT.—With respect to any income assistance provided to an eligible worker with such funds, such assistance shall supplement and not supplant other income support or assistance provided under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) (as in effect on the day before the effective date of the Trade Adjustment Assistance Reform Act of 2002) or the unemployment compensation laws of the State where the eligible worker resides.

“(3) HEALTH INSURANCE COVERAGE.—With respect to any assistance provided to an eligible worker with such funds in enrolling in health insurance coverage or coverage under a group health plan, the following rules shall apply:



“(A) The State may provide assistance in obtaining such coverage to the eligible worker and to the eligible worker’s spouse and dependents.

“(B) Such assistance shall supplement and may not supplant any other State or local funds used to provide health care coverage and may not be included in determining the amount of non-Federal contributions required under any program.

“(4) AVAILABILITY OF FUNDS.—

“(A) EXPEDITED PROCEDURES.—With respect to applications submitted by States for grants under this subsection, the Secretary shall—

“(i) not later than 15 days after the date on which the Secretary receives a completed application from a State, notify the State of the determination of the Secretary with respect to the approval or disapproval of such application;

“(ii) in the case of a State application that is disapproved by the Secretary, provide technical assistance, at the request of the State, in a timely manner to enable the State to submit an approved application; and

“(iii) develop procedures to expedite the provision of funds to States with approved applications.

“(B) AVAILABILITY AND DISTRIBUTION OF FUNDS.—The Secretary shall ensure that funds made available under section 174(c)(1)(B) to carry out subsection (a)(4)(B) are available to States throughout the period described in section 174(c)(2)(B).

“(5) DEFINITION OF ELIGIBLE WORKER.—In this subsection, the term ‘eligible worker’ means an individual who is a member of a group of workers certified after April 1, 2002, under chapter 2 of title II of the Trade Act of 1974 (as in effect on the day before the effective date of the Trade Adjustment Assistance Reform Act of 2002) and who would be determined to be participating in the trade adjustment allowance program under such chapter (as so in effect) if such chapter were applied without regard to section 231(a)(3)(B) of the Trade Act of 1974 (as so in effect).”

(c) APPROPRIATIONS.—Section 174 of the Workforce Investment Act of 1998 (29 U.S.C. 2919) is amended by adding at the end the following:

“(c) ASSISTANCE FOR ELIGIBLE WORKERS.—

“(1) IN GENERAL.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated—

“(A) to carry out subsection (a)(4)(A) of section 173—

“(i) \$10,000,000 for fiscal year 2002; and

“(ii) \$60,000,000 for each of fiscal years 2003 through 2007; and

“(B) to carry out subsection (a)(4)(B) of section 173—

“(i) \$50,000,000 for fiscal year 2002;

“(ii) \$100,000,000 for fiscal year 2003; and

“(iii) \$50,000,000 for fiscal year 2004.

“(2) AVAILABILITY OF FUNDS.—Funds appropriated under—

“(A) paragraph (1)(A) for each fiscal year shall, notwithstanding section 189(g), remain available for obligation during the pendency of any outstanding claim under the Trade Act of 1974, as amended by the Trade Adjustment Assistance Reform Act of 2002; and

“(B) paragraph (1)(B), for each fiscal year shall, notwithstanding section 189(g), remain available during the period that begins on the date of enactment of the Trade Adjustment Assistance Reform Act of 2002 and ends on September 30, 2004.”

(d) CONFORMING AMENDMENT.—Section 132(a)(2)(A) of the Workforce Investment Act of 1998 (29 U.S.C. 2862(a)(2)(A)) is amended by inserting “, other than under subsection (a)(4), (f), and (g)” after “grants”.

(e) TEMPORARY EXTENSION OF COBRA ELECTION PERIOD FOR CERTAIN INDIVIDUALS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the election period for COBRA continuation coverage (as defined in section 6429(d)(3)(A) of the Internal Revenue Code of 1986) with respect to any eligible individual (as defined in section 6429(c) of such Code) for whom such period has expired as of the date of the enactment of this Act, shall not end before the date that is 60 days after the date the individual becomes such an eligible individual.

(2) PREEXISTING CONDITIONS.—If an individual becomes such an eligible individual, any period before the date of such eligibility shall be disregarded for purposes of determining the 63-day periods referred to in section 701(c)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(c)(2)), section 2701(c)(2) of the Public Health Service Act (42 U.S.C. 300gg(c)(2)), and section 9801(c)(2) of the Internal Revenue Code of 1986.

**SA 3518.** Mr. BAUCUS (for himself, and Mr. GRASSLEY) submitted an amendment intended to be proposed to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 135, line 9, strike all through page 164, line 16, and insert the following:

#### **TITLE VI—HEALTH CARE COVERAGE OPTIONS FOR WORKERS ELIGIBLE FOR TRADE ADJUSTMENT ASSISTANCE**

##### **SEC. 601. TRADE ADJUSTMENT ASSISTANCE HEALTH INSURANCE CREDIT.**

(a) IN GENERAL.—Subchapter B of chapter 65 of the Internal Revenue Code of 1986 (relating to abatements, credits, and refunds) is amended by inserting after section 6428 the following new section:

##### **“SEC. 6429. TRADE ADJUSTMENT ASSISTANCE HEALTH INSURANCE CREDIT.**

“(a) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by subtitle A an amount equal to 70 percent of the amount paid by the taxpayer during the taxable year for coverage for the taxpayer, the taxpayer’s spouse, and dependents of the taxpayer under qualified health insurance during eligible coverage months.

“(b) ELIGIBLE COVERAGE MONTH.—For purposes of this section—

“(1) IN GENERAL.—The term ‘eligible coverage month’ means any month if, as of the first day of such month—

“(A) the taxpayer is an eligible individual,

“(B) the taxpayer is covered by qualified health insurance,

“(C) the premium for coverage under such insurance for such month is paid by the taxpayer, and

“(D) the taxpayer does not have other specified coverage.

“(2) SPECIAL RULES.—

“(A) JOINT RETURNS.—In the case of a joint return, the requirements of paragraph (1) shall be treated as met if at least 1 spouse satisfies such requirements.

“(B) EXCLUSION OF MONTHS IN WHICH INDIVIDUAL IS IMPRISONED.—Such term shall not include any month with respect to an individual if, as of the first day of such month, such individual is imprisoned under Federal, State, or local authority.

“(3) OTHER SPECIFIED COVERAGE.—For purposes of this subsection, an individual has other specified coverage for any month if, as of the first day of such month—

“(A) SUBSIDIZED COVERAGE.—

“(i) FOR TAA PROGRAM INDIVIDUALS.—In the case of an individual described in subsection (c)(1), such individual is covered under any qualified health insurance (other than insurance described in subparagraph (A), (B), or (F) of subsection (d)(1)) under which at least 50 percent of the cost of coverage (determined under section 4980B(f)(4)) is paid or incurred by an employer (or former employer) of the taxpayer or the taxpayer’s spouse.

“(ii) FOR WAGE INSURANCE PROGRAM INDIVIDUALS.—In the case of an individual described in subsection (c)(2), such individual is either—

“(I) eligible for coverage under any qualified health insurance (other than insurance described in subparagraph (A), (B), or (F) of subsection (d)(1)) under which at least 50 percent of the cost of coverage (determined under section 4980B(f)(4)) is paid or incurred by an employer (or former employer) of the taxpayer or the taxpayer’s spouse, or

“(II) covered under any such qualified health insurance under which any portion of the cost of coverage (as so determined) is paid or incurred by an employer (or former employer) of the taxpayer or the taxpayer’s spouse.

“(iii) TREATMENT OF CAFETERIA PLANS.—For purposes of clause (i) or (ii), the cost of coverage shall be treated as paid or incurred by an employer to the extent the coverage is in lieu of a right to receive cash or other qualified benefits under a cafeteria plan (as defined in section 125(d)).

“(B) COVERAGE UNDER MEDICARE, MEDICAID, OR SCHIP.—Such individual—

“(i) is entitled to benefits under part A of title XVIII of the Social Security Act or is enrolled under part B of such title, or

“(ii) is enrolled in the program under title XIX or XXI of such Act (other than under section 1928).

“(C) CERTAIN OTHER COVERAGE.—Such individual—

“(i) is enrolled in a health benefits plan under chapter 89 of title 5, United States Code,

“(ii) is entitled to receive benefits under chapter 55 of title 10, United States Code, or

“(iii) is entitled to receive benefits under chapter 17 of title 38, United States Code.

(c) ELIGIBLE INDIVIDUAL.—For purposes of this section, the term ‘eligible individual’ means an individual who—

“(1) is participating in the trade adjustment allowance program under section 235 of the Trade Act of 1974, as amended by section 111 of the Trade Adjustment Assistance Reform Act of 2002, or would be eligible to participate in such program if section 235 (as so amended) were applied without regard to subsection (a)(3)(B) thereof; or

“(2) is participating in the wage insurance program under section 243(b) of such Act (as so amended).

“(d) QUALIFIED HEALTH INSURANCE.—

“(1) IN GENERAL.—For purposes of this section, subject to paragraph (2), the term ‘qualified health insurance’ means health insurance coverage or coverage under a group health plan through—

“(A) COBRA continuation coverage,

“(B) continuation coverage under a similar State program,

“(C) the enrollment of the eligible worker and the eligible worker’s spouse and dependents in health insurance coverage offered through a qualified State high risk pool or other comparable State-based health insurance coverage alternative,

“(D) the enrollment of the eligible worker and the eligible worker’s spouse and dependents in the health insurance program offered for State employees,

“(E) the enrollment of the eligible worker and the eligible worker's spouse and dependents in a State-based health insurance program that is comparable to the health insurance program offered for State employees,

“(F) a direct payment arrangement entered into by the State and a group health plan (including a multiemployer plan as defined in section 414(f)), an issuer of health insurance coverage, an administrator of health insurance coverage or a group health plan, or an employer, as appropriate, on behalf of the eligible worker and the eligible worker's spouse and dependents,

“(G) the enrollment of the eligible worker and the eligible worker's spouse and dependents in a State-operated health plan that does not receive any Federal financial participation,

“(H) the enrollment of the eligible worker and the eligible worker's spouse and dependents in health insurance coverage offered through a State arrangement with a private sector health care coverage purchasing pool,

“(I) in the case of an eligible worker who was enrolled in individual health insurance coverage during the 6-month period that ends on the date on which the worker became unemployed, enrollment in such individual health insurance coverage, or

“(J) enrollment of the eligible worker and the eligible worker's spouse and dependents in coverage under a group health plan that is available through the employment of the worker's spouse and is not described in subsection (b)(3)(A)(i).

“(2) REQUIREMENTS.—Health insurance coverage or coverage under a group health plan shall not be treated as being described in any of subparagraphs (B) through (H) of paragraph (1) unless, with respect to such coverage provided to eligible workers and the eligible worker's spouse or dependents—

“(A) enrollment is guaranteed for workers who provide a qualified health insurance credit eligibility certificate described in section 7527 and who pay the remainder of the premium for such enrollment,

“(B) no pre-existing condition limitations are imposed with respect to such eligible workers,

“(C) the worker is not required (as a condition of enrollment or continued enrollment under the coverage) to pay a premium or contribution that is greater than the premium or contribution for an individual who is not an eligible worker who has comparable coverage,

“(D) benefits under the coverage are the same as (or substantially similar to) the benefits provided to individuals who are not eligible workers who have comparable coverage,

“(E) the standard loss ratio for the coverage is not less than 65 percent,

“(F) in the case of coverage provided under paragraph (1)(E), the premiums and benefits are comparable to the premiums and benefits applicable to State employees, and

“(G) such coverage otherwise meets requirements established by the Secretary.

