United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 108th CONGRESS, FIRST SESSION

Vol. 149 WASHINGTON, WEDNESDAY, JUNE 11, 2003 No. 85

Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable SAM BROWNBACK, a Senator from the State of Kansas.

The PRESIDING OFFICER. Today's prayer will be offered by our guest Chaplain, Rabbi Dr. Bernhard H. Rosenberg, Edison, NJ.

PRAYER

The guest Chaplain offered the following prayer:

Eternal God, grant us the ability to face this new day with faith and optimism. Empower the men and women of this respected Senate with strength to live and labor with sincerity of purpose. Enable them to be of good courage in moments of adversity and endow them with fortitude to fulfill their daily tasks. Bless our revered Senators with vigor of body and health of mind. Bless them with the power to face the challenge of leadership with valor.

Bless our country, the United States of America, and shield its inhabitants from every enemy and danger. Help our Senators guard the liberties we hold sacred. Grant that our country will serve as an inspiring light for liberty loving people throughout the world. Inspire our Senators to help create a world of freedom, equality, and justice for all.

Lord, teach us to walk along the path of life with faith in Thee and trust in Thy wisdom. In the words of the poet, grant me ''the courage to change the things I can change, the serenity to accept those I cannot change, and the wisdom to know the difference''. Amen.

PLEDGE OF ALLEGIANCE

The Honorable SAM BROWNBACK led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 11, 2003.

To the Senate:

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

TED STEVENS,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. FRIST. Mr. President, this morning the Senate will be in a period of morning business until 10 a.m. At 10 o'clock, the Senate will resume consideration of S. 14, the Energy bill. Pending is the Reid second-degree amendment to the Feinstein first-degree amendment on the issue of derivatives.

There are a number of Members who are reviewing those amendments at this time. It is a complicated issue. I know that a number of people, including the chairman of the Agriculture Committee, will want to speak on the amendment.

In the interim, it is my hope that we will continue to make progress on the bill and work through other amendments that may be offered. Also, as we have discussed over the course of this week, we would like to be able to lock in a list of the remaining amendments to the Energy bill during today's session.

I remind my colleagues we will vote on the confirmation of the nomination of Richard Wesley to be a Circuit Court Judge for the Second Circuit at 11:15 this morning.

In addition, there are a number of other Executive Calendar nominations ready for votes, and we will attempt to set a time certain for votes on those as well.

Also, with respect to the schedule, Senator MCCONNELL has continued to work for a vote on the Burma sanctions bill. I am very hopeful that over the course of the morning we will be able to address this very important and timely issue and bring this to closure. As I indicated yesterday, I fully support his efforts and we will work for a resolution today. The Senate, I believe, should speak loudly and clearly on the recent actions in Burma.

We would also like to consider and complete the FAA reauthorization this week, and we will continue to look for a way to schedule that matter.

In addition, there are other issues I have mentioned each morning on which we are working. It is important for our colleagues to come together so we can address them in a straightforward and timely manner, including the issue surrounding the bioshield bill.

Mr. REID. Will the majority leader yield for a comment on the schedule?

Mr. FRIST. Yes.

Mr. REID. Mr. President, first of all, we will have for the leader sometime today a finite list of amendments from our side. Also, Senator FEINSTEIN, when she left last night, said she was not going to agree to have her amendment set aside. The reason for that is somewhat based on last year when she worked with Senator Gramm for more than a week trying to get something on that amendment and she never did. She kept setting it aside, but she said she would not do that this time.

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

Mr. MCCONNELL. Will the majority leader yield?

Mr. FRIST. Yes.

Mr. MCCONNELL. I thank the majority leader for raising again the issue of the Burma sanctions bill. I say to him and our colleagues in the Senate that we have now been working for 2 days to try to get this matter cleared.

While we are involved in the minutia of the clearing process, Aung San Suu Kyi is still, in effect, in prison. We need to send a message to the military in Burma, and we need to send it this week.

I am not going to propound another unanimous consent request at the moment, but I want to put colleagues on notice that later in the day I will be doing that once again. In the meantime, the discussions continue. We hope we will be able to resolve this matter. I thank the majority leader very much for bringing that up.

Mr. FRIST. Mr. President, I yield the floor.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will be in a period of morning business until 10 a.m., with the time equally divided between the majority and minority leaders or their designees.

The Senator from New Jersey is recognized.

RABBI BERNHARD ROSENBERG

Mr. CORZINE. Mr. President, I rise now to thank Rabbi Bernhard Rosenberg for his stirring innovation this morning. This is only the latest honor to be conferred on Rabbi Rosenberg for his lifetime of distinguished service. He is a pillar in New Jersey's vibrant religious community, serving as a spiritual leader and educator, and his accomplishments speak for themselves.

If I might be personal, Rabbi Rosenberg is a terrific human being, whom I know personally. I am very pleased he joined us.

As the son of Holocaust survivors, Rabbi Rosenberg has taught numerous youngsters the importance of reflecting on that awful period in world history, a period which led to the deaths of more than six million Jews, as well as countless others. He has written many books on that subject, including ''Contemplating the Holocaust'' and ''What the Holocaust Means to Me: Teenagers Speak Out.''

Rabbi Rosenberg has served New Jersey in many capacities, including as a member of the New Jersey State Holocaust Commission, an appointee to the New Jersey Parole Board, and as the chairman of the Edison Human Rights Commission. For his years of commitment to the Jewish community and his humanitarian spirit, he has received a number of awards, including the Rabbi Israel Moshowitz Award by the New York Board of Rabbis, the Dr. Martin Luther King Jr. Humanitarian Award, and the Chaplain of the Year Award for his work relating to the September 11 attacks.

I take this opportunity to thank Rabbi Rosenberg for his years of service to the State of New Jersey, to the Jewish Community, and to the Nation. He has earned the profound respect of the people of New Jersey and this Senator.

Mr. LAUTENBERG. Mr. President, since 1789, every session of the Senate has been opened with prayer. I am proud that the Senate's guest Chaplain today, Rabbi Dr. Bernhard H. Rosenberg, is from my home State of New Jersey. Rabbi Rosenberg is the spiritual leader of Congregation Beth-El in Edison, NJ.

As the only child of Holocaust survivors, the late Jacob and Rachel Rosenberg, Rabbi Rosenberg has spent his life teaching the history and effects of the Holocaust.

In 1933, there were over 9 million Jews living in Europe. Almost 6 million were killed in the next 12 years. ''Holocaust,'' translated from Greek, means ''sacrifice by fire.'' The systematic persecution and genocide of millions of innocent people in Europe was a ''sacrifice'' the civilized world must never forget. I have met with Holocaust survivors, and I have seen the concentration camps. It was a hideous time in our world's history. But it is vital to learn about it, and it is vital to talk about it.

Rabbi Rosenberg serves his community as a leader, teacher, writer, and spiritual adviser. He is an impressively educated man, with multiple degrees in communication and education, and his ordination and doctorate of education from Yeshiva University in New York.

Rabbi Rosenberg teaches Holocaust Studies at the Moshe Aaron Yeshiva High School of Central New Jersey, and has taught at Rutgers University and Yeshiva University. Rabbi Rosenberg has authored four books, with ''Theological and Halachic Reflections on the Holocaust'' now in its second printing.

He is the spiritual leader of Congregation Beth-El and a model citizen in New Jersey.

Rabbi Rosenberg has dedication and commitment that is unparalleled. He is the editor of a Holocaust publication distributed by the Rabbinical Assembly and editor of the New York Board of Rabbis Newsletter. As Interfaith Chairman of the New Jersey State Holocaust Commission, Rabbi Rosenberg is associate editor of the State-mandated curriculum on Holocaust and Genocide.

Rabbi Rosenberg is chairman of the Human Rights Commission and chaplain of the Department of Public Safety, police and fire, of Edison, NJ. He is president and founder of the New Jersey Second Generation Holocaust Survivors' Group.

The work of Rabbi Rosenberg has not gone unnoticed. He recently received the Dr. Martin Luther King Jr. Humanitarian Award. He also received the Chaplain of the Year Award from the New York Board of Rabbis for his efforts during and following 9/11.

On June 10, 2002, Rabbi Rosenberg was presented with the annual Rabbi Israel Mowshowitz Award by the New York Board of Rabbis.

We are privileged to have Rabbi Rosenberg of Edison, NJ, to lead the Senate in prayer today.

The ACTING PRESIDENT pro tempore. Who yields time?

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, I ask unanimous consent that the time during the quorum call be charged equally to both sides during the morning business period.

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

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

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

The legislative clerk proceeded to call the roll.

Mr. FRIST. 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.

GLOBALIZATION AND BIOTERRORISM

Mr. FRIST. Mr. President, I wish to take this opportunity in morning business to comment on issues of current events but also tied to the events of the last several years. The issues relate to the natural and the unnatural emergence and use of biology and microbes that have resulted in a convergence of two issues. One is this natural occurrence and one is the use of microbes, bacteria, viruses potentially as bioterror agents, all of that coupled with another nexus, globalization, the realization and evolution of a much smaller world in which we all live.

Globalization is generally addressed in the context of economics, economies of countries, information technologies, coffee shop franchises, luxury hotels, luxury clothing—what labels are on the backs of those sweaters and shirts—Internet surfing, instant messages.

Globalization has helped democratize faraway countries. It has brought wealth and comfort to many of the world's peoples. But it has always exposed us to new vulnerabilities which we have read about in recent years and, indeed, we read about each day in the papers. Specifically, globalization has brought us much closer to the threat of

natural disease as well as disease used potentially as an instrument of terror.

We can take, for example, the outbreak of monkeypox about which we are reading and listening today. We know monkeypox causes fever, headache, cough, and an extremely painful rash with pus-filled sores that can spread across the body. We know in children and those individuals who have a suppressed immune system, whether it is because of cancer or treatment for cancer or other autoimmune diseases, it can cause death.

Monkeypox is suspected to have originated with the importation of an exotic pet, actually a rather popular exotic pet called the Gambian giant rat. Then the monkeypox virus apparently jumped to infect the pet prairie dogs, and then jumped to infect human beings. We know there are 37 suspected or confirmed cases of monkeypox that are currently being investigated by the Centers for Disease Control. Public health officials, we learn, fear the prairie dog owners will release their infected pets into the wild and, thus, spread the disease through communities, regions, and, indeed, throughout North America.

Some also believe that this outbreak of monkeypox is the tip of a growing problem of infectious diseases being brought into the country through the importation of exotic animals.

Not too long ago—and, in fact, even right now—we focused on SARS. As we have seen with SARS, international travel by humans is also proving to be a conduit of disease. As I speak, Toronto is struggling with yet another suspected outbreak of SARS and at any point could go back on the World Health Organization's travel advisory list.

The SARS epidemic continues to disrupt international travel, continues to affect and, indeed, depress national economies.

Monkeypox, SARS, West Nile virus, which we know is seasonal—it has been 4 years since it first arrived in New York, and it has claimed 284 deaths and 4,156 infections. Several years ago, people did not know what West Nile virus was. Several months ago we did not know what SARS was, and several days ago we did not know what monkeypox was. Last year, just in this region of Maryland, Virginia, and the District, the West Nile virus killed 11 people. After what has been a wet spring in this region, where mosquito breeding is facilitated, officials fear—again not to be an alarmist—there will be another explosion of infections this summer. West Nile has spread across the United States of America. It is now firmly established, entrenched as a North American disease. West Nile, SARS, and now monkeypox—we will see emerging infections continue to appear, at least at this rate. These are the natural health threats.

Equally alarming is this whole arena of bioterrorism, the use of microbes, viruses, bacteria, and other microbes as biological weapons to threaten others. This very body, the Senate, has been attacked with anthrax. We know there is an entity called the plague which, indeed, wiped out about a third of Europe in the 1300s.

We know the risk of smallpox. We know one gram of botulinum toxin, if aerosolized, has the potential for taking the lives of a million and a half people.

I mention all of this not to be an alarmist but to give some definition to what I think we all know today but we did not think very much about 3 or 5 years ago, and that is these threats, those of bioterrorism and the naturally occurring, are real.

With regard to bioterrorism, I do commend President Bush for successfully leading America and indeed the world to face these new realities of terrorists. We have disrupted terrorist networks. We have frozen terrorist assets. We have removed terrorist leaders and indeed have arrested more than 3,000 individual terrorists worldwide. We have toppled two of the world's most notorious terrorist regimes in Afghanistan and Iraq with decisive victories.

With regard to our domestic response, we are finally rebuilding our public health system after a long period of neglect. As a nation, this has enabled us to respond, in an appropriate way, to the potential spread of SARS much more effectively than other countries. We must continue to invest in and enhance our public health system to detect and respond to such emergencies, for, as I said earlier, we will see more.

We must actively lead the way to develop new treatments in vaccines, and that is why when I come to the floor each morning and mention the importance of vaccine research, vaccine development, and specifically bioshield legislation, which is sitting before this body perched and ready for us to act upon it, but there are certain problems we have had among ourselves in coming to an agreement, how best to bring that to the floor—but that bioshield legislation is in exact response to these issues I mention today.

I should also add that we, and our friends and allies across the world, must not allow other countries to pursue biological weapons programs. President Bush has set the United States, with the help of our allies, along a proper course to ultimately win the war on terror. I, for one, am grateful he and his national security team have answered the call to serve in this perilous time. We will defeat the forces of terror. We must take our enemies seriously, but because of globalization they are closer than ever. I am optimistic. We have an obligation in this body to respond and indeed prepare for and prevent, whether it is those naturally occurring infections or any attempt of others to use these biological agents as weapons of mass destruction.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

Mr. THOMAS. We are in morning business, is that correct?

The ACTING PRESIDENT pro tempore. That is correct.

REFORM OF OUR GOVERNMENT

Mr. THOMAS. Mr. President, I will make a couple of comments that are a little different than the subject we have been talking about. It is something that I do not have the recommendation as to how we resolve it particularly, but I am persuaded we need to spend a little more time on it, which I intend to, and that is government activities we are involved in. Of course, the many government activities we are involved in are probably the largest combined organizational thing we do in this country. It would be interesting to know, and I intend to see if there is not a way for all of us to do so, to get a look at all the kinds of programs and different activities the Federal Government is involved in. It is massive, of course.

We spend trillions of dollars on activities in the Federal Government. I do not suggest that is not legitimate. The Federal Government has a job to do and we need to do it. What I do believe is that because of the nature of it and because of the nature of this body, frankly, we do not really work very hard at ensuring that the delivery of these services is done as efficiently as it could be. We are a little different, of course, than the private sector in that there are some inherent barriers in the private sector. If one is not very efficient, they are not able to continue to compete with others and they are not able to go on. That is not true in the Government, of course. There is not that kind of limitation.

So it seems to me we ought to give a little more thought to how we do things. It is quite natural that when there is a need somewhere, through the political process we bring up some resolution to the need, some way to work on the need, and it usually creates a new agency or creates a new department within an agency or a new function, and there is no real way to ensure that that blends in to what is already being done in an efficient way.

There certainly must be lots of opportunities within this huge organization we have to be able to blend one thing in to another to do it more efficiently, to deliver it more efficiently. I think clearly there is reason to believe that activities that were begun 30 years ago may need to be reviewed to see if they still are needed, and if they are needed that they are done in a way that is most effective and efficient.

I am really not critical of the people who are doing these things. I am critical, I guess, or at least inquisitive about the system, because the system is set up in such a way that it does not have a way to even consider change

very often. As I say, in the private sector, people are forced to change from time to time in order to continue to be effective and to continue to modernize. I do not think it is reasonable to think that a program that started in the 1950s, and it is now 2003, that that program is being done as efficiently as it might be. I frankly sometimes think it would be a good idea if the various things we pass that go into some kind of services, some kind of activity, should expire and we should have to go through the process of reexamining what that operation is doing and if it is still needed—and it may or may not be—then see if it is being done in the most efficient way possible.

There are operations in the Government, of course, that are designed to do that, such as OMB, the Office of Management and Budget, but it is very difficult.

I am pleased that President Bush has a modernization program going, but there is all kinds of resistance. The resistance can be political: If it does not happen to suit one's particular community as a politician, why, they are opposed to that. I think it is fair to say clearly that the labor union leaders who are involved with Government unions are overreacting to the idea that some things ought to be made available to be done in the private sector, which I think is a very reasonable thing to do.

We now have sort of an overstatement of things that are trying to be done in the National Park Service. Well, there should be a few things that are competitive with the private sector, but the whole Park Service is not going to be turned over to the private sector. No one has suggested that, but that is the kind of thing we get.

I do think we ought to pay a little more attention to how we could make the delivery of services more efficient and how we could review the services that are being delivered to see if indeed they are in keeping with the times. That has to be done in a special way because it just does not happen automatically. Politics keeps it from happening. The complexity keeps it from happening. Sometimes labor unions are resistant to any change. I think it is our responsibility, and I intend to continue to look for opportunities, to examine, evaluate, and try to move forward in making the delivery of essential services more efficient whenever possible.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Idaho.

Mr. CRAIG. Mr. President, I understand we are to resume debate on S. 14 at 10?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. CRAIG. The chairman of the committee who is managing the bill is not yet on the floor. Until he comes, I ask unanimous consent to speak as in morning business for no more than 10 minutes.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. REID. Mr. President, reserving the right to object, I wonder if the bill should be reported and then go into morning business.

Mr. CRAIG. I am going to talk on energy, anyway, so we could do that. I would withdraw my UC.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

ENERGY POLICY ACT OF 2003

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 14, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 14) to enhance the energy security of the United States, and for other purposes.

Pending:

Feinstein amendment No. 876, to tighten oversight of energy markets.

Reid amendment No. 877 (to amendment No. 876), to exclude metals from regulatory oversight by the Commodity Futures Trading Commission.

The ACTING PRESIDENT pro tempore. The Senator from the great State of Idaho.

Mr. CRAIG. Mr. President, we are now resuming debate on S. 14, the national energy policy for our country. I have been on the floor several times over the last number of weeks as we have debated different amendments. Yesterday, there were a couple of critical votes as it related to nuclear. We have a derivatives amendment at this time by the Senator from California, and I think the Senator from Nevada has a second degree on it.

A fundamental question again emerges, and emerged yesterday at a hearing on the Hill, with the statement of our Federal Reserve Chairman Alan Greenspan as to the importance of a national energy policy.

Why is the Chairman of the Federal Reserve, who is interested in the prime rate and the management of monetary supply of our country, concerned about energy? It is fundamental why he is concerned about energy. He is concerned about the economy of our country and its strength, stability, and ability to grow and provide jobs for the men and women who currently do not have them, and to strengthen and stabilize those jobs for the men and women who currently do have jobs.

What was he talking about yesterday? He was talking about one of the primary feed stocks for energy in our country, natural gas; the problems that we currently have with the supply of natural gas because this country has not effectively explored and developed, for a variety of reasons, our natural gas supply.

In the context of not providing supply, we have provided extraordinary demands on the current supply. Under the Clean Air Act, to meet those clean air standards, and out in the Western States and those air sheds specifically, the only way you can meet those standards and bring a new electrical generating plant on line is to choose to use gas to fire a turbine, to generate electricity. That is a tremendously inefficient way to use the valuable commodity of natural gas, but that is exactly what the Federal Government has told our utilities over the last two decades: If you are going to bring a new generation on line, it will be a gas-fired electrical turbine. Coal has problems; we are working on clean coal technology. This legislation embodies trying to get us to a cleaner technology to fire the coal electrical generation in our country.

As a result, what are we talking about? What has been said and what we believe to be true is that there is now rapidly occurring a major shortage in natural gas. As a result, that is not only going to drive up the cost to the consumer in his or her individual home—and I will read from an article: Another witness, Donald Mason, head of the Ohio Public Utilities Commission, predicted that the average residential heating bill next winter will be at least $220 higher per household than last winter.

That is a real shock to an economy and to a household and why Alan Greenspan is obviously worried that you spread that across a consuming nation, and we are talking about hundreds of millions of dollars pulled out of the economy to go to the cost of heating when it had not been the case before. That was one of the concerns.

The other concern is the tremendous price hike we are seeing at this time and the impact that will have. Gas prices have nearly doubled in the past year to about $6.31 per Btu, and there is a 25-percent change expected. We expect prices to peak and we have seen one instance, about 3 months ago, over a 200-percent increase in the price of natural gas as a spike in the market.

S. 14 is legislation to help facilitate the construction of a major delivery system out of Alaska. In Alaska at this moment we are pumping billions of Btu's of gas back into the ground because we simply cannot transport it to the lower 48 States, and we do not want to flare it into the atmosphere as has been the approach in the past in gasfields. It is too valuable a commodity, and we do not want to do that to the environment.

We have also looked at other opportunities for access. Part of the difficulty today is delivery systems and building gas pipelines across America. This legislation has provisions to help facilitate more of that as it relates to right of way and, of course, the recognition of the environmental need and the consequence and appropriate adjustment there.

What Alan Greenspan underlines in his comments, what Donald Mason

from the Ohio Public Utilities Commission underlines, was what Spence Abraham said last Friday when he called for a June 26 meeting of the National Petroleum Council to talk about this impending gas shortage crisis: Our country needs a national energy policy.

I hope all of my colleagues rally to that reality. Why should we force upon the American consumer a $200- or $300-increase in their energy costs next year simply because this Senate and this Congress will not do its work or can't do its work? We debated mightily a year ago an energy policy. We got it to a conference. The differences were too great. Ultimately, we could not arrive at a final product to go to our President's desk.

What Senator DOMENICI has done as chairman of the Energy and Natural Resources Committee is craft a broad-based national energy policy that is as much production as it is conservation. It is as much new technology as it is the advancement and the improving of existing technology. It is truly a broad-based national energy policy for our country. More gas? Yes. More coal usage? Yes. More wind usage? Yes. More photovoltaic or sunlight usage? You bet. The development of new, safe, clean, more effective utilization of nuclear? Absolutely. Why shy away from any energy source at this moment when we are forcing them on the American consumer and the economy of this country is increasing costs in the area of energy?

Lastly, when we do all of that and we drive up the costs of the job itself and the cost of the product produced by that job, we make ourselves increasingly less competitive around the world.

I was out in the Silicon Valley this weekend. I met with 50 CEOs of high-technology companies in San Jose. They are interested in a lot of issues, but their No. 1 issue is energy and the ability to know that when they build a plant in this country, whether it is in California or in any other State, they are going to be guaranteed a supply of high-quality constant energy. The reality is when they do not have it, they will shop elsewhere to build that plant. If they can't get quality sustainable energy in this country, then they will go elsewhere. That means U.S. jobs go to some other country.

Shame on us as a country for having failed for the last decade to produce a national energy policy, and in failing to do so, bringing Alan Greenspan to the Hill to talk about an impending energy crisis again in domestic supply of gas, and to have a utility commissioner talk about a $220-per-year increase in the cost of heating the average American home by natural gas.

Less food on the table, less money in the college trust fund for the children—all of those could be the consequence of a home that is unemployed, a home that has to choose between staying warm and doing other things. In a cold winter, ultimately, they will want to stay warm and they will have to pay their heating bill. We should not ask Americans to make that choice if it is our failure to produce a national energy policy and to produce energy that has caused them to have to make that choice. That is the issue.

I hope the Senate will expedite the passage of S. 14. We have been on it now nearly 4 weeks, 3 weeks to be exact. We are being told there are hundreds of amendments out there. There are not hundreds of amendments on this side of the aisle. There are a few. We ought to ask, and I hope we can get by the end of business this week, a finite list and a unanimous consent that will bring this issue together so we can say to our colleagues and to the American people: The Senate is ultimately going to vote on this legislation, help produce a national energy policy, get it into conference with the House, and get it on the President's desk as soon as we possibly can.

Not only does the absence of a national policy have a negative impact on our economy, the presence of one—this legislation—could have a tremendously positive impact. Many have said in the analysis of S. 14, there are 500,000 new jobs in this legislation alone. That could be more jobs that would be created over the next 10 years by this legislation than could be created by the economic stimulus package, although we believe that will have a tremendously positive impact.

That is why we are here in the Chamber debating it. I am frustrated by those who say: Oh, no, not now; we can't do this; we can't do that; or we have hundreds of amendments; or we are obstructing or dragging our feet.