“(3) DEFINITIONS.—For purposes of this section:

“(A) COBRA CONTINUATION COVERAGE.—The term ‘COBRA continuation coverage’ means coverage under a group health plan provided by an employer pursuant to section 4980B.

“(B) GROUP HEALTH PLAN.—The term ‘group health plan’ has the meaning given such term by section 5001(b)(1).

“(C) HEALTH INSURANCE COVERAGE.—Except to the extent provided by the Secretary, the term ‘health insurance coverage’ has the meaning given such term by section 9832(b)(1) (other than insurance if substantially all of its coverage is of excepted benefits described in section 9832(c) or provided

under a flexible spending arrangement, as determined under section 106(c).

“(D) INDIVIDUAL HEALTH INSURANCE COVERAGE.—The term ‘individual health insurance coverage’ means health insurance coverage offered to individuals other than in connection with a group health plan. Such term does not include Federal- or State-based health insurance coverage.

“(E) QUALIFIED STATE HIGH RISK POOL.—The term ‘qualified State high risk pool’ has the meaning given that term in section 2744(c)(2) of the Public Health Service Act (42 U.S.C. 300gg-44(c)(2)).

“(F) STANDARD LOSS RATIO.—The term ‘standard loss ratio’, with respect to the pool of insured individuals under coverage described in subparagraph (B) through (H) of paragraph (1) for a year, means—

“(i) the amount of claims incurred with respect to the pool of insured individuals in each such type of coverage for such year; divided by

“(ii) the premiums paid for enrollment in each such coverage for such year.

“(e) COORDINATION WITH ADVANCE PAYMENTS OF CREDIT.—

“(1) RECAPTURE OF EXCESS ADVANCE PAYMENTS.—If any payment is made by the Secretary under section 7527 during any calendar year to a provider of qualified health insurance for an individual, then the tax imposed by this chapter for the individual's last taxable year beginning in such calendar year shall be increased by the aggregate amount of such payments.

“(2) RECONCILIATION OF PAYMENTS ADVANCED AND CREDIT ALLOWED.—Any increase in tax under paragraph (1) shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit (other than the credit allowed by subsection (a)) allowable under part IV of subchapter A of chapter 1.

“(f) SPECIAL RULES.—

“(1) COORDINATION WITH OTHER DEDUCTIONS.—Amounts taken into account under subsection (a) shall not be taken into account in determining any deduction allowed under section 162(l) or 213.

“(2) MSA DISTRIBUTIONS.—Amounts distributed from an Archer MSA (as defined in section 220(d)) shall not be taken into account under subsection (a).

“(3) DENIAL OF CREDIT TO DEPENDENTS.—No credit shall be allowed under this section to any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

“(4) CREDIT TREATED AS REFUNDABLE CREDIT.—For purposes of this title, the credit allowed under this section shall be treated as a credit allowable under subpart C of part IV of subchapter A of chapter 1.

“(5) EXPENSES MUST BE SUBSTANTIATED.—A payment for qualified health insurance to which subsection (a) applies may be taken into account under this section only if the taxpayer substantiates such payment in such form as the Secretary may prescribe.”.

(b) INFORMATION REPORTING.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to information concerning transactions with other persons) is amended by inserting after section 6050S the following new section:

“SEC. 6050T. RETURNS RELATING TO TRADE ADJUSTMENT ASSISTANCE HEALTH INSURANCE CREDIT.

“(a) REQUIREMENT OF REPORTING.—Every person—

“(1) who, in connection with a trade or business conducted by such person, receives payments during any calendar year from any individual for coverage of such individual or

any other individual under qualified health insurance (as defined in section 6429(d)), and

“(2) who claims a reimbursement for an advance credit amount,

shall, at such time as the Secretary may prescribe, make the return described in subsection (b) with respect to each individual from whom such payments were received or for whom such a reimbursement is claimed.

“(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

“(1) is in such form as the Secretary may prescribe, and

“(2) contains—

“(A) the name, address, and TIN of each individual referred to in subsection (a),

“(B) the aggregate of the advance credit amounts provided to such individual and for which reimbursement is claimed,

“(C) the number of months for which such advance credit amounts are so provided, and

“(D) such other information as the Secretary may prescribe.

“(c) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

“(1) the name and address of the person required to make such return and the phone number of the information contact for such person, and

“(2) the information required to be shown on the return with respect to such individual.

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) is required to be made.

“(d) ADVANCE CREDIT AMOUNT.—For purposes of this section, the term ‘advance credit amount’ means an amount for which the person can claim a reimbursement pursuant to a program established by the Secretary under section 7527.”.

(2) ASSESSABLE PENALTIES.—

(A) Subparagraph (B) of section 6724(d)(1) of such Code (relating to definitions) is amended by redesignating clauses (xi) through (xvii) as clauses (xii) through (xviii), respectively, and by inserting after clause (x) the following new clause:

“(xi) section 6050T (relating to returns relating to trade adjustment assistance health insurance credit).”.

(B) Paragraph (2) of section 6724(d) of such Code is amended by striking “or” at the end of subparagraph (Z), by striking the period at the end of subparagraph (AA) and inserting “, or”, and by adding after subparagraph (AA) the following new subparagraph:

“(BB) section 6050T (relating to returns relating to trade adjustment assistance health insurance credit).”.

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6050S the following new item:

“Sec. 6050T. Returns relating to trade adjustment assistance health insurance credit.”.

(c) CRIMINAL PENALTY FOR FRAUD.—

(1) IN GENERAL.—Subchapter B of chapter 75 of the Internal Revenue Code of 1986 (relating to other offenses) is amended by adding at the end the following:

“SEC. 7276. PENALTIES FOR OFFENSES RELATING TO TRADE ADJUSTMENT ASSISTANCE HEALTH INSURANCE CREDIT.

“Any person who knowingly misuses Department of the Treasury names, symbols,

titles, or initials to convey the false impression of association with, or approval or endorsement by, the Department of the Treasury of any insurance products or group health coverage in connection with the credit for trade adjustment assistance health insurance under section 6429 shall on conviction thereof be fined not more than \$10,000, or imprisoned not more than 1 year, or both."

(2) The table of sections for subchapter B of chapter 75 of such Code is amended by adding at the end the following:

"Sec. 7276. Penalties for offenses relating to trade adjustment assistance health insurance credit."

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period "or from section 6429 of such Code".

(2) The table of sections for subchapter B of chapter 65 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

"Sec. 6429. Trade adjustment assistance health insurance credit."

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2001, without regard to whether final regulations to carry out such amendments have been promulgated by such date.

(2) PENALTIES.—The amendments made by subsection (c) shall take effect on the date of the enactment of this Act.

**SEC. 602. ADVANCE PAYMENT OF TRADE ADJUSTMENT ASSISTANCE HEALTH INSURANCE CREDIT.**

(a) IN GENERAL.—Chapter 77 of the Internal Revenue Code of 1986 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

**"SEC. 7527. ADVANCE PAYMENT OF TRADE ADJUSTMENT ASSISTANCE HEALTH INSURANCE CREDIT.**

"(a) GENERAL RULE.—The Secretary shall establish a program for making payments on behalf of eligible individuals (as defined in section 6429(c)) to providers of health insurance for such individuals for whom a qualified health insurance credit eligibility certificate is in effect.

"(b) QUALIFIED HEALTH INSURANCE CREDIT ELIGIBILITY CERTIFICATE.—For purposes of this section, except as provided by the Secretary, a qualified health insurance credit eligibility certificate is a statement certified by a designated local agency (as defined in section 51(d)(11)) (or by any other entity designated by the Secretary) which—

"(1) certifies that the individual was an eligible individual (as defined in section 6429(c)) as of the first day of any month, and

"(2) provides such other information as the Secretary may require for purposes of this section."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

"Sec. 7527. Advance payment of trade adjustment assistance health insurance credit."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, without regard to whether final regulations to carry out such amendments have been promulgated by such date.

**SEC. 603. HEALTH INSURANCE COVERAGE FOR ELIGIBLE INDIVIDUALS.**

(a) ELIGIBILITY FOR GRANTS.—Section 173(a) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(a)) is amended—

(1) in paragraph (2), by striking "and" at the end;

(2) in paragraph (3) by striking the period and inserting "and"; and

(3) by adding at the end the following:

"(4) from funds appropriated under section 174(c)—

"(A) to a State to provide the assistance described in subsection (f) to any eligible worker (as defined in subsection (f)(4)(B)); and

"(B) to a State to provide the assistance described in subsection (g) to any eligible worker (as defined in subsection (g)(5))."

(b) USE OF FUNDS FOR HEALTH INSURANCE COVERAGE.—Section 173 of the Workforce Investment Act of 1998 (29 U.S.C. 2918) is amended by adding at the end the following:

"(f) HEALTH INSURANCE COVERAGE ASSISTANCE FOR ELIGIBLE WORKERS.—

"(1) IN GENERAL.—Funds made available to a State under paragraph (4)(A) of subsection (a) may be used by the State for the following:

"(A) HEALTH INSURANCE COVERAGE.—To assist an eligible worker (as defined in paragraph (4)(B)) in enrolling in health insurance coverage or coverage under a group health plan through—

"(i) COBRA continuation coverage;

"(ii) continuation coverage under a similar State program;

"(iii) the enrollment of the eligible worker and the eligible worker's spouse and dependents in health insurance coverage offered through a qualified State high risk pool or other comparable State-based health insurance coverage alternative;

"(iv) the enrollment of the eligible worker and the eligible worker's spouse and dependents in the health insurance program offered for State employees;

"(v) the enrollment of the eligible worker and the eligible worker's spouse and dependents in a State-based health insurance program that is comparable to the health insurance program offered for State employees;

"(vi) a direct payment arrangement entered into by the State and a group health plan (including a multiemployer plan as defined in section 3(37) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(37))), an issuer of health insurance coverage, an administrator of health insurance coverage or a group health plan, or an employer, as appropriate, on behalf of the eligible worker and the eligible worker's spouse and dependents;

"(vii) the enrollment of the eligible worker and the eligible worker's spouse and dependents in a State-operated health plan that does not receive any Federal financial participation;

"(viii) the enrollment of the eligible worker and the eligible worker's spouse and dependents in health insurance coverage offered through a State arrangement with a private sector health care coverage purchasing pool;

"(ix) in the case of an eligible worker who was enrolled in individual health insurance coverage during the 6-month period that ends on the date on which the worker became unemployed, enrollment in such individual health insurance coverage; or

"(x) enrollment of the eligible worker and the eligible worker's spouse and dependents in coverage under a group health plan that is available through the employment of the worker's spouse and is not described in paragraph (4)(C)(i)(I).

"(B) ESTABLISHMENT OF HEALTH INSURANCE COVERAGE MECHANISMS.—To establish or administer—

"(i) a qualified State high risk pool for the purpose of providing health insurance coverage to an eligible worker and the eligible worker's spouse and dependents;

"(ii) a State-based program for the purpose of providing health insurance coverage to an eligible worker and the eligible worker's spouse and dependents that is comparable to the State health insurance program for State employees; or

"(iii) a program under which the State enters into arrangements described in subparagraph (A)(vi).