Let's get a unanimous consent agreement. Let's get Senators to bring those amendments to the floor. I am certainly willing to debate them. I think we ought to vote on them. The American people ought to sort us out and see who is for energy production in this country, who is for driving down the projected costs to the average home when it comes to their heating bill, who is in favor of creating hundreds of thousands of new jobs in clean technology, environmentally sound technology, and making this Nation once again self-reliant in the area of energy.

S. 14 is critical legislation. We ought to be voting on it now. We ought not be dragging our feet or, in some instances, obstructing. The debate is critical. Senators, bring your amendments to the floor. The chairman has pleaded with us time and time again to craft a unanimous consent agreement. The Senator from Nevada, the whip for Democrats, has worked with us to try to get a unanimous consent agreement. If, on Friday, we cannot produce a unanimous consent agreement of the body of amendments that will finally be offered and debated on this bill, then it begins to look as if somebody is obstructing this process, somebody simply does not want it to go forward in an effective way to finalize and produce for this country a national energy policy.

I certainly hope we can get on with the business that the Senate does best—get to the floor, debate the issues, offer the amendments, vote on them, and ultimately get this legislation to our President's desk so our country can once again stand tall and strong in the field of energy.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I say to the distinguished Senator from Idaho, we will, as I indicated to the majority leader today, have a list sometime today, a finite list of amendments on our side. I would also say the holdup, the slowdown on this bill in the last 24 hours is not anything that we on this side have done. Senator FEINSTEIN has offered an amendment. That amendment needs to be disposed of before we move forward. I hope the majority will make a decision in the near future as to what they want to do with that amendment.

As indicated, I filed an amendment—I am confident my friend from Idaho would agree with it—to exempt from her amendment minerals, which are such an important part of the American West. They have agreed to accept that amendment. Senator FEINSTEIN has agreed to accept the amendment—not, I am sure, because she likes the amendment a lot but because she realizes what happened when there was a vote on this last year.

I hope that amendment will be accepted, the majority will allow that amendment to be accepted, and we can move forward on the Feinstein amendment with an up-or-down vote or move to table, whatever they decide to do on it, but let's move on.

Senator FEINSTEIN, for example, has other amendments she wishes to offer. She has one dealing with CAFE standards. That was debated last time, but I am sure we will have to debate it this time. But we should move forward on this legislation.

I want the record simply to reflect we are not holding up this legislation. I have made public statements here, with the full knowledge of the Democratic leader, that we are cooperating on this Energy bill in the very best way we can. As we know, last year when we had this bill up, there were 8 weeks of debate, approximately 125 amendments, and we had 35 recorded votes. I hope we need not do that this time. I hope we can condense things and do it in fewer than 8 weeks.

I also said publicly I appreciate very much how Senator FRIST has handled the bills generally since he has taken the leadership of the Senate—not filing cloture immediately. As long as we are cooperating, which we are on this, offering substantive amendments, he has been very good about allowing debate to go forward.

We continue, on this measure, to cooperate with the majority. We will

move forward with this most important legislation. I agree with the Senator from Idaho, this country needs an energy policy. I underline, underscore this. I didn't hear all his remarks, I was called off the floor, but I did hear some of his statements regarding alternative energy. The State of Nevada is the Saudi Arabia of geothermal. We are waiting for that development. We need certain tax incentives included in the tax portion of this bill.

We would thrive on more solar energy production. That can be done with tax incentives that are in the underlying tax part of this bill. Of course, the Senator from Idaho and I know how much the wind blows in parts of Idaho and Nevada, and we should be using that wind to our own benefit. It is renewable energy.

Even though there are certain things in the bill the Senator from New Mexico produced that I was not wild about, that is what the process is about. Amendments are offered. The Senator from New Mexico had strong feelings about the nuclear portions of this legislation. We had a good debate on that yesterday and a very close vote. That is what the Senate is all about. There are other parts of the bill we are going to try to amend. No one at this stage is trying to stall—I should not say no one. I am sure some people would love this legislation never to come about, but the general belief of the people on this side of the aisle is we should have an Energy bill, and we are going to work toward that end.

Mr. CRAIG. Will the Senator yield?

Mr. REID. I am happy to yield.

Mr. CRAIG. I appreciate those comments. I think we are all frustrated, when we have an issue as mature as this issue is, not to be able to define an arena of amendments and get a unanimous consent agreement that sets a course of action for us. To me, that is what defines progress and ultimate conclusion of what we do on the floor.

As I said earlier, I welcome all amendments that Senators want to have come to the floor. Let's get at the business of debating them and voting on them. When I see an hour quorum call because we cannot get somebody to come to the floor to offer an amendment—and I know the manager of the bill, the chairman of the Energy Committee, has worked mightily to get that done—I have to begin to question what is our intent here.

I am extremely pleased that the Senator from Nevada has recognized the possibility of getting a unanimous consent with a group. I did mention in my remarks that I know the Senator worked to accomplish that, and I appreciate that. But in the absence of doing that, it appears we are wandering a bit in a wilderness of undefinable amendments and no determination as to when we can conclude this process.

It is extremely pleasing to hear we may ultimately get that done because this is a critical issue.

Mr. REID. I will respond to my friend from Idaho. No. 1, we hope to have a list of amendments today sometime before the close of business. No. 2, as the Senator from Idaho knows, as the Senator from New Mexico knows, the lull in the proceedings here is not any fault of the minority. We are waiting for the majority to make a decision as to what they are going to do on the derivatives amendment filed by the Senator from California and the Senator from Illinois.

We are here to do business. We are simply waiting, until a decision is made on derivatives, as to what is the next amendment before us. We have lots of people willing to offer amendments on this side.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The Senator from New Mexico.

Mr. DOMENICI. Mr. President, first I thank the distinguished Senator from Idaho for his remarks this morning and for his assistance on this bill. I thank him very much.

This morning I want in particular to thank the distinguished minority whip, the Senator from Nevada, for his comments on the floor and his commitment. We are working on a list on our side. We will certainly be ready at the same time or sooner, which means whether we finish by this Friday or not, although we will try mightily once we have the list to wean them down and to move with dispatch. Obviously, we will be on a course to get an Energy bill this year, which is clearly what we want to do. From listening to the minority leader, I have no doubt whatsoever that is what the minority desires to do. I thank him very much for the comments here this morning.

As far as the pending amendment is concerned, it is in our hands at this point. The Senator from California has her prerogative of not wanting to set it aside. We have an obligation to decide what we are going to do with it. We ought to do that pretty soon. Our leadership will make that decision. It is not directly within the jurisdiction of this committee, or I would be making decisions with the leadership. It is more within the jurisdiction of the Agriculture Committee, and the leadership is taking a look.

I understand we have a vote this morning on a judge. Is that correct? That will give leadership a chance to be here in the Chamber, I say to my friend from Nevada, after which time we will make a decision on what we want to do with the pending amendment.

In the meantime, the Senator from New Mexico yields the floor knowing there are others who want to speak to this issue. The junior Senator from Idaho desires to speak. I will yield at this point so he may proceed.

The PRESIDING OFFICER. The Senator from Idaho.

AMENDMENT NO. 876

Mr. CRAPO. Mr. President, I rise to address the Feinstein amendment dealing with derivatives. I think it is a very bad idea. It is one we debated last year and one which is dangerous to our economy.

In order to understand, we have to go back 2 years. Several years ago, Congress wanted to know exactly how our country should approach the regulation of derivatives. As a result of that, and after a few years of study and debate in which a precise time was put together to evaluate the issue, that team came back with recommendations. Those recommendations were enacted by Congress in the Commodity Futures Modernization Act of 2000. This landmark legislation provided certainty with respect to the legal enforceability and regulatory status of swaps and other off-exchange derivatives—what we call over-the-counter derivatives—under the Commodity Exchange Act. The Feinstein amendment would undermine that certainty for OTC derivatives and would impose a new persuasive and unnecessary regulatory regime with respect to OTC derivatives based on energy or on other nonfinancial, nonagricultural commodities.

This act gets complicated, but these commodities are called ''exempt commodities.'' The term is a little bit confusing because it creates the impression sometimes that these commodities are not regulated at all. They are covered fully by the Commodity Futures Modernization Act and by the Commodity Exchange Act. The point is that they are not regulated in the same way that other securities are regulated.

OTC derivatives, including those based on energy, are critical risk management tools. Congress, key financial regulators and others recognize that OTC derivatives are critical tools that are used by businesses, government, and others to manage the financial, commodity, credit and other risks inherent in their core economic activities with a degree of efficiency that would not otherwise be possible.

It is important to state at the outset as we are discussing this issue that we are not talking about transactions that many people think of in securities where they think about investing in a stock in the stock market, a stock that may be regulated under our securities regulations system. These are not transactions that are engaged in by unsophisticated buyers or sellers. These are very sophisticated transactions. Those engaging in these transactions are sophisticated buyers and sellers. They are not the kinds of transactions most people think of when they think of investing in the stock market.

OTC derivatives based on energy products are an especially important tool, allowing market participants to manage risk. In fact, last year when we had Alan Greenspan testify at the Banking Committee, I asked him directly about whether he believed the management of derivatives, the regulation of derivatives, was being properly handled today and whether there was any aspect of our approach to regulating derivatives that led to the Enron

debacle or any of the other problems California faced.

At that time, the answer I got from Mr. Greenspan was that he was not aware of any evidence that indicated the problems we faced in the Enron circumstance were as a result of our regulatory regime for derivatives, and also that it was his opinion the use of derivatives was a very important tool to help to allocate risk in our economy in such a manner that it helped us stabilize and strengthen our economy.

In fact, he even went so far as to say he believed that one reason our economy had not dipped further as we faced a lot of the economic trials and tribulations we have faced in the last couple of years was because of our ability to utilize derivatives and to share and allocate risk in these complicated transactions.

Today, for example, airlines use over-the-counter derivatives to manage their risks with respect to the price and availability of jet fuel. Energy-intensive companies such as aluminum producers use OTC derivatives to hedge their risks of change in the cost of electricity, and energy producers likewise use OTC derivatives to minimize the effects of price volatility.

Again, I reiterate the point that these are complicated, sophisticated transactions being engaged in by very sophisticated participants in the market.

A Wall Street Journal article dated March 10, 2003, entitled ''U.S. Airlines Show Disparity in Hedging for Jet-Fuel Costs,'' illustrated the impacts of using derivatives to hedge in the U.S. airline industry. The article noted that jet fuel, now more than twice as expensive; as a year ago, is emerging as a major factor in survival and bankruptcy for airlines, as several carriers, including some of the weakest, find themselves with few protective price hedges in place.

In other words, these airlines did not effectively utilize the hedging tool, and now they are facing a doubling in the cost of their fuel prices against which they could have hedged. They could have spread that risk if they had used these hedging tools.

Congress should avoid actions that unnecessarily deter the use or increase the cost of these risk management tools.

Key financial regulators also oppose legislation such as this amendment. As I indicated earlier, Alan Greenspan indicated his opposition to increasing or changing the regulatory regime with regard to transactions in OTC derivatives. We are expecting anytime today to get a brandnew response from all of our financial regulators. But last year when this same debate was held, the Chairman of the Board of Governors of the Federal Reserve, the Secretary of the Treasury, the Chairman of the Securities and Exchange Commission, and the Chairman of the Commodity Futures Trading Commission, collectively known as the President's Working Group on Financial Markets, opposed the earlier versions of the amendment we debated.

In a September 18, 2002, letter to Senators CRAPO and MILLER, these regulators highlighted the benefits of OTC derivative noting that ''the OTC derivatives markets in question have been a major contributor to our economy's ability to respond to the stresses and challenges of the last two years.'' The President's working group also observed ''while the derivatives markets may seem far removed from the interests and concerns of consumers, the efficiency gains that these markets have fostered are enormously important to the consumers and to our economy.'' They urged Congress to protect these markets' contributions to the economy and to be aware of the potential unintended consequences of legislative proposals to expand regulation of the OTC derivatives markets, and changing the President's working group proposals which we enacted into law in 2000.

Federal Reserved Chairman Alan Greenspan told the Senate Banking Committee in March of last year that there was:

> a significant downside if we regulate [OTC derivatives based on energy] where we do not have to . . . because if we step in as government regulators, we will remove a considerable amount if the caution that is necessary to allow these markets to evolve. [W]hile it may appear sensible to go in and regulate, all of our experience is that there is a significant downside when you do not allow counterparty surveillance to function in an appropriate manner.