"(C) ADMINISTRATIVE EXPENSES.—To pay the administrative expenses related to the enrollment of eligible workers and the eligible workers spouses and dependents in health insurance coverage or coverage under a group health plan described in subparagraph (A), including—

"(i) eligibility verification activities;

"(ii) the notification of eligible workers of available health insurance coverage options;

"(iii) processing qualified health insurance credit eligibility certificates provided for under section 7527 of the Internal Revenue Code of 1986;

"(iv) providing assistance to eligible workers in enrolling in health insurance coverage;

"(v) the development or installation of necessary data management systems; and

"(vi) any other expenses determined appropriate by the Secretary.

"(2) REQUIREMENTS.—With respect to health insurance coverage or coverage under a group health plan provided to eligible workers under any of clauses (ii) through (viii) of paragraph (1)(A), the State shall ensure that—

"(A) enrollment is guaranteed for workers who provide a qualified health insurance credit eligibility certificate described in section 7527 of the Internal Revenue Code of 1986 and who pay the remainder of the premium for such enrollment;

"(B) no pre-existing condition limitations are imposed with respect to such eligible workers;

"(C) the worker is not required (as a condition of enrollment or continued enrollment under the coverage) to pay a premium or contribution that is greater than the premium or contribution for a individual who is not an eligible worker who has comparable coverage;

"(D) benefits under the coverage are the same as (or substantially similar to) the benefits provided to individuals who are not eligible workers who have comparable coverage;

"(E) the standard loss ratio for the coverage is not less than 65 percent;

"(F) in the case of coverage provided under paragraph (1)(A)(v), the premiums and benefits are comparable to the premiums and benefits applicable to State employees; and

"(G) such coverage otherwise meets requirements established by the Secretary.

"(3) AVAILABILITY OF FUNDS.—

"(A) EXPEDITED PROCEDURES.—With respect to applications submitted by States for grants under this subsection, the Secretary shall—

"(i) not later than 15 days after the date on which the Secretary receives a completed application from a State, notify the State of the determination of the Secretary with respect to the approval or disapproval of such application;

"(ii) in the case of a State application that is disapproved by the Secretary, provide technical assistance, at the request of the State, in a timely manner to enable the State to submit an approved application; and

"(iii) develop procedures to expedite the provision of funds to States with approved applications.

"(B) AVAILABILITY AND DISTRIBUTION OF FUNDS.—The Secretary shall ensure that funds made available under section 174(c)(1)(A) to carry out subsection (a)(4)(A)

are available to States throughout the period described in section 174(c)(2)(A).

“(4) DEFINITIONS.—For purposes of this subsection:

“(A) COBRA CONTINUATION COVERAGE.—The term ‘COBRA continuation coverage’ means coverage under a group health plan provided by an employer pursuant to title XXII of the Public Health Service Act, section 4980B of the Internal Revenue Code of 1986, part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, or section 8905a of title 5, United States Code.

“(B) ELIGIBLE WORKER.—The term ‘eligible worker’ means an individual who—

“(i) is—

“(I) participating in the trade adjustment allowance program under section 235 of the Trade Act of 1974, as amended by section 111 of the Trade Adjustment Assistance Reform Act of 2002, or would be eligible to participate in such program if section 235 (as so amended) were applied without regard to subsection (a)(3)(B) thereof; or

“(II) participating in the wage insurance program under section 243(b) of such Act (as so amended);

“(ii) does not have other specified coverage; and

“(iii) is not imprisoned under Federal, State, or local authority.

“(C) OTHER SPECIFIED COVERAGE.—With respect to any individual, the term ‘other specified coverage’ means—

“(i) SUBSIDIZED COVERAGE.—

“(I) FOR TAA PROGRAM INDIVIDUALS.—In the case of an individual described in subparagraph (B)(i)(I), such individual is covered under any qualified health insurance (other than insurance described in clause (i), (ii), or (vi) of paragraph (1)(A)) under which at least 50 percent of the cost of coverage (determined under section 4980B(f)(4) of the Internal Revenue Code of 1986) is paid or incurred by an employer (or former employer) of the taxpayer or the taxpayer’s spouse.

“(II) FOR WAGE INSURANCE PROGRAM INDIVIDUALS.—In the case of an individual described in subparagraph (B)(i)(II), such individual is either—

“(aa) eligible for coverage under any qualified health insurance (other than insurance described in clause (i), (ii), or (vi) of paragraph (1)(A)) under which at least 50 percent of the cost of coverage (determined under section 4980B(f)(4) of such Code) is paid or incurred by an employer (or former employer) of the taxpayer or the taxpayer’s spouse; or

“(bb) covered under any such qualified health insurance under which any portion of the cost of coverage (as so determined) is paid or incurred by an employer (or former employer) of the taxpayer or the taxpayer’s spouse.

“(III) TREATMENT OF CAFETERIA PLANS.—For purposes of subclause (I) or (II), the cost of coverage shall be treated as paid or incurred by an employer to the extent the coverage is in lieu of a right to receive cash or other qualified benefits under a cafeteria plan (as defined in section 125(d) of such Code).

“(ii) COVERAGE UNDER MEDICARE, MEDICAID, OR SCHIP.—Such individual—

“(I) is entitled to benefits under part A of title XVIII of the Social Security Act or is enrolled under part B of such title; or

“(II) is enrolled in the program under title XIX or XXI of such Act (other than under section 1928).

“(iii) CERTAIN OTHER COVERAGE.—Such individual—

“(I) is enrolled in a health benefits plan under chapter 89 of title 5, United States Code;

“(II) is entitled to receive benefits under chapter 55 of title 10, United States Code; or

“(III) is entitled to receive benefits under chapter 17 of title 38, United States Code.

“(D) GROUP HEALTH PLAN.—The term ‘group health plan’ has the meaning given that term in section 2791(a) of the Public Health Service Act (42 U.S.C. 300gg-91(a)), section 607(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(1)), and section 5001(b)(1) of the Internal Revenue Code of 1986.

“(E) HEALTH INSURANCE COVERAGE.—Except to the extent provided by the Secretary, the term ‘health insurance coverage’ has the meaning given that term in section 2791(b)(1) of the Public Health Service Act (42 U.S.C. 300gg-91(b)(1)) (other than insurance if substantially all of its coverage is of excepted benefits described in section 2791(c) of such Act (42 U.S.C. 300gg-91(c)) or provided under a flexible spending arrangement, as determined under section 106(c) of the Internal Revenue Code of 1986.

“(F) INDIVIDUAL HEALTH INSURANCE COVERAGE.—The term ‘individual health insurance coverage’ means health insurance coverage offered to individuals other than in connection with a group health plan. Such term does not include Federal- or State-based health insurance coverage.

“(G) QUALIFIED STATE HIGH RISK POOL.—The term ‘qualified State high risk pool’ has the meaning given that term in section 2744(c)(2) of the Public Health Service Act (42 U.S.C. 300gg-44(c)(2)).

“(H) STANDARD LOSS RATIO.—The term ‘standard loss ratio’, with respect to the pool of insured individuals under coverage described in clauses (i) through (viii) of subparagraph (A) for a year, means—

“(i) the amount of claims incurred with respect to the pool of insured individuals in each such type of coverage for such year; divided by

“(ii) the premiums paid for enrollment in each such coverage for such year.

“(g) INTERIM HEALTH INSURANCE COVERAGE AND OTHER ASSISTANCE.—

“(1) IN GENERAL.—Funds made available to a State under paragraph (4)(B) of subsection (a) may be used by the State to provide assistance and support services to eligible workers, including health care coverage, transportation, child care, dependent care, and income assistance.

“(2) INCOME SUPPORT.—With respect to any income assistance provided to an eligible worker with such funds, such assistance shall supplement and not supplant other income support or assistance provided under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) (as in effect on the day before the effective date of the Trade Adjustment Assistance Reform Act of 2002) or the unemployment compensation laws of the State where the eligible worker resides.

“(3) HEALTH INSURANCE COVERAGE.—With respect to any assistance provided to an eligible worker with such funds in enrolling in health insurance coverage or coverage under a group health plan, the following rules shall apply:

“(A) The State may provide assistance in obtaining such coverage to the eligible worker and to the eligible worker’s spouse and dependents.

“(B) Such assistance shall supplement and may not supplant any other State or local funds used to provide health care coverage and may not be included in determining the amount of non-Federal contributions required under any program.

“(4) AVAILABILITY OF FUNDS.—

“(A) EXPEDITED PROCEDURES.—With respect to applications submitted by States for grants under this subsection, the Secretary shall—

“(i) not later than 15 days after the date on which the Secretary receives a completed ap-

plication from a State, notify the State of the determination of the Secretary with respect to the approval or disapproval of such application;

“(ii) in the case of a State application that is disapproved by the Secretary, provide technical assistance, at the request of the State, in a timely manner to enable the State to submit an approved application; and

“(iii) develop procedures to expedite the provision of funds to States with approved applications.

“(B) AVAILABILITY AND DISTRIBUTION OF FUNDS.—The Secretary shall ensure that funds made available under section 174(c)(1)(B) to carry out subsection (a)(4)(B) are available to States throughout the period described in section 174(c)(2)(B).

“(5) DEFINITION OF ELIGIBLE WORKER.—In this subsection, the term ‘eligible worker’ means an individual who is a member of a group of workers certified after April 1, 2002, under chapter 2 of title II of the Trade Act of 1974 (as in effect on the day before the effective date of the Trade Adjustment Assistance Reform Act of 2002) and is participating in the trade adjustment allowance program under such chapter (as so in effect) or who would be determined to be participating in such program under such chapter (as so in effect) if such chapter were applied without regard to section 231(a)(3)(B) of the Trade Act of 1974 (as so in effect).”

(c) APPROPRIATIONS.—Section 174 of the Workforce Investment Act of 1998 (29 U.S.C. 2919) is amended by adding at the end the following:

“(c) ASSISTANCE FOR ELIGIBLE WORKERS.—

“(1) IN GENERAL.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated—

“(A) to carry out subsection (a)(4)(A) of section 173—

“(i) \$10,000,000 for fiscal year 2002; and

“(ii) \$60,000,000 for each of fiscal years 2003 through 2007; and

“(B) to carry out subsection (a)(4)(B) of section 173—

“(i) \$50,000,000 for fiscal year 2002;

“(ii) \$100,000,000 for fiscal year 2003; and

“(iii) \$50,000,000 for fiscal year 2004.

“(2) AVAILABILITY OF FUNDS.—Funds appropriated under—

“(A) paragraph (1)(A) for each fiscal year shall, notwithstanding section 189(g), remain available for obligation during the pendency of any outstanding claim under the Trade Act of 1974, as amended by the Trade Adjustment Assistance Reform Act of 2002; and

“(B) paragraph (1)(B), for each fiscal year shall, notwithstanding section 189(g), remain available during the period that begins on the date of enactment of the Trade Adjustment Assistance Reform Act of 2002 and ends on September 30, 2004.”

(d) CONFORMING AMENDMENT.—Section 132(a)(2)(A) of the Workforce Investment Act of 1998 (29 U.S.C. 2862(a)(2)(A)) is amended by inserting “, other than under subsection (a)(4), (f), and (g)” after “grants”.

(e) TEMPORARY EXTENSION OF COBRA ELECTION PERIOD FOR CERTAIN INDIVIDUALS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the election period for COBRA continuation coverage (as defined in section 6429(d)(3)(A) of the Internal Revenue Code of 1986) with respect to any eligible individual (as defined in section 6429(c) of such Code) for whom such period has expired as of the date of the enactment of this Act, shall not end before the date that is 60 days after the date the individual becomes such an eligible individual.