The CFTC does not need new authority to address acts of manipulation that appear to have occurred in California.

One of the arguments we often hear in favor of jumping in and increasing the regulatory scheme with regard to derivatives is that Enron destroyed the energy markets in California and if we had had a tough regulatory regime, that wouldn't have happened.

The CFTC's recent enforcement action against Enron demonstrates that it has adequate tools under the CFMA to address situations such as those, which arose in California. The following enforcement actions have been brought forth by the CFTC this year: No. 1, CFTC charges Enron with price manipulation, operating an illegal, undesignated futures exchange and offering illegal lumber futures contracts through its internet trading platform; No. 2, energy trading company agrees to pay the CFTC $20 million to settle charges of attempted manipulation and false reporting; and No. 3, former natural gas trader charged criminally under the Commodity Exchange Act with intentionally reporting false natural gas price and volume information to energy reporting firms in an attempt to affect prices of natural gas contracts.

The point here is, there is law in place prohibiting the kinds of things that happened in the Enron situation, and those laws are being enforced with criminal penalties being imposed. The fact they are already regulated is apparent. The fact that the acts that occurred in California are the subject of intense regulatory review and criminal enforcement conduct shows we do have regulatory protections in place. The fact there are bad actors who violate the law does not always mean we should necessarily increase the regulatory burdens we face in this country, that our economy deals with in this country.

The CFTC's Division of Enforcement continues to work closely with other Federal law enforcement officers across the country on investigations of possible round-trip trading, false reporting, and fraud and manipulation by energy companies, their affiliates, their employees, or their agents. Again, the point is, there is no evidence that any aspect or lack of aspect in our regulatory regime for the regulation of derivatives had anything to do with the actions of Enron and the occurrences in California that caused such a difficult problem in their energy economy.

There is no evidence that enactment of the CFMA, for example—the 2000 reforms, the modernization of our regulatory system—contributed to the collapse of Enron. Enron's collapse was caused by a failure of corporate governance and controls which, when it became public, led others to refuse to do business with them. As in the case of California, neither the CFTC nor any other key financial regulators has suggested more restrictive regulation of derivatives or derivatives dealers would have prevented the fall of Enron or is needed to prevent future similar events in the future.

The Feinstein amendment would cause more problems than it would cure. This amendment, among other items, would create jurisdictional confusion between the Federal Energy Regulatory Commission and the Commodity Futures Trading Commission. It would impose problematic capital requirements to facilities trading in the OTC energy derivatives markets. It would require futures-like reporting and recordkeeping requirements.

It would create both legal and regulatory uncertainty for brokered trading in OTC energy derivatives, as well as OTC derivatives based on other nonfinancial, nonagricultural commodities. It would subject to new regulation a broad range of market participants that have not traditionally been subject to the more intensive CFTC regulation. It would allow the CFTC to regulate any exempt commodity transaction and presumably any market participant that engages in such a transaction in a dealer market. Again, I repeat, these are sophisticated transactions between sophisticated actors in these markets. This proposal would create the very sort of uncertainty that Congress and the Commodity Futures Trading Commission have worked for more than a decade to avoid.

This amendment, in my opinion, is a solution in search of a problem. Since the collapse of Enron and the actions of some market participants to improperly exploit the weaknesses in the California energy price deregulation scheme, remedial actions have occurred on all fronts. The CFTC, the FERC, and others have initiated civil and criminal actions. The Financial Accounting Standards Board has aggressively pursued necessary changes in accounting rules, and private-sector groups have developed and implemented ''best practices'' rules and improved the techniques of managing credit and other risks in the OTC energy derivatives transactions.

The lessons of Enron and of California have been learned. The misdeeds and regulatory violations involving Enron and California have challenged regulators under the existing regulatory structure. Law enforcement agencies and private litigants are dealing with it under the existing regulatory structure. The energy markets are beginning to rebound, and they are becoming less volatile, notwithstanding the current uncertain economy. As a result and because of all this, the Feinstein amendment is little more than a solution in search of a problem, but for reasons I have already mentioned, it is a solution that is dangerous and unnecessary and will put more rigidity into our economy at a time when we need the flexibility and the resilience that will make our economy more dynamic in these difficult times.

Mr. President, there are a lot of other aspects of this debate we need to review before we vote on this amendment. I am hopeful by the end of the day we are going to be in a position where we can, as a Senate, deal with this amendment, as we dealt with it last year, by rejecting it and telling our energy derivatives markets, and all of our OTC derivatives markets, that the current modernized regulatory structure we put into place in 2000, as we follow the President's working group recommendations as to how to deal with these issues, will be maintained and will not be changed, and they can continue to utilize these important financial tools to keep our economy strong and dynamic.

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

The PRESIDING OFFICER. Who seeks recognition?

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.

Mr. REID. Mr. President, what is the matter now before the Senate? Is it the Reid amendment to the Feinstein amendment?

The PRESIDING OFFICER. The Reid amendment is the pending question.

AMENDMENT NO. 877, AS MODIFIED

Mr. REID. Mr. President, I have a modification to my amendment which I send to the desk.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 877), as modified, is as follows:

On page 18, strike line 1 and insert the following:

''(10) METALS.—Notwithstanding any other provision of this subsection, an agreement, contract, or transaction in metals—

''(A) shall not be subject to this subsection (as amended by section ___04 of the Energy Policy Act of 2003); and

''(B) shall be subject to this subsection and subsection (h) (as those subsections existed on the day before the date of enactment of the Energy Policy Act of 2003).

''(11) NO EFFECT ON OTHER AUTHORITY.—

Mr. REID. I state, Mr. President, I did this with no one from the majority being here, but it does not take unanimous consent, so I was not trying to take advantage of anyone.

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. ENZI. 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. ENZI. Mr. President, I rise to address the overlying amendment pending before us concerning the issue of energy derivatives. I know there is a second-degree amendment to that. I am a little disappointed there is a second-degree amendment to it. I understand why it was done. I know the Senator from California wants to separate off those people who are interested in metals derivatives from those who are interested in energy derivatives. She knows there is considerable interest on both of those parts. So this is a divide-and-conquer strategy, where later they will pick up the metals folks, thinking it will probably work better, because we debated this last year. We debated the same issue. We are back to an amendment that is slightly revised but still not good enough to make it through this body before.

We voted on this and we defeated this. One significant change is the second-degree amendment that takes the metals derivatives out of it. That is clever, but I hope the metals folks don't fall for it because they are next on the list.

The proponents of the amendment believe the trading of derivatives—especially in the energy area—was the cause of energy problems faced by Western States in recent years. The proponents believe energy trading of derivatives by Enron contributed significantly to the energy problem. Unfortunately, the problems that caused Enron to fail were based upon failures in corporate governance and outright fraud. Chairman Greenspan has testified several times before congressional committees that derivatives did not cause the collapse of Enron.

Last year we debated the same issue and we voted it down. The issue of derivatives trading is one of the most complicated and detailed issues to come before us. I have been tempted to see how many of us could even spell derivatives, and we are being called on here to make some major judgments on the issue. If you are a derivatives dealer or a small company that uses derivatives to stabilize revenues, or you are a purchaser of derivatives, this would probably be a stimulating debate. But it is one of those detailed ones, and I think that is why I get to speak on it. It is more the accounting type of thing. Consequently, most people will not be able to understand the implications or even how it operates other than in general details, and I am including myself in that.

I must admit that as chairman of the Securities and Investment Subcommittee of the Banking Committee, I have encountered especially complex market structure orders. However, the issue of derivatives goes beyond those issues. This may have been the most complicated matter I have looked at since I have been in the Senate.

Nobody really knows what a derivative is, including myself. They are very complicated, tailored instruments, each one being unique, which explains why, from the beginning of the trading of derivatives, it has been deregulated. It has never been regulated. In very basic terms, the selling of derivatives is a way for companies that cannot afford risk to pass it on to companies that are willing to accept the risk, to buy the risk. It is a form of corporate insurance. However, beyond this simple definition, the experts should be left to structure and negotiate the instruments. I want to mention that each instrument is unique. That is why it is not traded on the stock market. However, beyond this simple definition, we do need to leave it to the professionals, the ones who understand how this works. And there are professionals out there working on it.

While the amendment before us is very similar to last year's amendment, the changes made to the amendment do not completely solve the underlying problems. In fact, the amendment may have cause for greater confusion as to the jurisdiction of derivatives between the Commodity Futures Trading Commission, the Securities and Exchange Commission, the Office of the Comptroller of the Currency, and the Federal Energy Regulatory Commission.

In 2000, during the debate on the Commodity Futures Modernization Act, we discussed extensively the oversight and regulation of energy derivatives. We concluded that the proper amount of oversight for a new and emerging business had been put into law. I believe we took the proper course. That law gave the Commodity

Futures Trading Commission additional powers to regulate market manipulation where appropriate.

One argument that was made over and over during the debates last year and is being made this year is that somehow the 2000 legislation exempted these derivatives and swaps from regulation. That argument is not true. They never have been regulated. In fact, Congress acted in passing the Futures Trading Practice Act in 1992 to give the Commodity Futures Trading Commission specific power to exempt these derivatives and swaps as being inappropriate for regulation under the Commodity Futures Trading Commission, which has the job of regulating futures—not regulating tailored swaps between sophisticated customers.

The Congress passed the Futures Trading Practice Act in 1992 that directed the Commodity Futures Trading Commission to grant these exemptions. Those exemptions were granted in the previous administration, and the issue was not controversial until we started looking for a scapegoat. Nor have these swaps and derivatives ever come under Federal regulation in terms of an ongoing regulatory process.

Taxpayers take a dislike to the addition of programs to increase tax burden or regulation. This one is regulation. I am reminded of a poem from the play ''Big River'' that describes the emotions of a taxpayer. It goes:

Well you sole selling no-good
Son-of-a-shoe-fittin' firestarter
I ought to tear your no-good
Perambulatory bone frame
And nail it to your government walls
All of you, you Bureaucrats.

There is a concern across this country for bureaucrats setting up regulation, particularly regulation if it is not needed and regulation that is not understood by the regulators.

During his testimony before the Senate Banking Committee last March, Chairman Greenspan reiterated it was crucially important that Congress and Federal regulators permit the derivatives market to evolve amongst professionals who are the most capable of protecting themselves far better than Congress, the Federal Reserve, CFTC, or the Office of the Comptroller of the Currency. Unfortunately, there is a considerable downside for the Federal Government to get involved where the individual private parties are already looking at the economic events of their trading partners.

With respect to the Enron matter, there is no indication that the trading of energy derivatives contributed in any way to the collapse of Enron. Proponents of the amendment argue that Enron had such a large market share of this business that they were able to have undue influence over energy trading. However, to the contrary, during and after Enron's collapse, there were no interruptions of trading. If it had been a disaster, there would have been interruptions, but there were no interruptions of trading. The market continued.

One fear that existed in earlier debates, and still exists today, was that the CFTC did not have the regulatory power to correct abuses in trading of derivatives. However, on page 43 of the Senate companion bill, S. 3283, to the Commodity Futures Modernization Act of 2000, paragraph (4)(B) gives the Commodity Futures Trading Commission the power to intervene and enforce any action where fraud is present.

In listening to proponents of this amendment, one would believe that Federal regulators were powerless in the energy trading markets. Not only does the power exist, but it was strengthened in the 2000 legislation by a provision written into the energy section of the bill in the House of Representatives. In paragraph (4)(C) is a provision relating to price manipulation and that grants the Commodity Futures Trading Commission the power to intervene in cases where price manipulation occurs.

It should be noted that the Commodity Futures Trading Commission on April 9 of this year issued a ''Report on Energy Investigations,'' which details civil and criminal enforcement actions brought in energy-related markets since the passage of the Commodity Futures Modernization Act in 2000. The powers granted to the Commodity Futures Trading Commission appear more than sufficient to oversee market manipulation and, therefore, make the unwieldy regulatory scheme proposed by this amendment unnecessary.

I ask unanimous consent that the entire ''Report of the Energy Investigations'' be printed in the RECORD.