(2) PREEXISTING CONDITIONS.—If an individual becomes such an eligible individual, any period before the date of such eligibility

shall be disregarded for purposes of determining the 63-day periods referred to in section 701(c)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(c)(2)), section 2701(c)(2) of the Public Health Service Act (42 U.S.C. 300gg(c)(2)), and section 9801(c)(2) of the Internal Revenue Code of 1986.

**SA 3519.** Mr. FEINGOLD (for himself and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill H.R. 3009, to extend the Andean Trade Preference Act, to grant additional trade benefits under that act, and for other purposes, which was ordered to lie on the table; as follows:

Strike all in the amendment, and insert in lieu thereof the following:

“Notwithstanding any other provision of this Act, section 1143 of this Act shall not take effect.”

**SA 3520.** Mr. FEINGOLD (for himself and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill H.R. 3009, to extend the Andean Trade Preference Act, to grant additional trade benefits under that act, and for other purposes, which was ordered to lie on the table; as follows:

At the end of the amendment, insert the following:

“Notwithstanding any other provision of this Act, section 1143 of this Act shall not take effect.”

**SA 3521.** Mr. REID (for Mr. JEFFORDS) proposed an amendment to amendment SA 3401 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; as follows:

At the end of the title relating to Customs Reauthorization, insert the following:

**SEC. . AUTHORIZATION OF APPROPRIATIONS FOR CUSTOMS STAFFING.**

There are authorized to be appropriated to the Department of Treasury such sums as may be necessary to provide an increase in the annual rate of basic pay—

(1) for all journeyman Customs inspectors and Canine Enforcement Officers who have completed at least one year's service and are receiving an annual rate of basic pay for positions at GS-9 of the General Schedule under section 5332 of title 5, United States Code, from the annual rate of basic pay payable for positions at GS-9 of the General Schedule under section 5332, to an annual rate of basic pay payable for positions at GS-11 of the General Schedule under such section 5332; and

(2) for the support staff associated with the personnel described in subparagraph (A), at the appropriate GS level of the General Schedule under such section 5332.

**SA 3522.** Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill H.R. 3009, to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

**SEC. . EXTRADITION REQUIREMENT.**

(a) IN GENERAL.—The benefits provided under any preferential tariff program au-

thorized by this Act shall not apply to any product of a country that fails to comply within 30 days with a United States government request for the extradition of an individual for trial in the United States if that individual has been indicted by a Federal grand jury for a crime involving a violation of the Controlled Substances Act (21 U.S.C. 101 et seq.).

(b) EFFECTIVE DATE.—Subsection (a) shall take effect on the day after the date of enactment of this Act.

**SA 3523.** Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill H.R. 3009, to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the first word and insert the following:

**SEC. . EXTRADITION REQUIREMENT.**

(a) IN GENERAL.—The benefits provided under any preferential tariff program authorized by this Act shall not apply to any product of a country that fails to comply within 30 days with a United States government request for the extradition of an individual for trial in the United States if that individual has been indicted by a Federal grand jury for a crime involving a violation of the Controlled substances Act (21 U.S.C. 101 et seq.).

(b) EFFECTIVE DATE.—Subsection (a) shall take effect on the day after the date of enactment of this Act.

**SA 3524.** Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill H.R. 3009, to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. . EXTRADITION REQUIREMENT.**

(a) IN GENERAL.—The benefits provided under any preferential tariff program authorized by this Act shall not apply to any product of a country that fails to comply within 30 days with a United States government request for the extradition of an individual for trial in the United States if that individual has been indicated by a Federal grand jury for a crime involving a violation of the Controlled Substances Act (21 U.S.C. 101 et seq.).

(b) EFFECTIVE DATE.—Subsection (a) shall take effect on the day after the date of enactment of this Act.

**SA 3525.** Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill H.R. 3009, to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

**SEC. . TRADE ADJUSTMENT ASSISTANCE AND HEALTH BENEFITS FOR TEXTILE AND APPAREL WORKERS.**

(a) IN GENERAL.—An individual employed in the textile or apparel industry before the date of enactment of this Act who, after December 31, 1998—

(1) lost, or loses, his or her job (other than by termination for cause); and

(2) has not been re-employed in that industry, is deemed to be eligible for adjustment assistance under subchapter A of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.).

(b) EFFECTIVE DATE.—This section takes effect on the day after the date of enactment of this Act.

**SA 3526.** Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill H.R. 3009, to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the first word and insert the following:

**SEC. . TRADE ADJUSTMENT ASSISTANCE AND HEALTH BENEFITS FOR TEXTILE AND APPAREL WORKERS.**

(a) IN GENERAL.—An individual employed in the textile or apparel industry before the date of enactment of this Act who, after December 31, 1998—

(1) lost, or loses, his or her job (other than by termination for cause); and

(2) has not been re-employed in that industry, is deemed to be eligible for adjustment assistance under subchapter A of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.).

(b) EFFECTIVE DATE.—This section takes effect on the day after the date of enactment of this Act.

**SA 3527.** Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill H.R. 3009, to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. . TRADE ADJUSTMENT ASSISTANCE AND HEALTH BENEFITS FOR TEXTILE AND APPAREL WORKERS.**

(a) IN GENERAL.—An individual employed in the textile or apparel industry before the date of enactment of this Act who, after December 31, 1998—

(1) lost, or loses, his or her job (other than by termination for cause); and

(2) has not been re-employed in that industry, is deemed to be eligible for adjustment assistance under subchapter A of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.).

(b) EFFECTIVE DATE.—This section takes effect on the day after the date of enactment of this Act.

**SA 3528.** Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill H.R. 3009, to extend the Andean Trade preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place add the following:

**SEC. . TRADE ADJUSTMENT ASSISTANCE AND HEALTH BENEFITS FOR TEXTILE AND APPAREL WORKERS.**

(a) IN GENERAL.—An individual employed in the textile or apparel industry before the date of enactment of this Act who, after December 31, 1998—

(1) lost, or loses, his or her job (other than by termination for cause); and

(2) has not been re-employed in that industry, is deemed to be eligible for adjustment

assistance under subchapter A of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.).

(b) **EFFECTIVE DATE.**—This section takes effect on the day after the date of enactment of this Act.

**SEC. . SENSE OF THE SENATE REGARDING PREVENTION OF CORPORATE EXPATRIATION TO AVOID UNITED STATES INCOME TAX.**

(a) **IN GENERAL.**—It is the sense of the Senate that paragraph (4) of section 7701(a) of the Internal Revenue Code of 1986 (defining domestic) should be amended to read as follows:

“(4) **DOMESTIC.**—

“(A) **IN GENERAL.**—Except as provided in subparagraph (B), the term ‘domestic’ when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

“(B) **CERTAIN CORPORATIONS TREATED AS DOMESTIC.**—

“(i) **IN GENERAL.**—The acquiring corporation in a corporate expatriation transaction shall be treated as a domestic corporation.

“(ii) **CORPORATE EXPATRIATION TRANSACTION.**—For purposes of this subparagraph, the term ‘corporate expatriation transaction’ means any transaction if—

“(I) a nominally foreign corporation (referred to in this subparagraph as the ‘acquiring corporation’) acquires, as a result of such transaction, directly or indirectly substantially all of the properties held directly or indirectly by a domestic corporation, and

“(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation.

“(iii) **LOWER STOCK OWNERSHIP REQUIREMENT IN CERTAIN CASES.**—Sub-clause (II) of clause (i) shall be applied by substituting ‘50 percent’ for ‘80 percent’ with respect to any nominally foreign corporation if—

“(I) such corporation does not have substantial business activities (when compared to the total business activities of the expanded affiliated group) in the foreign country in which or under the law of which the corporation is created or organized, and

“(II) the stock of the corporation is publicly traded and the principal market for the public trading of such stock is in the United States.

“(iv) **PARTNERSHIP TRANSACTIONS.**—The term ‘corporate expatriation transaction’ includes any transaction if—

“(I) a nominally foreign (referred to in this subparagraph as the acquiring corporation) acquires, as a result of such transaction, directly or indirectly properties constituting a trade or business of a domestic partnership,

“(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former partners of the domestic partnership (determined without regard to stock of the acquiring corporation which is sold in a public offering related to the transaction), and

“(III) the acquiring corporation meets the requirements of subclauses (I) and (II) of clause (iii).

“(v) **SPECIAL RULES.**—For purposes of this subparagraph—

“(I) a series of related transactions shall be treated as 1 transaction, and

“(II) stock held by members of the expanded affiliated group which includes the acquiring corporation shall not be taken into account in determining ownership.

“(vi) **OTHER DEFINITIONS.**—For purposes of this subparagraph—

“(I) **NOMINALLY FOREIGN CORPORATION.**—The term ‘nominally foreign corporation’ means any corporation which would (but for this subparagraph) be treated as a foreign corporation.

“(II) **EXPANDED AFFILIATED GROUP.**—The term ‘expanded affiliation group’ means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)).”

(b) **EFFECTIVE DATES.**—It is further the sense of the Senate that—

(1) such an amendment should not apply to corporate expatriation transactions completed after September 11, 2001;

(2) such an amendment should also apply to corporate expatriation transactions completed on or before September 11, 2001, but only with respect to taxable years of the acquiring corporation beginning after December 31, 2003; and

(3) that any revenues attributable to such an amendment should be used to pay for benefits for textile and apparel workers deemed to be eligible for adjustment assistance under subchapter A of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) under this Act.

**SA 3529.** Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill H.R. 3009, to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the first word and insert the following:

**SEC. . TRADE ADJUSTMENT ASSISTANCE AND HEALTH BENEFITS FOR TEXTILE AND APPAREL WORKERS.**

(a) **IN GENERAL.**—An individual employed in the textile or apparel industry before the date of enactment of this Act who, after December 31, 1998—

(1) lost, or loses, his or her job (other than by termination for cause); and

(2) has not been re-employed in that industry, is deemed to be eligible for adjustment assistance under subchapter A of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.).

(b) **EFFECTIVE DATE.**—This section takes effect on the day after the date of enactment of this Act.

**SEC. . SENSE OF THE SENATE REGARDING PREVENTION OF CORPORATE EXPATRIATION TO AVOID UNITED STATES INCOME TAX.**

(a) **IN GENERAL.**—It is the sense of the Senate that paragraph (4) of section 7701(a) of the Internal Revenue Code of 1986 (defining domestic) should be amended to read as follows:

“(4) **DOMESTIC.**—

“(A) **IN GENERAL.**—Except as provided in subparagraph (B), the term ‘domestic’ when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

“(B) **CERTAIN CORPORATIONS TREATED AS DOMESTIC.**—

“(i) **IN GENERAL.**—The acquiring corporation in a corporate expatriation transaction shall be treated as a domestic corporation.

“(ii) **CORPORATE EXPATRIATION TRANSACTION.**—For purposes of this subparagraph, the term ‘corporate expatriation transaction’ means any transaction if—

“(I) a nominally foreign corporation (referred to in this subparagraph as the ‘acquiring corporation’) acquires, as a result of such transaction, directly or indirectly substantially all of the properties held directly or indirectly by a domestic corporation, and

“(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation.

“(iii) **LOWER STOCK OWNERSHIP REQUIREMENT IN CERTAIN CASES.**—Subclause (II) of Clause (ii) shall be applied by substituting ‘50 percent’ for ‘80 percent’ with respect to any nominally foreign corporation if—

“(I) such corporation does not have substantial business activities (when compared to the total business activities of the expanded affiliated group) in the foreign country in which or under the law of which the corporation is created or organized, and

“(II) the stock of the corporation is publicly traded and the principal market for the public trading of such stock is in the United States.