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

COMMODITY FUTURES TRADING COMMISSION'S REPORT ON ENERGY INVESTIGATIONS—APRIL 9, 2003

The Commodity Futures Trading Commission (the Commission or CFTC) has launched an extensive investigation of alleged misconduct in energy-related markets. To date, the Commission has investigated over 25 energy companies, including Enron and its affiliates, interviewed or taken testimony from over 200 individuals and reviewed in excess of 2 million documents. The Commission's efforts have already resulted in: the filing of three major enforcement actions, two of which were settled with civil monetary penalties totaling $25 million (see discussion below in Section I); related criminal filings (Section II); cooperative enforcement with Federal law enforcement officers; and public outreach efforts (Section IV).

The Commission has devoted significant resources to this investigation, including committing the full-time efforts of 30 staff members, which represents 25 percent of its total enforcement program staff. Through the first six months of fiscal year 2003, above and beyond its human resource costs, the Commission has spent $122,000 on expenses for its energy investigation, which is 30 percent of its enforcement program's total expenses during this time period. The Commission estimates its total energy investigation costs for the entire fiscal year should likely exceed $250,000.

Commission Chairman James E. Newsome, who is a member of the President's Corporate Fraud Task Force, remarked in connection with the commission's filing of an action against two energy companies in December 2002: ''My philosophy has been, and will continue to be, that the Commission has a responsibility to investigate alleged wrongdoing in a comprehensive and timely fashion. And, when violations are found, the Commission will come down hard. Over the course of the past year, the news has been peppered with admissions, accusations, and speculation of wrongdoing in the energy markets and, as a result, I have committed the Commission's resources to finding and punishing the wrongdoers. It is my belief that with the filing and simultaneous settling of this enforcement action, the Commission sends a clear message to all companies that engaged in similar behavior . . . a message that their actions will not be tolerated and that they will be prosecuted and subjected to the full consequences of the law.''

I. CIVIL INJUNCTIVE ACTIONS FILED BY THE COMMISSION

A. ENRON AND FORMER ENRON VICE PRESIDENT CHARGED WITH MANIPULATING PRICES IN NATURAL GAS MARKET; ENRON CHARGED FURTHER WITH OPERATING AN ILLEGAL, UNDESIGNATED FUTURES EXCHANGE AND OFFERING ILLEGAL LUMBER FUTURES CONTRACTS THROUGH ITS INTERNET TRADING PLATFORM

On March 12, 2003, the Commission filed a complaint in federal district court in Houston, Texas, charging defendants Enron Corp. (Enron), an Oregon Corporation headquartered in Houston, and Hunter S. Shively (Shively) of Houston, Texas, with manipulation or attempted manipulation, and charging Enron with operating an illegal futures exchange, and trading an illegal, off-exchange agricultural futures contract.

Until its bankruptcy in December 2001, Enron was one of the largest energy companies in the United States. Its natural gas trading unit was based in Houston and managed several natural gas over-the-counter (OTC) products. Enron's natural gas trading unit was divided into geographical regions and included a natural gas futures desk. Shively was the desk manager for Enron's Central Desk from May 1999 through December 2001.

From November 1999 through at least December 2001, Enron Online (EOL) was Enron's web-based electronic trading platform for wholesale energy, swaps, and other commodities, including the Henry Hub (HH) natural gas next-day spot contract that was delivered at the HH natural gas facility in Louisiana. The HH is the delivery point for the natural gas futures contract traded on the New York Mercantile Exchange (NYMEX), and prices in the HH Spot Market are correlated with the NYMEX natural gas futures contract. During its existence, EOL became a leading platform for natural gas spot and swaps trading.

The complaint charges that on July 19, 2001, Shively, through EOL, caused Enron to purchase an extraordinarily large amount of HH Spot Market natural gas within a short period of time, causing artificial prices in the HH Spot Market and impacting the correlated NYMEX natural gas futures price.

The complaint also charges Enron with operating EOL as an illegal futures exchange from September through December 2001. According to the complaint, in September 2001, Enron modified EOL to effectively allow outside users to post bids and offers. Enron listed at least three swaps on EOL that were commodity futures contracts. The complaint further alleges that with this modification, Enron was required to register or designate EOL with the CFTC or notify the CFTC that EOL was exempt from registration. Enron

failed to do either of these things, and the complaint charges that, because of this failure, EOL operated as an illegal futures exchanged.

Finally, the complaint charges Enron with offering an illegal agricultural futures contract on EOL. According to the complaint, between at least December 2000 and December 2001, Enron offered a product on EOL it called the US Financial Lumber Swap. The complaint alleges that the EOL lumber swap was an agricultural futures contract that was not traded on a designated exchange or otherwise exempt, and therefore was an illegal agricultural futures contract. The CFTC is seeking against each defendant a permanent injunction, civil monetary penalties and other remedial and ancillary relief.

B. EL PASO MERCHANT ENERGY, L.P. SETTLES CLAIMS UNDER THE COMMODITY EXCHANGE ACT THAT IT INTENTIONALLY REPORTED FALSE NATURAL GAS PRICE AND VOLUME INFORMATION TO ENERGY REPORTING FIRMS IN AN ATTEMPT TO AFFECT PRICES OF NATURAL GAS CONTRACTS

On March 25, 2002, the Commission issued an administrative order settling charges of attempted manipulation and false reporting against energy company El Paso Merchant Energy, L.P. (EPME), a division of El Paso Corporation (El Paso). The CFTC settlement order finds that from at least June 2000 through November 2001, EPME reported false natural gas trading information, including price and volume information, and failed to report actual trading information, to certain reporting firms. According to the order, price and volume information is used by the reporting firms in calculating published indexes of natural gas prices for various hubs throughout the United States. The order finds that EPME knowingly submitted false information to the reporting firms in an attempt to skew those indexes for EPME's financial benefit. According to the order, natural gas futures traders refer to the published indexes for price discovery and for assessing price risks. The CFTC found that EPMS's false reporting conduct violated the Commodity Exchange Act (CEA).

The order also finds that EPME's employees provided false trade data because they believed it benefited their trading positions or derivative contracts. In addition, the order finds that EPME did not maintain required records concerning the information that it provided to the reporting firms or the true source of the information related to those firms, as required by Commission regulations. As a result of its actions, EPME violated the CEA and Commission regulations.

The order further finds that EPME specifically intended to report false or misleading or knowingly inaccurate market information concerning, among other things, trade prices and volumes, and withheld true market information, in an attempt to manipulate the price of natural gas in interstate commerce, and that EPME's provision of the false reports and failure to report true market information were overt acts that furthered the attempted manipulation. According to the order, EPME's conduct constituted an attempted manipulation under the CEA, which, if successful, could have affected prices of NYMEX natural gas futures contracts.

The CFTC order imposed the following sanctions: required EPME to cease and desist from further violations of the EA and Regulations; required EPME and El Paso, jointly and severally, to pay a civil monetary penalty of $20 milliion—$10 million immediately and $10 million plus post-judgment interest within three years of the entry of the order; and obliged EPME and El Paso to comply with various undertakings, including an undertaking to cooperate with the Commission in this and related matters, including any investigations of matters involving the reporting of natural gas trading information.

EPME provided significant cooperation in the course of the Commission's investigation by, among other things, conducting an internal investigation through an independent law firm, waiving work product privilege as to the results of that investigation, and compiling and analyzing trading data which detailed all reported and actual trades in the natural gas markets. The Commission took that significant cooperation into consideration in its decision to accept EPME's settlement offer.

C. DYNEGY MARKETING & TRADE AND WEST COAST LLC SETTLE CLAIMS UNDER THE COMMODITY EXCHANGE ACT THAT THE INTENTIONALLY REPORTED FALSE NATURAL GAS PRICE AND VOLUME INFORMATION TO ENERGY REPORTING FIRMS IN AN ATTEMPT TO AFFECT PRICES OF NATURAL GAS CONTRACTS

On December 19, 2002, the Commission issued an administrative order settling charges of attempted manipulation and false reporting against energy companies Dynegy Marketing & Trade (Dynegy) and West Coast Power LLC (West Coast). The CFTC settlement order finds that from at least January 2000 through June 2002, Dynegy and West Coast reported false natural gas trading information, including price and volume information, to certain reporting firms. According to the order, price and volume information is used by the reporting firms in calculating published surveys or indexes (indexes) of natural gas prices for various hubs throughout the United States. The order finds that Dynegy knowingly submitted false information to the reporting firms in an attempt to skew those indexes for Dynegy's financial benefit. According to the order, natural gas futures traders refer to the published indexes for price discovery and for assessing price risks. The CFTC found that Dynegy's false reporting conduct violated the CEA.

The order further finds that in an effort to ensure that its reported information would be used by the reporting firms, Dynegy caused West Coast to submit information misrepresenting that West Coast was a counterparty to fictitious trades. In addition, the order finds that Dynegy did not maintain required records concerning the information which it provided to the reporting firms or the true source of the information relayed to those firms, as required by Commission Regulations. As a result of their actions, Respondents violated the CEA and Commission Regulations.

The order further finds that Respondents specifically intended to report false or misleading or knowingly inaccurate market information concerning, among other things, trade prices and volumes, to manipulate the price of natural gas in interstate commerce, and that Respondents' provision of the false reports and their collusion, which was designed to thwart the reporting firms' detection of the false information, were overt acts that furthered the attempted manipulation. According to the order, Respondents' conduct constitutes an attempted manipulation under the CEA, which if successful, could have affected prices of NYMEX natural gas futures contracts.

The CFTC order imposed the following sanctions: required Dynegy and West Coast to cease and desist from further violations of the CEA and Regulations; required Dynegy and West Coast, jointly and severally, to pay a civil monetary of $5,000,000; and obliged Dynegy and West Coast to comply with their undertakings, including an undertaking to cooperate with the CFTC in this and related matters.

II. RELATED CRIMINAL ACTIONS

A. ENRON'S FORMER CHIEF ENERGY TRADER PLED GUILTY TO CONSPIRACY TO COMMIT WIRE FRAUD IN SCHEME TO MANIPULATE ENERGY MARKET

On October 17, 2002 the Office of the United States Attorney for the Northern District of California announced that Timothy N. Belden, who was Enron's Chief Energy Trader, had agreed to plead guilty to conspiracy to commit wire fraud in a scheme with others at Enron to manipulate California's energy market. Specifically, Belden admitted that beginning in approximately 1998, and continuing through 2001, he and others at Enron conspired to manipulate the energy markets in California by: (1) misrepresenting the nature and amount of electricity Enron proposed to supply in the California market, as well as the load it intended to serve; (2) creating false congestion and falsely relieving that congestion on California transmission lines, and otherwise manipulating fees it would receive for relieving congestion; (3) misrepresenting that energy was from out-of-state to avoid federally approved price caps, when in fact, the energy it was selling was from the State of California and had been exported and re-imported; and (4) falsely represented that Enron intended to supply energy and ancillary services it did not in fact have and did not intend to supply. A sentencing date has yet to be scheduled for Belden, but a status hearing in his case is set for April 17, 2003. In announcing the plea agreement, the efforts of the Commission, Federal Energy Regulatory Commission (FERC) and Federal Bureau of Investigation (FBI) were recognized.

B. FORMER HEAD OF ENRON'S SHORT-TERM CALIFORNIA ENERGY TRADING DESK PLED GUILTY TO CRIMINAL CHARGES BASED UPON HIS AND OTHER ENRON TRADERS' CRIMINAL MANIPULATION OF THE CALIFORNIA ENERGY MARKETS

On February 4, 2003 the Office of the United States Attorney for the Northern District of California announced that Jeffrey S. Richter, who was the head of Enron's Short-Term California energy trading desk, had agreed to plead guilty to conspiracy to commit wire fraud in a scheme with others at Enron to manipulate California's energy markets and also to making false statements to investigators. Specifically, Belden admitted to making false statements to the FBI and U.S. Attorneys Office during the continuing investigation into fraudulent trading practices in those markets. Specifically, Richter admitted his participation on behalf of Enron in two fraudulent schemes devised by Enron traders, known internally within Enron as ''Load Shift'' and ''Get Shorty.'' Enron's ''Load Shift'' trading scheme involved the filing of false power schedules to increase prices by creating the appearance of ''congestion'' on California's transmission lines, which permitted Enron to profit through its ownership of transmission rights on the lines and by offering to ''relieve'' the congestion through subsequent schedules. Enron's ''Get Shorty'' trading scheme involved the company's traders fabricated and sold emergency back-up power (known as ancillary services) to the California Independent Service Operator, received payment, then cancelled the schedules and covered their commitments by purchasing through a cheaper market closer to the time of delivery. In announcing the plea agreement, the efforts of the Commission, FERC, FBI, and the Antitrust Division of the Department of Justice were recognized.

C. FORMER DYNEGY NATIONAL GAS TRADER CHARGED CRIMINALLY UNDER THE COMMODITY EXCHANGE ACT WITH INTENTIONALLY REPORTING FALSE NATURAL GAS PRICE AND VOLUME INFORMATION TO ENERGY REPORTING FIRMS IN AN ATTEMPT TO AFFECT PRICES OF NATURAL GAS CONTRACTS

On January 27, 2003 the Office of the United States Attorney for the Southern District of Texas, Houston Division, unsealed a seven count federal indictment charging Michelle Valencia, a former Senior Trader at Dynegy, with three counts of false reporting under the CEA. Additionally, Valencia was charged with four counts of wire fraud. The indictment alleges that on three separate occasions in November 2000, January 2001 and February 2001, Valencia, responsible for trading natural gas through Dynegy's ''West Desk'' caused the transmission of a report which include price and volume data to certain publications knowing that the trades had not actually occurred. In announcing the indictment, the efforts of the Commission and the FBI were recognized.

III. COOPERATIVE ENFORCEMENT—COMMISSION SEMINAR WITH FEDERAL LAW ENFORCEMENT OFFICERS ON ENERGY MARKETS

On February 12, 2003 the Commission hosted forty federal criminal law enforcement officers at a cooperative enforcement session on current issues in energy investigations. Attending were Assistant United States Attorneys, Federal Bureau of Investigation agents, and United States Postal Inspectors. The Commission's Division of Enforcement, which coordinated the program, has been working closely with other federal law enforcement officers across the country on investigations of possible round-trip trading, false reporting, and fraud and manipulation by energy companies and their affiliates, employees and agents. The meeting was designed to share expertise, and to discuss ways for federal enforcers to cooperate in these inquiries.

IV. PUBLIC OUTREACH

In carrying out its regulatory and enforcement responsibilities under the CEA, the Commission relies upon the public as an important source of information. A questionnaire, available by clicking on the Enron Information link on the CFTC's homepage at www.cftc.gov, has been prepared by the CFTC's Division of Enforcement to assist members of the public in reporting suspicious activities or transactions involving Enron, its subsidiaries, affiliates, or related entities. The Division is also interested in receiving information relating to suspicious activities or transactions that may have affect West coast electricity or natural gas prices, particularly in January 2000 through December 31, 2001. Interested person can also call the Commission's toll-free voice mailbox and leaving relevant information at (866) 616–1783.

Mr. ENZI. Mr. President, I believe the amendment is overly broad and, if adopted, will likely decrease market liquidity because of increased legal and transactional uncertainties. Additionally, energy companies may be discouraged from using derivatives to hedge price risks, resulting in increased volatility in the energy markets. In the end, I believe this will hurt the very consumers the legislation seeks to help.

The amendment appears to grant the Federal Energy Regulatory Commission primary jurisdiction over energy derivatives, but if the Federal Energy Regulatory Commission determines that the derivative or financial instrument is not under its jurisdiction, then the Federal Energy Regulatory Commission should refer the derivative or financial instrument to the appropriate Federal regulator. Unfortunately, this will create great uncertainty for market participants as to which agency's regulatory scheme the derivative would fall under.

I recently was involved in some pipeline questions and ran into the circular path of fingerpointing where each agency said the other agency and the other agency and the other agency was responsible until it pointed back to the first agency, and nobody would look at the problem. That is the kind of circular problem we are creating with this amendment.

In addition, it goes without saying that Federal agencies want to expand their jurisdiction and get bigger. It should be noted that while the Federal Energy Regulatory Commission seeks to expand its authority to regulate these energy derivatives markets, other Federal agencies, particularly the financial regulatory agencies, believe such a regulatory scheme would be detrimental to the market.

The amendment also would subject to regulation a broad class of ''covered entities,'' including both electronic trading facilities and ''dealer markets'' that are not otherwise trading facilities. As discussed above, this definition may be too broad as to deter participants from entering the trading markets.

In addition, the amendment would permit CFTC to impose notice, reporting, price dissemination, record-keeping, among other requirements. Not only would these requirements apply to dealer markets, but also to exemption commodity transactions on such an entity.

The secondary amendment that would exempt metals from the proposed regulatory scheme of the underlying amendment is not a good idea. Congress should be very cautious about carve-outs without fully understanding the implications. With regard to metals, Congress may start down a slippery slope where this initial carve-out is for the metals industry and then move on to other industries. I believe we need to explore this in the committees before having it considered on the floor. Therefore, I urge Members to resist the free vote without knowing all the consequences.

Letters were recently sent to the Senate Energy Committee by the Chicago Board of Trade, the Chicago Mercantile Exchange, and the New York Mercantile Exchange opposing legislation introduced this Congress that is very similar to the amendment before us.

Various other groups have been outspoken about this amendment, including the National Mining Association, the International Swaps and Derivatives Association, and the Bond Market Association, just to name a few. In addition, during last year's debate on the Energy bill, the President's working group, comprised of the Chairman of the Board of Governors of the Federal Reserve, the Secretary of the Department of the Treasury, the Chairman of the SEC, the Chairman of the CFTC, opposed a similar amendment and we defeated it. Individually, the Chairman of the CFTC and the then-Chairman of the SEC sent letters directly to me opposing the energy derivative amendment.

On the overall topic of derivatives, Chairman Greenspan stated:

> Although the benefits and costs of derivatives remain the subject of spirited debate, the performance of the economy and the financial system in recent years suggests that these benefits have materially exceeded the costs.

If the proponents of this amendment are attempting to remedy the problems caused by Enron, I do not believe this amendment will make a difference to prevent future Enrons. However, if last year's Sarbanes-Oxley Act had been in place sooner, then the corporate governance requirements of the act may have served as an early warning system to Enron's audit committee and have covered the fraudulent activities early in the process.

What I am saying is, we corrected the fraudulent problem. I am very concerned that if we adopt this amendment, we may fundamentally change the emerging derivatives market. Once the structure is in place, it may place such a burden on the market participants that it may not be worthwhile to pursue. In addition, the amendment may have caused unintentional confusion as to which regulator may or may not oversee individual participants or components of the marketplace. Before we make any fundamental change, we should, at a minimum, try to understand the ramifications first.

I am afraid this amendment might fit under the congressional precept that if it is worth reacting to, it is worth overreacting to, and that is something we have to avoid if we want to make sure that the markets continue to exist. Like Chairman Greenspan, I believe the derivative trading, even in the energy derivative area, has been extremely beneficial to our economy and I hope we continue it.

I request that Members vote against the overlying amendment.

I ask unanimous consent that a letter from Jack Gerard of NMA be printed in the RECORD.

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

NATIONAL MINING ASSOCIATION,
Washington, DC, June 11, 2003.

Hon. MIKE ENZI,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR ENZI: The National Mining association opposes attempts by Senator Feinstein or Senator Levin to further regulate the derivatives OTC market. Over the Counter derivatives including those based on energy and metals are critical risk management tools.

We appreciate Senator Reid's positive work to exclude metals from the pending amendment, but continue to oppose the Feinstein or Levin amendments which unnecessarily increases regulation of the OTC energy derivatives.

Attached are additional talking points generated by us and our partners in the financial community. Thank you for your interest.

Sincerely,

JACK GERARD.

Hon. BILL FRIST,
Majority Leader, U.S. Senate,
Washington, DC.
Hon. TOM DASCHLE,
Democratic Leader, U.S. Senate,
Washington, DC.

THE HONORABLE BILL FRIST AND THE HONORABLE TOM DASCHLE: We urge you to oppose any financial derivatives, energy derivatives, metals derivatives and energy trading market provisions contained in S. 509 that may be offered as amendments by Senator Feinstein to H.R. 6, the Energy Policy Act of 2003.

The provisions of S. 509 (introduced by Senator Feinstein in March and referred to the Senate Agriculture Committee) include, in addition to other problematic provisions, language that would expand FERC jurisdiction, creating uncertainty and unnecessary jurisdictional confusion between the FERC and CFTC for financial and energy derivatives transactions. The amendment also contains specific provisions to expand FERC jurisdiction over ''other financial transactions.'' In addition to creating legal uncertainty within the OTC derivatives markets, this provision would potentially call into question the CFTC's exclusive jurisdiction over futures and options on futures.

Provisions contained in S. 509 are similar to the Feinstein amendment, which was offered to last year's Senate energy bill. The amendment was defeated in a cloture motion on April 10, 2002. In addition, key financial regulators have also opposed these types of provisions. The Chairman of the Board of Governors of the Federal Reserve, the Secretary of the Treasury, the Chairman of the Securities and Exchange Commission and the Chairman of the Commodity Futures Trading Commission, collectively known as the President's Working Group on Financial Markets (PWG), all opposed earlier versions of the proposed legislation.

We ask that you preserve the legal activity achieved with passage of the Commodity Futures Modernization Act of 2000 and oppose any amendments relating to financial derivatives and the energy trading markets.

Sincerely,

American Bankers Association, ABA Securities Association, Association for Financial Professionals, The Bond Market Association, Emerging Markets Trade Association, Financial Services Roundtable, The Foreign Exchange Committee, Futures Industry Association, International Swaps and Derivatives Association, Managed Funds Association, National Mining Association, Securities Industry Association.

1. WHAT ARE DERIVATIVES?

The term ''derivatives'' refers to a wide array of privately negotiated over-the-counter (''OTC'') and exchange traded transactions. Over the last decade, OTC derivatives transactions have grown to include not only interest rate and currency swaps, but also interest rate caps, collars and floors, swap options, commodity price swaps, equity swaps, credit derivatives, weather derivatives and other financial derivative products.

2. WHAT IS THE OVER-THE-COUNTER MARKET?

The OTC market is the principals' market whereby business is transacted directly between the buyer and seller. There is no middleman, exchange or clearinghouse involved. The OTC market now sees most of the derivative activity, and dwarfs the exchanges.

3. WHY DO COMPANIES USE DERIVATIVES?

Companies use derivatives to manage risk and enhance profit potential. Derivatives have been around since the 1970s and generally have been regarded as efficient tools that lend stability to business operations. Corporations typically use them to reduce risk from swings in currency values or interest rate movements.

4. ARE DERIVATIVES IMPORTANT TO THE MINING INDUSTRY?

Since 1974, when the Commodity Exchange Act (CEA) was enacted by Congress, derivatives have become very important to the metals mining industry as a method to protect against market volatility. Many of these products did not exist when the Act was first adopted. These derivatives play a key role in the metals hedging programs that gold producers have used in periods of declining gold prices to sell their production forward. Miners of other metals commodities also use derivatives to manage the risk of fluctuating prices. Since their creation, these metals derivatives products have always been sold over-the-counter, mainly because the transactions occur between or among large institutions and high worth companies and the products can be customized for the particular needs of the parties.

5. HOW HAVE DERIVATIVES BENEFITED MARKET PARTICIPANTS?

The growth of the derivatives market has been of considerable benefit to users individually. In the gold sector, central banks have been able to earn income on gold holdings, while gold fabricators have been able to insulate themselves from the impact of fluctuations in the price of gold on their inventory holdings. Hedging has enabled producers to develop new mines using project finance.

6. HOW WOULD A COMPANY USE DERIVATIVES TO HEDGE THEIR MINE PRODUCTION?

A hedging program will typically include a mix of over-the-counter derivative products, including ''Forward Sales'' and ''Spot Deferred Contracts.'' For example, in a spot deferred contract a bullion dealer borrows gold from a central bank, and sells it into the spot market at a price of $350 per ounce. The proceeds are placed on deposit and earn interest of 4%. A fee of 1% is paid by the bullion dealer to the central bank. The interest difference of 3.0% is called ''contango.'' The mining company receives the original proceeds from the spot sale ($350) plus the five years of accrued interest ($56) for a total amount of $406 per ounce.