“(iv) **PARTNERSHIP TRANSACTIONS.**—The term ‘corporate expatriation transaction’ includes any transaction if—

“(I) a nominally foreign corporation (referred to in this subparagraph as the ‘acquiring corporation’) acquires, as a result of such transaction, directly or indirectly properties constituting a trade or business of a domestic partnership,

“(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former partners of the domestic partnership (determined without regard to stock of the acquiring corporation which is sold in a public offering related to the transaction), and

“(III) the acquiring corporation meets the requirements of subclauses (I) and (II) of clause (iii).

“(v) **SPECIAL RULES.**—For purposes of this subparagraph—

“(I) a series of related transactions shall be treated as 1 transaction, and

“(II) stock held by members of the expanded affiliated group which includes the acquiring corporation shall not be taken into account in determining ownership.

“(vi) **OTHER DEFINITIONS.**—For purposes of this subparagraph—

“(I) **NOMINALLY FOREIGN CORPORATION.**—The term ‘nominally foreign corporation’ means any corporation which would (but for this subparagraph) be treated as a foreign corporation.

“(II) **EXPANDED AFFILIATED GROUP.**—The term ‘expanded affiliated group’ means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)).”

(b) **EFFECTIVE DATES.**—It is further the sense of the Senate that—

(1) such an amendment should apply to corporate expatriation transactions completed after September 11, 2001;

(2) such an amendment should also apply to corporate expatriation transactions completed on or before September 11, 2001, but only with respect to taxable years of the acquiring corporation beginning after December 31, 2003; and

(3) that any revenues attributable to such an amendment should be used to pay for benefits for textile and apparel workers deemed to be eligible for adjustment assistance under subchapter A of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) under this Act.

**SA 3530.** Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill H.R. 3009, to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; while was ordered to lie on the table; as follows:

In lieu of the matter proposed insert the following:



**SEC. . TRADE ADJUSTMENT ASSISTANCE AND HEALTH BENEFITS FOR TEXTILE AND APPAREL WORKERS.**

(a) IN GENERAL.—An individual employed in the textile or apparel industry before the date of enactment of this Act who, after December 31, 1998—

(1) lost, or loses, his or her job (other than by termination for cause); and

(2) has not been re-employed in that industry, is deemed to be eligible for adjustment assistance under subchapter A of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.).

(b) EFFECTIVE DATE.—This section takes effect on the day after the date of enactment of this Act.

**SEC. . SENSE OF THE SENATE REGARDING PREVENTION OF CORPORATE EXPATRIATION TO AVOID UNITED STATES INCOME TAX.**

(a) IN GENERAL.—It is the sense of the Senate that paragraph (4) of section 7701(a) of the Internal Revenue Code of 1986 (defining domestic) should be amended to read as follows:

“(4) DOMESTIC.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘domestic’ when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

“(B) CERTAIN CORPORATIONS TREATED AS DOMESTIC.—

“(i) IN GENERAL.—The acquiring corporation in a corporate expatriation transaction shall be treated as a domestic corporation.

“(ii) CORPORATE EXPATRIATION TRANSACTION.—For purposes of this subparagraph, the term ‘corporate expatriation transaction’ means any transaction if—

“(I) a nominally foreign corporation (referred to in this subparagraph as the ‘acquiring corporation’) acquires, as a result of such transaction, directly or indirectly substantially all of the properties held directly or indirectly by a domestic corporation, and

“(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation.

“(iii) LOWER STOCK OWNERSHIP REQUIREMENT IN CERTAIN CASES.—Subclause (II) of clause (ii) shall be applied by substituting ‘50 percent’ for ‘80 percent’ with respect to any nominally foreign corporation if—

“(I) such corporation does not have substantial business activities (when compared to the total business activities of the expanded affiliated group) in the foreign country in which or under the law of which the corporation is created or organized, and

“(II) the stock of the corporation is publicly traded and the principal market for the public trading of such stock is in the United States.

“(iv) PARTNERSHIP TRANSACTIONS.—The term ‘corporate expatriation transaction’ includes any transaction if—

“(I) a nominally foreign corporation (referred to in this subparagraph as the ‘acquiring corporation’) acquires, as a result of such transaction, directly or indirectly properties constituting a trade or business of a domestic partnership,

“(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former partners of the domestic partnership (determined without regard to stock of the acquiring corporation which is sold in a public offering related to the transaction), and

“(III) the acquiring corporation meets the requirements of subclauses (I) and (II) of clause (iii).

“(v) SPECIAL RULES.—For purposes of this subparagraph—

“(I) a series of related transactions shall be treated as 1 transaction, and

“(II) stock held by members of the expanded affiliated group which includes the acquiring corporation shall not be taken into account in determining ownership.

“(vi) OTHER DEFINITIONS.—For purposes of this subparagraph—

“(I) NOMINALLY FOREIGN CORPORATION.—The term ‘nominally foreign corporation’ means any corporation which would (but for this subparagraph) be treated as a foreign corporation.

“(II) EXPANDED AFFILIATED GROUP.—The term ‘expanded affiliated group’ means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)).”

(b) EFFECTIVE DATES.—It is further the sense of the Senate that—

(1) such as amendment should apply to corporate expatriation transactions completed after September 11, 2001;

(2) such an amendment should also apply to corporate expatriation transactions completed on or before September 11, 2001, but only with respect to taxable years of the acquiring corporation beginning after December 31, 2003; and

(3) that any revenues attributable to such an amendment should be used to pay for benefits for textile and apparel workers deemed to be eligible for adjustment assistance under subchapter A of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) under this Act.

**NOTICES OF HEARINGS/MEETINGS**

**COMMITTEE ON ENERGY AND NATURAL RESOURCES**

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that the Committee on Energy and Natural Resources has scheduled a field hearing in Bloomfield, NM to identify issues related to the inspection and enforcement of Bureau of Land Management oil and gas wells in the Farmington area and attempts to remedy computer problems affecting Minerals Management Service payments in New Mexico.

The hearing will take place on Friday, May 31, at 9:00 a.m. at the Bloomfield Cultural Complex at 333 S. First Street, Bloomfield, NM.

Those wishing to submit written statements on the subject matter of this hearing should address them to the Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510.

For further information, please call John Watts at 202/224-5488.

**COMMITTEE ON INDIAN AFFAIRS**

Mr. INOUE. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, May 22, 2002, at 10 a.m. in room 485 of the Russell Senate Office Building to conduct a hearing on S. 1340, a bill to amend the Indian Land Consolidation Act to provide for probate reform with respect to trust or restricted lands.

Those wishing additional information may contact the Indian Affairs Committee at 224-2251.

**SUBCOMMITTEE ON WATER AND POWER**

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public

that a hearing has been scheduled before the Subcommittee on Water and Power of the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, June 6, 2002, at 2:30 p.m. in room 366 of the Dirksen Senate Office Building in Washington, D.C.

The purpose of the hearing is to receive testimony on the following bills:

S. 1310, to provide for the sale of certain real property in the Newlands Project, Nevada, to the City of Fallon, Nevada;

S. 2475, to amend the Central Utah Project Completion Act to clarify the responsibilities of the Secretary of the Interior with respect to the Central Utah Project, to redirect unexpended budget authority for the Central Utah Project for wastewater treatment and reuse and other purposes, to provide for prepayment of repayment contracts for municipal and industrial water delivery facilities, and to eliminate a deadline for such prepayment;

S. 1385, to authorize the Secretary of the Interior, pursuant to the provisions of the Reclamation Wastewater and Groundwater Study and Facilities Act, to participate in the design, planning, and water construction of the Lakehaven water reclamation project for the reclamation and reuse of water,

S. 1824/H.R. 2828, to authorize payments to certain Klamath Project water distribution entities for amounts assessed by the entities for operation and maintenance of the Project's irrigation works for 2001, to authorize funds to such entities of amounts collected by the Bureau of Reclamation for reserved works for 2001, and for other purposes;

S. 1883, to authorize the Bureau of Reclamation to participate in the rehabilitation of the Wallowa Lake Dam in Oregon, and for other purposes;

S. 1999, to re-authorize the Mni Wiconi Rural Water Supply Project; and

H.R. 706, to direct the Secretary of the Interior to convey certain properties in the vicinity of the Elephant Butte Reservoir and the Caballo Reservoir, NM.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, 312 Dirksen Senate Office Building, Washington, DC 20510.

For further information, please contact Patty Beneke or Mike Connor of the committee staff at (202-224-5451) or (202-224-5479).

**AUTHORITY FOR COMMITTEES TO MEET**

**COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS**

Mr. REID. Mr. President, I ask unanimous consent that the Committee on

Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, May 21, 2002, immediately following the first rollcall vote, to conduct a mark-up on the nomination of Mr. Anthony Lowe, of Washington, to be Federal Insurance and Mitigation Administrator of the Federal Emergency Management Agency.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, May 21, 2002, at 4:30 p.m., to host the House and Senate conferees on S. 1372 and H.R. 2871, Export-Import Bank Reauthorization.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. REID. Mr. President, I ask unanimous consent that the committee on Commerce, science, and transportation be authorized to meet on Tuesday, May 21, 2002, at 9:30 a.m., on implementation of the Aviation and Transportation Security Act.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, May 21, 2002 at 10:30 a.m., to hold a nomination hearing.

Witnesses

Mrs. Paula A. DeSutter, of Virginia, to be Assistant Secretary of State for Verification and Compliance, to be introduced by: The Honorable Jon Kyl, United States Senate, Washington, DC.

Mr. Michael A. Guhin, of Maryland, for the rank of Ambassador during his tenure of service as U.S. Fissile Material Negotiator, and Mr. Stephen G. Rademaker, of Delaware, to be Assistant Secretary of State for Arms Control, to be introduced by: The Honorable Henry Hyde, U.S. House of Representatives, Washington, DC.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on "Getting Fit, Staying Healthy: Strategies for Improving Nutrition and Physical Activity in America" during the session of the Senate on Tuesday, May 21, 2002. At 2:30 p.m. in SD-430.

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

COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on

the Judiciary be authorized to meet to conduct a hearing on "Oversight of the Department of Justice—Civil Rights Division" on Tuesday, May 21, 2002 in Dirksen Room 226 at 2:15 p.m.

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

SUBCOMMITTEE ON CONSUMER AFFAIRS AND FOREIGN COMMERCE AND TOURISM

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on Consumer Affairs and Foreign Commerce and Tourism be authorized to meet on Tuesday, May 21, 2002, at 2:30 p.m. on U.S. Trade Policy with Cuba.

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

SUBCOMMITTEE ON EMERGING THREATS AND CAPABILITIES

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on Emerging Threats and Capabilities of the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, May 21, 2002, at 9:30 a.m. in open session to receive testimony on improved management of Department of Defense test and evaluation facilities.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to executive session to consider the following: Calendar No. 831; and the nominations placed on the Secretary's desk, Coast Guard promotions; that the nominations be confirmed; the motions to reconsider be laid on the table; the President be immediately notified of the Senate's action; any statements thereon be printed in the RECORD as though read; and the Senate return to legislative session without further intervening action or debate.

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

The nominations were considered and confirmed as follows:

COAST GUARD

The following named officers for appointment in the United States Coast Guard to the grade indicated under title 14, U.S.C., section 271:

To be rear admiral

Rear Adm. (lh) Vivien S. Crea.  
Rear Adm. (lh) Robert F. Duncan.  
Rear Adm. (lh) Kevin J. Eldridge.  
Rear Adm. (lh) Thomas J. Gilmour.  
Rear Adm. (lh) Jeffrey J. Hathaway.  
Rear Adm. (lh) Charles D. Wurster.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

COAST GUARD

PN1751 Coast Guard nomination of Mikeal S. Staier, which was received by the Senate and appeared in the Congressional Record of May 13, 2002.

LEGISLATIVE SESSION

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

ORDERS FOR WEDNESDAY, MAY 22, 2002

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Wednesday, May 22; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate begin a period of morning business until 10:30 a.m. with Senators permitted to speak for up to 10 minutes each, with the first half of the time under the control of the majority leader or his designee, and the second half of the time under the control of the Republican leader or his designee; that at 10:30 a.m., the Senate resume consideration of the trade bill for debate only until 11:30 a.m., with the time equally divided between the two leaders or their designees; further that the Senate vote on cloture on the Baucus substitute amendment at 11:30 a.m.

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

EXPRESSING THE SENSE OF CONGRESS THAT WORKERS DESERVE FAIR TREATMENT

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 115 submitted earlier today by Senator KENNEDY.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 115) expressing the sense of the Congress that all workers deserve fair treatment and safe working conditions, and honoring Dolores Huerta for her commitment to the improvement of working conditions for children, women, and farm worker families.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. Mr. President, I ask unanimous consent the concurrent resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and any statements relating thereto be printed in the RECORD as if read without any intervening action or debate.

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

The concurrent resolution (S. Con. Res. 115) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 115

Whereas Dolores Huerta is a preeminent civil rights leader who has been fighting for the rights of the underserved for more than 40 years;

Whereas Dolores Huerta was born on April 10, 1930, in Dawson, New Mexico;

Whereas Dolores Huerta was raised, along with her 2 brothers and 2 sisters, in the San Joaquin Valley town of Stockton, California,

where she was witness to her mother's care and generosity for local, poverty-stricken farm worker families;

Whereas after earning a teaching credential from Stockton College, Dolores Huerta was motivated to become a public servant and community leader upon seeing her students suffer from hunger and poverty;

Whereas Dolores Huerta defied cultural and gender stereotypes by becoming a powerful and distinguished champion for farm worker families;

Whereas in addition to her unyielding support for farm workers' rights, Dolores Huerta has been a stalwart advocate for the protection of women and children;

Whereas notwithstanding her intensity of spirit and her willingness to brave challenges, Dolores Huerta has always espoused peaceful, nonviolent tactics to promote her ideals and achieve her goals;

Whereas Dolores Huerta established her career as a social activist in 1955 when she founded the Stockton chapter of the Community Service Organization, a Latino association based in California, and became involved in the association's civic and educational programs;

Whereas in 1962, together with Cesar Chavez, Dolores Huerta founded the National Farm Workers Association, a precursor to the United Farm Workers Organizing Committee, which was formed in 1967;

Whereas Dolores Huerta is the proud mother of 11 children and has 14 grandchildren; and

Whereas Dolores Huerta was inducted into the Women's Hall of Fame in 1993 for her relentless dedication to farm worker issues: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring), That—*

(1) it is the sense of the Congress that all workers deserve fair treatment and safe working conditions; and

(2) the Congress honors Dolores Huerta for her commitment to the improvement of working conditions for children, women, and farm worker families.

#### CENTENNIAL OF ESTABLISHMENT OF CRATER LAKE NATIONAL PARK

Mr. REID. Mr. President, I ask unanimous consent the Energy Committee be discharged from further consideration of S. Res. 273 and that the Senate proceed to its immediate consideration.

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

The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 273) recognizing the centennial of the establishment of the Crater Lake National Park.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I ask unanimous consent the resolution and the preamble be agreed to, the motion to reconsider be laid on the table, and that any statements relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 273) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 273

Whereas Crater Lake, at 1,943 feet deep, is the deepest lake in the United States;

Whereas Crater Lake is a significant natural feature, the creation of which, through the eruption of Mount Mazama 7,700 years ago, dramatically affected the landscape of an area that extends from southern Oregon into Canada;

Whereas legends of the formation of Crater Lake have been passed down through generations of the Klamath Tribe, Umpqua Tribe, and other Indian tribes;

Whereas on June 12, 1853, while in search of the legendary Lost Cabin gold mine, John Wesley Hillman, Henry Klippel, and Isaac Skeeters discovered Crater Lake;

Whereas William Gladstone Steele dedicated 17 years to developing strong local support for the conservation of Crater Lake, of which Steele said, "All ingenuity of nature seems to have been exerted to the fullest capacity to build a grand awe-inspiring temple the likes of which the world has never seen before";

Whereas on May 22, 1902, President Theodore Roosevelt signed into law a bill establishing Crater Lake as the Nation's sixth national park, mandating that Crater Lake National Park be "dedicated and set apart forever as a public park or pleasure ground for the benefit of the people of the United States" (32 Stat. 202);

Whereas Crater Lake National Park is a monument to the beauty of nature and the importance of providing public access to the natural treasures of the United States; and

Whereas May 22, 2002, marks the 100th anniversary of the designation of Crater Lake as a national park: Now, therefore, be it

*Resolved*, That the Senate recognizes May 22, 2002, as the centennial of the establishment of Crater Lake National Park.

#### NEXT ROLLCALL VOTE

Mr. REID. Mr. President, the next rollcall vote will occur at approximately 11:30 a.m. tomorrow morning on cloture on the Baucus substitute.

#### ORDER TO ADJOURN

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment following the statements of Senator VOINOVICH and Senator INHOFE. I understand that Senator VOINOVICH's statement will take approximately 30 minutes and Senator INHOFE's statement will take about 15 minutes.

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

The Senator from Ohio is recognized.

#### NATO ENLARGEMENT

Mr. VOINOVICH. Mr. President, Last week, May 14-15, Secretary of State Colin Powell joined foreign ministers from all 19 members of the NATO Alliance in Reykjavik, Iceland, where they began to lay the groundwork for the Summit of the NATO Alliance in Prague this November.

As many of my colleagues are aware, three themes have emerged to fill the agenda in Prague: first, discussion of NATO's capabilities and the ability to respond to today's most urgent threats; second, the selection of new members; and third, the beginning of new relationships with Russia, Ukraine and

other members of the international community.

During the two-day ministerial meeting in Reykjavik, Secretary Powell and his NATO colleagues addressed each of these issues, beginning with the announcement of a new NATO-Russia Council. As the British foreign minister put it, we saw the end of the cold war—again.

The agreement, which is to be finalized in Rome on May 28th, puts Russia and the 19 members of the NATO Alliance at the same table, as equal partners, to discuss a number of issues, including counterterrorism, military cooperation, nonproliferation and peacekeeping. While establishing new areas in which NATO and Russia will work together, the agreement makes certain that NATO will maintain complete control over enlargement and core military issues.

This news is even more significant when coupled with the recent announcement that President Bush and Russian President Putin will sign a treaty to reduce their nuclear arsenals by nearly two-thirds when they meet in Moscow later this month. As Secretary Powell remarked in Reykjavik, our relationship with Russia seems to be on sound footing as we look toward the 21st century. It is my hope that conversations continue to be productive, and I look forward to further discussion about the implementation of these two agreements. However, I remain a little bit skeptical that this will substantially change our relationship with Russia.

In addition to discussion about NATO's relationship with Russia, the ministerial meeting highlighted the urgent need to address the widening gap in military capabilities between the United States and our NATO allies. As Under Secretary of State for Political Affairs Marc Grossman remarked in testimony before the Senate Foreign Relations Committee on May 1, "The growing capabilities gap between Europe and the United States is the most serious long-term problem facing NATO, and must be addressed."

This message is not new to members of the Alliance. We've talked about it before. NATO developed the Defense Capabilities Initiative, DCI, at the Washington Summit in 1999 to begin to address deficiencies in technology and military equipment. But there has been little progress, and as the events of September 11th have made all too clear, the Alliance must have the ability to respond in times of crisis.

While the United States and our NATO allies have begun to identify new threats in Europe and beyond, as Secretary Grossman remarked, "There has to be lots more done at NATO to meet them."

The United States has identified shortfalls in four key areas of NATO's military capabilities, which Under Secretary of Defense for Policy Doug Feith outlined in Senate testimony earlier this month. These include: first, nuclear, biological and chemical defenses

to protect allied troops and territory; next, the capability to transport troops to the battlefield—in short, we need the right aircraft to get our troops where they need to be; third, communication and information systems to allow allied countries to work together effectively; and finally, modern weapons systems, such as precision-guided munitions and capabilities to suppress enemy air defense.

In a NATO Communiqué released on May 14th, the NATO foreign ministers recognized the need to take steps to improve military capabilities. They note that “To carry out the full range of its missions, NATO must be able to field forces that can move quickly to wherever they are needed, sustain operations over distance and time, and achieve their objectives.” In order to fulfill these objectives, they further note that “This will require the development of new and balanced capabilities within the Alliance, including strategic lift and modern strike capabilities, so that NATO can more effectively respond collectively to any threat of aggression against a member state.”

While this statement is important, I am hopeful that these words will be followed by action and the financial commitments necessary to make this vision a reality. The United States has acted to increase its investment in defense. And as Secretary Powell remarked to reporters last week, “We think that all of our colleagues in NATO should be doing likewise.”

The United States will spend more than 3.5 percent of its GDP on defense in Fiscal Year 2002. While we ask NATO aspirant countries to spend 2 percent of their GDP on defense, nearly half of NATO's current members do not meet this benchmark. Though we sought to address this issue with the Defense Capabilities Initiative in 1999, defense spending in many countries has actually decreased since that time. If NATO is going to stay relevant, members of the Alliance must do better with their defense budgets. At the NATO Parliamentary Assembly meeting in Sofia, Bulgaria next week, I will be asking them why they have not kept commitments on their defense spending.

NATO Secretary General Lord Robertson underscored the importance of making substantial contributions to military capabilities during the meeting in Reykjavik, saying the Alliance must change if it is to be effective. Further, he was clear in his message: NATO must “modernize or be marginalized.”

Without the ability to communicate and work together in the field, NATO cannot be effective. And without the fundamental ability to get forces to the frontline to provide for the defense of NATO interests when the time comes, NATO cannot fulfill its basic mission of collective security. I look forward to continued discussion on this issue in the months leading to Prague, and I am hopeful that as NATO defense

ministers and heads of state discuss viable options for closing the capabilities gap, they come prepared to make financial commitments to finally get the job done.

In addition to driving home the need for improved military capabilities, the events of 9/11 and the U.S.-led military campaign in Afghanistan have raised serious questions about NATO's ability to respond to terrorist threats, which may likely originate outside of the Alliance's traditional area of operations. This has already generated much debate, and I believe this will be an important item on the agenda in Prague. It will also be important in Bulgaria. I am hopeful there will be productive dialogue as NATO considers action in this realm in the future.

Finally, in addition to new capabilities and new relationships, the question of new members will be on the forefront of the agenda this fall. This is a big deal.

I have been a proponent of enlargement of the NATO Alliance to include Europe's new democracies for many years, and I look forward to a robust round of enlargement in Prague.

In March, I spoke to a gathering of individuals with ties to every country aspiring to join the NATO Alliance, including: Albania, Bulgaria, Estonia, Latvia, Lithuania, Macedonia, Romania, Slovakia, and Slovenia, as well as Croatia. They came together to promote the merits of enlargement as a single, unified group—working together to deliver the message that NATO expansion is in the strategic interest of the United States, Europe, and the broader international community of democracies.