TALKING POINTS FOR FEINSTEIN AMENDMENT TO SENATE ENERGY BILL

Senator Feinstein is offering an amendment to the comprehensive energy bill which is now being considered on the Senate floor. This amendment would subject OTC energy derivatives to comprehensive, exchange-type regulation including capital requirements.

Although Senator Feinstein has made some changes to her original legislation as introduced, these are not significant and do not address the concerns we have raised with you and others.

The legislation still contains inappropriate layers of regulation, including capital requirements for electronic exchanges that only bring parties together and have no role in any resulting transactions. This amount of regulation sends the business offshore.

The legislation creates legal uncertainty by giving the CFTC vastly expanded and undefined jurisdiction over all types of commodities transactions, not just futures contracts. The clarity of CFTC jurisdiction, and accompanying legal certainty that transactions will not be deemed illegal and voidable, created by the CFMA enacted in 2000 is destroyed.

Legal uncertainty is compounded by the fact that FERC now has a role that is supposedly dependent on whether energy is actually delivered. However, the decision whether to deliver energy may be made years after the transaction is entered into, leaving the parties uncertain during the life of the contract which agency has jurisdiction.

Message: Oppose the Feinstein Amendment. If action needs to be taken, it should be done in a thoughtful, deliberate manner through the Committee process, not as a floor amendment.

Mr. ENZI. I yield the floor.

EXECUTIVE SESSION

NOMINATION OF RICHARD C. WESLEY TO BE UNITED STATES CIRCUIT JUDGE FOR THE SECOND CIRCUIT

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session to consider Executive Calendar No. 220, which the clerk will report.

The assistant legislative clerk read the nomination of Richard C. Wesley, of New York, to be United States Circuit Judge for the Second Circuit.

The PRESIDING OFFICER. Who yields time?

The Senator from Vermont.

Mr. LEAHY. Mr. President, I yield myself time.

As the two distinguished Senators from New York are in the Chamber, I will yield my time to them adding only this: This is a nominee to one of the most important courts in the country. It is actually my circuit. It is a Republican nominee, nominated by a Republican President. I predict that the nominee is going to go through easily because, contrary to the normal procedure on some of these nominees, the White House has sent up somebody who can unite us, not divide us. Usually they send nominees who divide us and not unite us. This is an example of what happens when a nominee to a powerful court is sent up who will unite us and not divide us.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from New York.

Mr. SCHUMER. Mr. President, I join my colleague from Vermont and my colleague from New York in supporting the nomination of Judge Wesley.

I rise in enthusiastic support of Richard Wesley's nomination to the Second Circuit Court of Appeals.

Like most of the nominees we see, Judge Wesley has a top-flight legal mind and experience. He graduated from SUNY-Albany summa cum laude

and from Cornell Law School. He worked in private practice for several years, worked as a staffer to the minority leader of the New York State Assembly, and from 1983 to 1987, represented the 136th District in the assembly.

That was just after I left the assembly, so I never had the privilege of actually serving with him, but my former colleagues in the assembly, many of whom disagreed on policy with Judge Wesley, all have spoken very highly of both his capabilities and his integrity.

Judge Wesley has served on the State trial court in New York, the intermediate appellate court, and for the past 6 years on New York's highest court, the court of appeals. He has the distinction of being appointed to the bench by both Governor Cuomo and Governor Pataki. Clearly there is a serious history of bipartisan support.

His nomination has been examined by his good friend and my friend Congressman REYNOLDS, as well as by Bill Paxon. They have known him for a very long time and vouch for him as well. I do not think Judge Wesley would have gotten where he did without the push from TOM REYNOLDS, and I think we all appreciate it because we are adding a qualified person to the bench.

There is no question Judge Wesley is well-qualified, but as my colleagues know, legal excellence is only one of the three criteria I use when evaluating judicial nominees. I also look at diversity and moderation.

Judge Wesley is the third Second Circuit judge we have considered under the Bush administration.

Judge Barrington Parker, who we confirmed in 2001, is African-American, and Judge Reena Raggi, who we confirmed in 2002, is a woman. So we are doing quite well on diversity when it comes to recent nominations to that court.

Our experience with the Second Circuit on excellence and diversity is similar to our experience with the President's nominations to the other circuit courts. By and large, he has done a good job bringing us well-qualified nominees who are not exclusively white males.

It is on that third prong, moderation, where we have had some problems. I am pleased to say that Judge Wesley fits quite well with Judge Parker and Judge Raggi as being well within the mainstream.

I would like to read what Judge Wesley said about his own judicial philosophy:

> I consider myself a conservative in nature, pragmatic at the same time, with a fair appreciation of judicial restraint. I have always restricted myself to what I understand to be the plain language of the statue and not gone beyond that [because] public policy is made by the legislature.

That is an honest and candid assessment of how Judge Wesley judges.

It is not just words. We have had nominees who have come before us and said that, but this is what he has done because he has a record. He has had 16 years on the bench to back it up. We know Judge Wesley has certain positions in which he personally believes. He has an ideology. That is clear from several of the votes he took in the assembly. For instance, in the assembly he voted the pro-life point of view. That is different from mine. And, of course, I do not have a litmus test. Most of us do not.

What is abundantly clear from his record on the bench is that he can check his personal beliefs at the door and judge fairly and honestly.

Unlike, some of the nominees we have seen, including Bill Pryor, the Fifth Circuit nominee whose contentious hearing is going on in the Judiciary Committee as we speak, there is nothing controversial about Judge Wesley.

He is best known for his thoughtful, scholarly approach that unites judges behind unanimous opinions.

He is truly a uniter, not a divider. He is a judge, not an activist. He will be a credit to New York, to the Second Circuit, and to the Senate when we confirm him.

It would be my wish that this would be the character of the President's nominees. I ask unanimous consent that an editorial from Judge Wesley's hometown paper, the Rochester D&C, Democrat and Chronicle, be printed in the RECORD. It says: ''Bipartisan Support?'' And then it says:

> If only more judicial nominees would go as smoothly as this one.

Well, I wish that would happen.

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

[From the Rochester D&C, June 4, 2003]

BIPARTISAN SUPPORT?

If only more judicial nominations would go as smoothly as this one.

In an era in which partisan bickering over judicial nominations has become almost routine, it's significant that New York Appeals Court Judge Judge Richard Wesley has bipartisan backing for his nomination to a federal court.

For the sake of the nation's judiciary, hope that Wesley's easy confirmation hearing before the Senate Judiciary Committee last week will become a model for handling presidential nominations to federal judgeships. Wesley, a resident of Livonia in Livingston County, is now virtually assured of winning confirmation by the Senate Judiciary Committee and the full Senate when they vote on the nomination.

Wesley's smooth sailing had a lot to do with the strong support he had from Sens. Charles Schumer and Hillary Clinton, both Democrats, and Republican Rep. Tom Reynolds, who represents parts of this region. Wesley, appointed to state courts by former Democratic Gov. Mario Cuomo and Republican Gov. Pataki, is a GOP conservative, who Schumer described as having ''moderate views.''

Maybe if the Bush administration selected more judges of Wesley's caliber there'd be less of the antagonism that typically surrounds too many judicial nominations.

Mr. SCHUMER. It will happen if the President truly consults with us and nominates judges in the mold of Judge Wesley, clearly conservative but also clearly within the mainstream. It would be my hope that we would not have 51 votes for many of the nominees but 100 for most all of the nominees, or close to it. If this President should decide to treat the nominees and the rest of the country the way he is treating nominees in the Second Circuit, that is what would happen. That is my hope. That is my prayer.

I urge every one of my colleagues to vote for this fine addition to the bench. We are all proud of him in New York State, and he will make a great addition to the Second Circuit.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. Mr. President, I rise to join my colleague from New York in expressing my very strong support for the nomination of New York State Court of Appeals Judge Richard C. Wesley to the United States Court of Appeals for the Second Circuit.

A few weeks ago, I was honored to testify before the Judiciary Committee in support of this nominee because I believe then, as I do today, that he will make a fine addition to the Second Circuit and will serve that court with distinction. I was also pleased to see supporting Judge Wesley's nomination, his mother Beatrice, ''Betty'' Wesley and his children Sarah and Matthew. They and his wife Kathryn are all very proud of him, and have every reason to be so proud.

The calls and letters of support I have received about Judge Wesley from a wide variety of distinguished members of the legal profession are a testament to his qualities of high intellect, judicial temperament, caring for the profession and, most importantly, commitment to justice.

Having a significant public service record is not a requirement for serving on our Federal judiciary. But it is very significant to note that Judge Wesley has spent most of his career serving the public trying to make New York a better place for our children and families.

He has had a distinguished academic career, graduating summa cum laude from Cornell University Law School. He did have the experience in private practice and in the legislative body, the New York State assembly. He has served on trial and appellate New York courts.

In addition to performing his professional duties to the highest standards, he has taken an interest and taken the time to become involved in other significant pressing problems. As a trial court judge, Judge Wesley instituted a felony screening program in Monroe County that reduced the delays in processing felony cases by over 60 percent. The program proved so successful that it served as a model for judicial districts across our State.

In 1993, he created the JUST Program, which for a decade has provided

services to court and criminal justice agencies, again in Monroe County, to monitor preplea and presentence defendants and to provide alternatives, where appropriate, to incarceration.

I am also very impressed that Judge Wesley has been a champion for victims of domestic violence. He has been in the forefront for years in providing shelters for victims of domestic violence, primarily women and their children. He has championed their rights in court and he has sought to help provide the resources that would give these victims another chance.

After 7 years on the trial court, he was appointed to the appellate division and then to New York's highest appellate court, the New York State Court of Appeals. Judith Kaye, the Chief Judge of that court, cannot say enough about Judge Wesley's contributions. I am sure he will be greatly missed as he starts his new career on the Second Circuit.

This is a very positive nomination. He will not only make his former colleagues proud and he will certainly make lawyers everywhere proud, but he will especially make Western New York proud because once confirmed, Judge Wesley will be the first Western New Yorker—for those who are not from New York, that includes places such as Rochester, Buffalo, and Jamestown, places on the other end of our very diverse, large State—to be confirmed as an associate judge of the Second Circuit since 1974.

Although it is very clear that Judge Wesley and I do not agree on every policy or legal issue, and I have no way of knowing how Judge Wesley will vote when these important issues come before him, I have every confidence in his professional preparation, in his temperament and demeanor, in his commitment to justice. He may be a conservative Republican, but he is a judge and an American first.

I join my colleague, the ranking member on the Judiciary Committee, in expressing the very strong wish that we could have more nominees like Judge Wesley, someone who comes from a Republican President, who is easily confirmed by a bipartisan majority, proceeded by a unanimous vote in the Judiciary Committee. I predict he will be confirmed on this floor unanimously. Why? Because although Judge Wesley is not of my party, he may not be of my judicial philosophy, he already in his judicial career decided cases differently than I would have, had I been sitting on that bench, he is a person whom we always know will put the interests of justice first, and will preside in a totally nonideological, nonpartisan manner. That is what every judge should be doing.

It is certainly the responsibility of the Senate to advise and consent so that our Federal judiciary, which consists of lifetime appointments, will be filled by people of the caliber of Judge Wesley.

I yield the floor.

Mr. HATCH. Mr. President, I am pleased that we are considering the nomination of Richard C. Wesley, who has been nominated by President Bush to serve on the United States Court of Appeals for the Second Circuit. He has an outstanding record of distinguished public service and will be a great addition to the Second Circuit.

Judge Wesley currently serves as an associate judge on the New York Court of Appeals, the State's highest court, having been unanimously confirmed by the State senate in 1997. His 16 years on the trial and appellate bench, plus prior service as a member of the New York State Assembly, has given him the experience and background to make an outstanding Second Circuit Judge.

In addition to his judicial experience, Judge Wesley has had a distinguished legal career. After graduating from Cornell Law School, he began his legal career in 1974 as an associate at the Pittsford, NY, office of Harris, Beach and Wilcox. He achieved a partnership at Welch, Streb, Porter, Meyer & Wesley in Geneseo, NY, in 1977 and in 1979, became assistant counsel to the minority leader of the New York State Assembly in Albany. In 1983, he was elected to the New York Assembly himself, representing his home district in western New York.