As the meeting concluded, the delegation passed a resolution in support of enlargement, reaffirming the importance of NATO to the security and stability of Europe.

Mr. President, I ask unanimous consent that a copy of the Joint Statement prepared at that meeting be printed in the RECORD.

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

JOINT STATEMENT OF THE REPRESENTATIVES OF ETHNIC COMMUNITIES ON THE ENLARGEMENT OF THE NORTH ATLANTIC TREATY ORGANIZATION, WASHINGTON, DC, MARCH 16, 2002

1. We, the Representatives of the American ethnic communities of the Albanian, Bulgarian, Croatian, Czech, Estonian, Hungarian, Latvian, Lithuanian, Macedonian, Polish, Romanian, Slovak and Slovenian descent, have gathered in Washington, D.C. to endorse the vision of a Europe whole and free as presented by President George W. Bush on June 15, 2001 and by former president William J. Clinton on October 22, 1996.

2. We believe that NATO is the backbone of the transatlantic community and has been an effective bulwark in the defense of freedom, democracy and human rights. We further believe that a strong involvement of the United States in Europe serves the vital interest of the United States.

3. We thank the United States House of Representatives for overwhelmingly passing

the Freedom Consolidation Act of 2001 and we urge its expeditious passage by the United States Senate.

4. We believe that the accession of the Czech Republic, Hungary and Poland to NATO has contributed to transatlantic security and strengthened and expanded the zone of peace, stability, democracy and cooperation in Europe.

5. We share President Bush's belief that “All of Europe's new democracies, from the Baltic to the Black Sea and all that lie between, should have the same chance for security and freedom—and the same chance to join the institutions of Europe—as Europe's old democracies have.” Furthermore, we believe that the almost 55 million people who live in Europe's aspirant nations should contribute to and share in the benefits of the family of European nations.

6. We commend Europe's new democracies for their progress in solidifying democracy, establishing market economies and building strong and just civil societies. We believe that the invitation to join NATO will be a major achievement in the struggle for freedom. In this regard, we honor all who have suffered in this cause and we thank the United States for its abiding support.

7. We recognize the significant progress that has been made by Europe's new democracies in their preparation to shoulder the responsibilities that membership in NATO requires.

8. We commend Europe's new democracies for their solidarity with the American people after the terrorist attacks of September 11, 2001 and for their willingness to act as de facto allies of the United States and NATO. We recognize the contributions of Europe's new democracies for opening their air and land facilities to the United States and NATO and for sharing their resources in promoting global security and in the fight against terrorism.

9. We applaud Europe's new democracies for their commitment to cooperation which was initiated in Vilnius, Lithuania in May, 2000.

10. We urge Europe's new democracies to accelerate needed reforms to enable their invitations to join NATO at the Prague Summit. We also understand that this continued commitment to shared values is an essential component of such membership.

11. We express our thanks to the Czech Republic, Hungary and Poland for their support of the Vilnius process, to Denmark and Norway for their work in the security of the Baltics and to Greece and Turkey for their support of their closest neighbor nations.

12. We commit ourselves to support and promote the fulfillment of the vision of a Europe whole and free and respectfully urge the President of the United States and the United States Senate to support invitations to all aspirant nations who have demonstrated their preparedness for admission to NATO.

Mr. VOINOVICH. In the resolution, they note: “We believe that NATO is the backbone of the transatlantic community and has been an effective bulwark in the defense of freedom, democracy and human rights. We further believe that a strong involvement of the United States in Europe serves the vital interest of the United States.”

I strongly support that message, and I share the sentiments expressed by President Bush in remarks he delivered in Poland last June, when he said that as the NATO Summit in Prague approaches, “We should not calculate how little we can get away with, but

how much we can do to advance the cause of freedom."

During the cold war, as a public official in the State of Ohio, I remained a strong supporter of the captive nations, who were for so many years denied the right of self-determination by the former Soviet Union.

When I was mayor of Cleveland during the 1980s, we celebrated the independence days of the captive nations at city hall—flying their flags, singing their songs and praying that one day the people in those countries would know freedom.

In August 1991, as communism's grip loosened, I wrote a letter to then-President George H.W. Bush urging him to recognize the independence of the Baltic nations. Now, these countries are among those being considered for membership in the NATO alliance.

Last May, I had the opportunity to visit Estonia, Latvia and Lithuania as part of a Senate delegation traveling to the meeting of the NATO parliamentary assembly, and I—along with my colleagues—was very impressed with what I saw.

Our observations were confirmed when many of us visited with General Ralston. He spoke very eloquently about what he has seen in the Baltic nations—with heavy emphasis on their communication systems. He spoke about BALTnet, and said the communication system in place in the Balts is as good as any system within NATO. So is the network in Slovenia they are ready to plug into NATO immediately.

As I stood with my colleagues in the streets of Lithuania—surrounded by thousands of Lithuanian citizens all rallying in support of NATO enlargement—I remembered the celebrations we had in Cleveland years earlier, when Lithuania was still part of the Soviet empire. It was a remarkable feeling for me to stand in a free Lithuania, and to talk about making the country part of the NATO alliance.

After I returned to the United States, I sent a letter to President Bush conveying my impressions of some of the work done in those countries. I encouraged him to guarantee the freedom of those once subjected to life under Communism by making clear his strong support for NATO enlargement.

I was pleased when the President outlined his vision for NATO enlargement in Warsaw last summer, noting that "All of Europe's new democracies, from the Baltic to the Black Sea and all that lie between, should have the same chance for security and freedom—and the same chance to join the institutions of Europe—as Europe's old democracies have."

During my time in the Senate, I have been privileged to travel to a number of other NATO aspirant countries—Macedonia and Albania during the war in Kosovo in 1999, and Slovenia, Romania, and Croatia in 2000. I will visit Bulgaria over the Memorial Day recess to take part in the meeting of the NATO parliamentary assembly, and I

also hope to visit Slovenia and Slovakia—the only country on the list that I have yet to visit—later this month.

As we approach the Prague summit in November, the NATO alliance finds itself at pivotal point in world history.

More than a decade ago, the fall of the Berlin Wall and the collapse of the Soviet empire marked a moment of profound change for millions of people in Europe and the world at large. It was clear that the global political scene was changed forever.

As we look toward Prague, it is evident that the world is again a changed place. We face new challenges, and we must rise to meet them.

It is clear that the events of September 11 have given all of us a new focus. They have opened our eyes to issues that must not be ignored. I am grateful for the support that the United States has received from our NATO allies and those countries aspiring to join the alliance. This assistance is critical for the international community to be successful in carrying out a comprehensive campaign to fight terrorism, and it is important that these collaborative efforts continue.

NATO's decision to invoke article V—signifying that an attack on one was an attack on all—sent a strong message of solidarity to the people of the United States, and the world at large. The world is different not just for us in America, but for all of Western civilization. NATO has begun to examine the role the alliance will play in efforts to protect the world against threats associated with terrorism and weapons of mass destruction.

Without a doubt, the events of September 11 dramatically impacted the conversations that took place in Iceland last week, and they will certainly influence the agenda in Prague this November. As the United States and other members of NATO consider enlargement of the alliance in the six months leading to Prague, it is within the broader context of a changed world post-9-11.

I believe this debate is still very relevant. In fact, as some have said, discussion about NATO enlargement is perhaps more important now than ever before.

I strongly agree with remarks made by Under Secretary of State Grossman in testimony before the Foreign Relations Committee earlier this month. While acknowledging that some people have argued that after September 11, expansion of the alliance should not remain a priority, Secretary Grossman said he does not agree.

He remarked, "I believe that enlargement should remain a priority . . . The events of September 11th show us that the more allies we have, the better off we're going to be; the more allies we have to prosecute the war on terrorism, the better off we're going to be. And if we're going to meet these new threats to our security, we need to build the broadest and strongest coalition

possible of countries that share our values and are able to act effectively with us. With freedom under attack, we must demonstrate our resolve to do as much as we can to advance our cause."

While NATO is a collective security organization, formed to defend freedom and democracy in Europe, we cannot forget that common values form the foundation of the alliance.

When we consider enlargement to include Europe's new democracies, we must answer a central question: how would each country contribute to the collective security of the NATO alliance? When we answer that question, our response should certainly factor in the military attributes of each aspirant country, which continue to be evaluated by U.S. and NATO military officials. At the same time, as NATO evaluates its needs for the future, we should take into consideration other ways in which aspirant countries can contribute to the collective defense of Europe.

Since September 11, the United States and NATO have called on members of the international community to provide critical assistance in a number of areas outside of the traditional military realm. While these do not outweigh the need for improved defense capabilities, such as strategic airlift capabilities and improved communication systems, they are nonetheless critical to thwarting future terrorist attacks.

Deputy Secretary of State Richard Armitage outlined a number of these areas in remarks to leaders of the NATO aspirant countries at the V-10 summit in Bucharest, Romania 2 months ago. Secretary Armitage said, "The threats we now face have changed the way we think about defending ourselves and broadened the scope of possible contributions to the common defense. Forces in the field remain indispensable, but other contributions are just as important. Law enforcement, intelligence sharing, controlling the flow of terrorist financing are essential weapons in responding to today's threats."

We have seen the benefit of these contributions as the international community continues to engage in a global campaign against terrorism. The nine NATO aspirant countries, as well as Croatia, have reached out to the United States in the aftermath of the September 11 attacks.

They have pledged their solidarity, volunteered their resources, and shared intelligence information with the United States and NATO. They have decided to act not as aspirants, but as allies, and their support is highly important.

As significant as this cooperation has been, the work is not done. It is critical that countries aspiring to join the alliance continue their efforts to make progress in areas outlined in the membership action plan—developing free market economies, promoting democracy and the rule of law, respecting the

rights of minorities, and implementing military reforms. These values are the hallmark of the NATO alliance, and they must not be neglected.

Secretary Armitage underscored this point to NATO aspirant countries at the V-10 summit in Bucharest. He reaffirmed President Bush's commitment to enlargement, which the President made clear in his remarks in Warsaw, Poland last June. Secretary Armitage called on the aspirant countries to continue their work, saying, "We believe that the conditions are better than ever to pursue a robust enlargement. Now it's up to you. You have worked hard on your Membership Action Plans . . . You have pursued political and economic reform programs; and you have continued to restructure your militaries. These efforts must continue."

I was pleased when NATO foreign ministers again confirmed their belief in the importance of NATO enlargement at the ministerial meeting last week, noting "At their Prague Summit in November this year, our Heads of State and Government will launch the next round of NATO enlargement. This will confirm the Alliance's commitment to remain open to new members, and enhance security in the Euro-Atlantic area."

As the U.S. Government has done, NATO foreign ministers called on aspirant countries to continue their work to join the alliance not only in the upcoming months, but in the years beyond November's summit.

As we approach the Prague Summit, I look forward to continued discussion about the key issues facing the NATO Alliance. I am pleased that the Secretary of State's visit to Reykjavik was productive, providing a solid foundation for the ambitious agenda to be tackled in Prague. I am confident that our visit to Bulgaria for the meeting of the NATO parliamentary assembly will also serve as a forum to further discussion on the subjects of new capabilities, new members and new relationships.

I am pleased that the Senate voted overwhelmingly in favor of the Freedom Consolidation Act last week, which passed by a vote of 85 to 6. This bill puts the Senate on record in support of enlargement of the alliance in Prague, expressing the belief that NATO should remain open to Europe's new democracies able to accept the responsibilities that come with membership.

At the same time, as I expressed last week and many of my colleagues made clear during Senate debate of the measure, this does not guarantee Senate support for the extension of invitations to all nine candidate countries in Prague. There is still work to be done, and NATO aspirants should continue to make progress on their membership Action Plans in the months leading to Prague.

As a member of Congress who has long been involved with Euro-Atlantic issues, I understand the importance of

NATO expansion to strengthening security and stability in Europe. I supported enlargement of the alliance in 1997; I will again support enlargement at Prague. And I believe NATO should be open to further expansion in the future.

It is clear that the selection of new members this year will take place in a world vastly different than it was during the last round of enlargement; nonetheless, we should continue to explore questions on enlargement as NATO moves forward to strengthen its ability to provide for the collective defense of Europe in the post September 11th security environment.

I strongly believe that supporting NATO expansion demonstrates our country's commitment to freedom, democracy and peace, and I will continue to promote expansion of the Alliance to include Europe's new democracies which demonstrate the ability to handle the responsibility of NATO membership.

The PRESIDING OFFICER. Under the previous order, the Senator from Oklahoma is recognized.

#### PRESIDENT BUSH'S KNOWLEDGE OF SEPTEMBER 11

Mr. INHOFE. Mr. President, I take a moment to add my voice to those who were outraged and offended last week at these idle attempts by some Members of Congress to impugn the integrity of our President, George W. Bush. Sure, they all now will deny that was their intent because they have been home and they have heard from their people, and the people do not believe it. They know it is cheap politics.

Let's not kid ourselves. The statements some of our colleagues made on this floor, in the other body, and in the press had one clear inference and insinuation: They were suggesting, even charging, that President Bush had prior knowledge about what was going to happen on September 11, that he could have done something to prevent the terrorist attacks in New York and Washington, and he did not do anything about it.

While they were making these accusations based on leaks from classified intelligence briefings, they were clearly questioning the competence, the truthfulness, and the integrity of our President. As Vice President DICK CHENEY said Sunday, these charges made through these kinds of statements were outrageous and beyond the pale. Anyone who has the slightest understanding of intelligence briefings knows that raw scraps of information, of which there are hundreds and thousands at any given time, cannot be equated with knowing the details of a specific plot.

I have served on the Senate Intelligence Committee since 1994. We get briefings, and the briefings come in sometimes daily, sometimes weekly, sometimes monthly, where they have an assessment of accusations, a threat

assessment, and there is kind of a summary page on top for people who do not want to wade through all of that material. In any given report, there are sometimes over a thousand threats, and the threats having to do with this never made it to the executive summary.

While these people were making these accusations based on leaks about classified intelligence briefings, they were clearly questioning the competency of this President.

I am heartened that the American people have so resoundingly repudiated the suggestion that President Bush is somehow culpable for what happened on September 11. Let's also be clear that any truly thorough investigation of what happened on September 11 must extend back into the actions and inactions of the previous administration and what it did and did not do in addressing terrorism on its watch.

Today's editorial in the Washington Times spells out a few things we need to remember in order to put September 11 in context. In the February 1993 World Trade Center bombing, six people were killed, a thousand wounded; Ramsey Youseff, attack mastermind, connected to Iraq intelligence. In October 1993, during the Somalia firefight, we remember so well the 18 American Rangers who were killed in Mogadishu, their naked bodies dragged through the streets. Militia were trained at that time by the al-Qaida. We know that today.

June 1996, Khobar Towers bombing: 19 U.S. soldiers killed in Saudi Arabia, al-Qaida terrorists among those involved. August of 1998, two U.S. Embassy bombings in Africa: 224 people were killed. Al-Qaida terrorists were involved again. Then-President Clinton launched 75 cruise missiles at an empty Afghan camp and a Sudanese pharmaceutical factory.

October 2000, the U.S.S. *Cole* bombing: 17 U.S. sailors were killed. Again, al-Qaida was involved. All evidence points to the fact that they were involved.

In each case, the Clinton administration sought to avoid taking firm steps against Osama bin Laden and other terrorist groups that have targeted U.S. interests, U.S. soldiers, and U.S. citizens. Certainly, any investigation of failures in the war on terrorism will take these issues into careful consideration.

As the Washington Times editorial says today:

Given the abysmal performance of the Clinton administration in combating terrorism during the 1990s, it would be a huge mistake for Democrats to attempt to gain political mileage by blaming September 11 on President Bush.

I ask unanimous consent that the entire editorial be printed in the RECORD at the conclusion of my remarks.

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

(See Exhibit No. 1.)

Mr. INHOFE. A few of the quotes that came from Senators, and I am



only going to quote four Members of Congress, one House Member and three Senators. Although I could quote about 10 of them, I think my point is made by these four. One Senator said:

I am gravely concerned about the information provided us just yesterday that the President received a warning in August about the threat of hijackers by Osama bin Laden and his organization. It clearly raises some very important questions that have to be asked and have to be answered.

Another Senator said:

We have learned something today that raises a number of serious questions. We have learned that President Bush had been informed last year before September 11 of a possible plot by those associated with Osama bin Laden to hijack a U.S. airline.

Another Senator:

I don't know, again, what he knew and what the White House knew and when they knew it and what they did about it . . . but if prior information had been warnings were there . . .

Another Member on the floor said:

Yet we have had the gnawing question: was there something that could have been done to prevent the attacks on September 11?

I am very proud of the Senator occupying the chair now because he refrained from trying to engage in this type of political activity.

What do all four Members who made these statements on the floor of the House and Senate have in common? They are all four running for President of the United States. It is unconscionable that anyone would imply our God-fearing President, George W. Bush, might have known something about this and not done everything he could to prevent it. This is simply politics at its worst.

#### EXHIBIT 1

##### DEMAGOGUING SEPTEMBER 11

Just a few days ago, Democrats on Capitol Hill seemed quite eager to make political hay out of news reports suggesting that President Bush might have known in advance about the September 11 attacks. Prominent Democrats like Sens. Tom Daschle, Hillary Rodham Clinton and House Minority Leader Dick Gephardt have loudly demanded investigations into what the administration knew about the possibility that terrorists were preparing to attack the United States.

By Sunday, however, some of the harshest Democratic critics were clearly having second thoughts about such a brazen attempt to use September 11 to score political points against Mr. Bush. "I never, ever thought that anybody, including the president, did anything up to September 11 other than

their best," Mr. Gephardt said. This is a politically prudent move on Mr. Gephardt's part. Given the abysmal performance of the Clinton administration in combatting terrorism during the 1990s, it would be a huge mistake for Democrats to attempt to gain political mileage by blaming September 11 on President Bush.

Time and time again, the Clinton White House tried to avoid taking firm steps against Osama bin Laden's al Qaeda and other terrorist groups that have targeted the United States. As David Horowitz noted on The Washington Times' op-ed page yesterday, the Clinton administration did nothing in response to al Qaeda's February 1993 bombing of the World Trade Center, in which six persons were killed and nearly 1,000 wounded. Moreover, President Clinton and his aides sought to play down the fact that the mastermind of the attack was Ramzi Youssef, an Iraqi intelligence agent. Journalist Andrew Sullivan quotes Clinton aide George Stephanopoulos as saying that the Clinton administration ignored the implications of the WTC attack because "it wasn't a successful bombing."

Nine months later in Somalia, Mohammed Farah Aided's militiamen, who were trained by al Qaeda, killed 18 American soldiers and dragged their bodies through the streets of Mogadishu. Mr. Clinton's response was to end the U.S.-led humanitarian mission in Somalia and send veteran diplomat Robert Oakley to negotiate surrender terms. In June 1996, 19 American servicemen were killed when al Qaeda joined forces with the Iranian- and Syrian-backed Hezbollah to bomb the Khobar Towers apartment complex in Saudi Arabia. The Saudis refused to cooperate with FBI agents sent to investigate the matter, so Washington just forgot about it. Mr. Sullivan notes that in October, a former Clinton administration official told The Washington Post that, had Mr. Clinton made a serious effort to rein in al Qaeda then, "We probably would have never seen a September 11."

In 1998, as Mr. Clinton was preparing to inform the nation of his affair with Monica Lewinsky, al Qaeda killed 224 persons in bombings of U.S. embassies in Kenya and Tanzania. So Mr. Clinton responded by firing 75 missiles at suspected bin Laden training camps in Afghanistan (bin Laden escaped unharmed) and to mistakenly destroy a "nerve gas factory" in Khartoum which was actually making pharmaceutical products. Two years later, the United States did nothing of consequence in response to the bombing of the USS Cole in Yemen, in which 17 Americans died. "Clearly, not enough was done" to combat terrorism during the Clinton years, former Deputy Attorney General Jamie Gorelick acknowledged shortly after the September 11 attacks. Mrs. Gorelick added that even though President Clinton doubled the size of the FBI's counterterrorism budget, the bureau was so slow to hire agents that the money was never used.

As for Mrs. Clinton, investigative journalist Steven Emerson notes that she and her husband "repeatedly wined and dined at the White House" members of the American Muslim Council (AMC), including Abdulrahman Alamoudi, an apologist for Hamas, which has repeatedly denied it is a terrorist group. The AMC, Mr. Emerson adds, provided talking points for Mrs. Clinton's syndicated newspaper column and speeches and was even permitted to organize a reception for itself at the White House. In short, the Democrats are in no position to smear Mr. Bush on September 11 or terrorist in general.

#### ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:30 a.m., Wednesday, May 22, 2002.

Thereupon, the Senate, at 7:51 p.m., adjourned until Wednesday, May 22, 2002, at 9:30 a.m.

#### NOMINATIONS

Executive nominations received by the Senate May 21, 2002:

##### DEPARTMENT OF JUSTICE

JAMES THOMAS ROBERTS, JR., OF GEORGIA, TO BE UNITED STATES MARSHAL FOR THE SOUTHERN DISTRICT OF GEORGIA FOR THE TERM OF FOUR YEARS, VICE JOHN W. CALDWELL, TERM EXPIRED.

JAMES ROBERT DOUGAN, OF MICHIGAN, TO BE UNITED STATES MARSHAL FOR THE WESTERN DISTRICT OF MICHIGAN FOR THE TERM OF FOUR YEARS, VICE BARBARA C. JURKAS, TERM EXPIRED.

DAVID SCOTT CARPENTER, OF NORTH DAKOTA, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF NORTH DAKOTA FOR THE TERM OF FOUR YEARS, VICE BRIAN C. BERG, TERM EXPIRED.

JAMES MICHAEL WAHLRAB, OF OHIO, TO BE UNITED STATES MARSHAL FOR THE SOUTHERN DISTRICT OF OHIO FOR THE TERM OF FOUR YEARS, VICE ROY ALLEN SMITH, TERM EXPIRED.

#### CONFIRMATIONS

Executive nominations confirmed by the Senate May 21, 2002:

##### IN THE COAST GUARD

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES COAST GUARD TO THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 271:

##### To be rear admiral

REAR ADM. (LH) VIVIEN S. CREA  
REAR ADM. (LH) ROBERT F. DUNCAN  
REAR ADM. (LH) KEVIN J. ELDRIDGE  
REAR ADM. (LH) THOMAS J. GILMOUR  
REAR ADM. (LH) JEFFREY J. HATHAWAY  
REAR ADM. (LH) CHARLES D. WURSTER

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

COAST GUARD NOMINATION OF MIKEAL S. STAIER.