Judge Wesley began his judicial career in 1987, when he was elected to the Seventh Judicial District of the Supreme Court of New York. From 1991 to 1994, he served as the supervising judge for the Criminal Courts within the Supreme Court, and in 1994 Governor Cuomo appointed him to the Appellate Division of the Supreme Court in Rochester, where he heard appeals of Supreme Court trial decisions from central and western New York. On December 3, 1996, Governor Pataki nominated Judge Wesley to the New York Court of Appeals. Judge Wesley was confirmed by a unanimous vote of the New York State Senate on January 14, 1997, and has served with distinction on the State's highest court ever since. His 16 years as a judge at both trial and appellate levels, plus prior service as a State assemblyman in New York, have given him the experience and background to make an outstanding Second Circuit judge.

Judge Wesley is a native of Livonia, NY, and has served his community, State, and Nation in a variety of ways. Not only has he served in his professional capacity, but also he believes in community service and has been involved in community service organizations such as the United Church of Livonia, Chances and Changes, a community-based organization in Livingston County that provides safe housing to battered women, and the Myers Foundation, a foundation based in his hometown that helps needy families in the area. Judge Wesley is also active in a number of local youth sports programs and serves as a driver for the Livonia Volunteer Ambulance.

In addition to his public and community service, Judge Wesley has been actively involved in efforts to improve the legal and judicial process. He has been a leader in numerous bar associations and law-related organizations. For example, he serves on the Cornell Law School Advisory Council and the Cornell University Council, and is a Fellow of the New York State Bar Foundation. In January of 1991, Judge Wesley was appointed by the chief administrator of the courts to be the supervising judge of the Criminal Courts in the Seventh Judicial District, and in this capacity developed case management systems that greatly improved the efficiency of the court's criminal docket. These reforms have since served as models for other jurisdictions with heavy criminal caseloads.

Judge Wesley comes to us highly recommended and warmly endorsed by his colleagues and former colleagues on the New York State courts, litigants who know him personally and have practiced in his courtrooms, the president of the New York State Bar Association, community leaders in his hometown of Livonia, NY, Gov. George Pataki, and New York's attorney general, Eliot Spitzer. Let me read a few statements made by some of his many supporters. Jonathan Lippmann, chief administrative judge of the State of New York, writes that Judge Wesley, ''has been a model of the wisdom, temperament, craftsmanship, and personal qualities that make for the most outstanding judges.'' Joseph Bellacosa, dean of the St. John's University Law School and a former colleague on the New York Court of Appeals, writes that Judge Wesley ''is intellectually curious and open to fresh ideas and insights of others, respectful of the great strength derived from collegial shared wisdom of others, yet confident and resolute in his personal conviction on values and fundamental principles. He is also a tireless worker and seeker of equal justice for all. He loves being a Judge and is devoted to the fair administration of justice under the rule of law.'' And Governor Pataki has also written, praising Judge Wesley's excellence as an appellate jurist and specifically noting his ''wealth of experience, intellect, integrity and judicial temperament.''

The legal bar's wide regard for Judge Wesley is further reflected in his evaluation by the American Bar Association. The ABA evaluates judicial nominees based on their professional qualifications, their integrity, their professional competence, and their judicial temperament. The ABA has bestowed upon Judge Wesley its highest rating of Unanimously Well Qualified.

The record is clear that Judge Wesley is worthy of confirmation for this position of high responsibility on the Court of Appeals for the Second Circuit. I strongly support his confirmation and urge my colleagues to do likewise.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. How much time remains?

The PRESIDING OFFICER. Two minutes.

Mr. LEAHY. I thank the Chair.

Today, we vote to confirm Richard Wesley to serve on the United States Court of Appeals for the Second Circuit, the Federal circuit covering Vermont, New York, and Connecticut. With this confirmation we will have filled the sole vacancy on this circuit court. I remember when President Clinton had multiple nominees pending before the Senate for the five simultaneous vacancies that then existed. The entire circuit was declared a judicial emergency by the chief judge, and he had to resort to three-judge panels with only one Second Circuit judge. Republicans were not moving those nominations at that time. All of the Senators from the Second Circuit joined together to work for their confirmation, and we were finally able to confirm them all, including Judge Sonia Sotomayor, after significant efforts. This nomination did not suffer those needless delays. With the support of Senator SCHUMER and Senator CLINTON, this nomination has been considered expeditiously.

The Senate has already confirmed 129 judges, including 26 circuit court judges, nominated by President Bush. One hundred judicial nominees were confirmed when Democrats acted as the Senate majority for 17 months from the summer of 2001 to adjournment last year. After today, 29 will have been confirmed in the other 12 months in which Republicans have controlled the confirmation process under President Bush. This total of 129 judges confirmed for President Bush is more confirmations than the Republicans allowed President Clinton in all of 1995, 1996, and 1997—the first 3 full years of his last term. In those 3 years, the Republican leadership in the Senate allowed only 111 judicial nominees to be confirmed, which included only 18 circuit court judges. We have already exceeded that total by 15 percent and the circuit court total by 40 percent with 6 months remaining to us this year.

Today's confirmation makes the ninth court of appeals nominee confirmed by the Senate just this year. That means that in the first half of this year, we have exceeded the average of seven per year achieved by Republican leadership from 1995 through the early part of 2001. The Senate has now achieved more in fewer than 6 full months for President Bush than Republicans used to allow the Senate to achieve in a full year with President Clinton. We are moving two to three times faster for this President's nominees, despite the fact that the current appellate court nominees are more controversial, divisive, and less widely supported than President Clinton's appellate court nominees were.

If the Senate did not confirm another judicial nominee all year and simply adjourned today, we would have treated President Bush more fairly and would have acted on more of his judicial nominees than Republicans did for President Clinton in 1995–97. In addition, the vacancies on the Federal courts around the country are significantly lower than the 80 vacancies Republicans left at the end of 1997. We continue well below the 67 vacancy level that Senator HATCH used to call ''full employment'' for the Federal judiciary.

Indeed we have reduced vacancies to their lowest level in the last 13 years. So while unemployment has continued to climb for Americans to 6.1 percent last month, the Senate has helped lower the vacancy rate in federal courts to an historically low level that we have not witnessed in over a decade. Of course, the Senate is not adjourning for the year and the Judiciary Committee continues to hold hearings for Bush judicial nominees at between two and four times as many as he did for President Clinton's.

For those who are claiming that Democrats are blockading this President's judicial nominees, this is another example of how quickly and easily the Senate can act when we proceed cooperatively with consensus nominees. The Senate's record fairly considered has been outstanding—especially when contrasted with the obstruction of President Clinton's moderate judicial nominees by Republicans between 1996 and 2001.

I hope the White House would note the strong support for this conservative Republican nominee to the Second Circuit. I know my good friends from New York are aware this is a case where the White House actually worked with them and consulted with them on a nominee. That has not been the case of other parts of this country that has brought about divisiveness.

Again I urge, and I have been urging for a little over 2 years, the White House might start a new course, one of seeking to unite and not divide our judicial nominees, to have consultation, not arbitrariness, on judicial nominees.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Richard C. Wesley, of New York, to be United States Circuit Judge for the Second Circuit? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Illinois (Mr. FITZGERALD) is necessarily absent.

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Connecticut (Mr. LIEBERMAN) 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. 215 Ex.]

YEAS—96

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

NOT VOTING—4

Fitzgerald	Hollings
Graham (FL)	Lieberman

The nomination was confirmed.

The PRESIDING OFFICER. The President will be notified of the Senate's action.

LEGISLATIVE SESSION

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

The Senator from Louisiana.

ORDER OF BUSINESS

Mr. BREAUX. Mr. President, I say to the managers of the Energy bill, I would like to speak for a couple minutes on a subject that is going to be coming up in the Senate next week and in the Senate Finance Committee on tomorrow. The subject is Medicare. I do not want to interfere with anybody who has a pending amendment, but I think this would be an appropriate time to make a few comments on this subject.

The PRESIDING OFFICER. The Senator from Louisiana.

MEDICARE AND PRESCRIPTION DRUGS

Mr. BREAUX. Mr. President, my colleagues, the Senate will begin, this week in the Finance Committee—on Thursday, tomorrow—marking up a historic reform piece of legislation dealing with the subject of Medicare and prescription drugs for our Nation's older Americans. I think it is a historic opportunity for the Senate, in a bipartisan fashion, to come together and produce a product that is something of which we can all be proud.

Many Members of the Senate, when you talk about Medicare, would like the Federal Government to do everything and the private sector to not be

involved at all. There are other Members, on the other hand, who would like the private sector to do everything and the Federal Government to not be involved at all. The answer to how we craft this legislation really is by trying to combine the best of what Government can do with the best of what the private sector can do.

My colleagues, the bill that will be brought before the committee tomorrow, in a bipartisan fashion, under the leadership of Chairman GRASSLEY and Ranking Member BAUCUS, does exactly that. I would like to take just a minute to try to explain what the bill will do in more general terms so everybody can get an idea what they are going to be looking at next week.

A Medicare beneficiary, beginning next year, will have the opportunity to have a prescription drug discount card. That will be something they will start with at the beginning of the year. They will be able to take that card to their local drugstore and get anywhere from a 20-, 25-percent discount on the drugs they buy. In addition, we will provide a subsidy to low-income seniors, in addition to that discount card, to help them buy drugs.

While that is happening, the Government will be engaged in trying to set up a process whereby, in the year 2006, Medicare beneficiaries will have more choices than they would otherwise.

Under the principle of saying the Government should do what it does best and the private sector should do what it does best, we have established in the legislation a Medicare Program that says to seniors, if they want to stay right where they are in traditional Medicare, they will have the opportunity to do that, and they will also have the opportunity to get prescription drugs under their traditional Medicare Program.

If they think that a new program being offered will be a better opportunity for them, they can voluntarily move into what we call Medicare Advantage, where they would also have access to a prescription drug plan.

It is important to note that both of these opportunities, both of these choices, are Government-run programs. Both of those programs will be under HHS, Health and Human Services. Both of them will have the Federal Government supervising how the program is being run, to make sure no one in the private sector is scamming it or is not capable of producing the programs they are saying they can produce. That is what Government can do best—as well as help pay for them.

If you are in traditional Medicare fee-for-service, all your doctor and hospital programs will be just like they are today. Then you will have the opportunity to have a prescription drug program which will have a standard benefit package spelled out in law. What we are talking about is a program with about a $35-a-month premium, with about a $275 deductible and a 50 percent coinsurance for seniors for the drugs for which they pay.

That is a generous plan that is very similar to what we have as Members of Congress and Members of the Senate. That drug program, unlike the hospital and doctor benefits, will be provided by the private sector to bring about competition, to have companies come in and say: We will provide it at this amount. They can vary the premiums as long as the Federal Government would approve it. For example, someone may like a higher deductible, someone may like a lower deductible. They could make those adjustments within a range, but the Government would have to make sure that is acceptable and that is approved by HHS.

If a senior—for example, most younger seniors and seniors going into the program in the future—would like to go into that type of program for everything—for doctors and hospitals and for drugs—if they think that is the good program for them, that gives them choice, they will start selecting the Medicare Advantage Program where they will get doctor coverage, hospital coverage, and prescription drug coverage.

This will still be in HHS, but it will be run by a new, competitive agency within HHS—not micromanaged, not price fixing, as we have now, but a new, competitive agency within HHS which will be created in order to make sure that the new program is being run properly. It will be run very similarly to how our program is run that is for Federal employees. We have Federal health insurance, but they use a private delivery system, and the Government makes sure everybody follows the rules and that there is competition, there is choice—that some plans may be better than others—and they have an opportunity, every year, to take a look at what is being offered; and sometimes they will pick this plan, sometimes they may pick another plan, but they will have the choice to pick the plan that is best for them.

So I think, in summary, what we have before the committee is a plan that combines the best of what the Government can do with the best of what the private sector can do. The programs will still be under Health and Human Services, whether you take this plan or that plan.

I think when you have private companies competing, you will have private companies that will be more involved in doing risk management and preventive medicine, preventive health services for the individuals who are involved. The Federal Government does not do any of that.

We simply fix prices and we do nothing with regard to risk management or preventive health care. So we will have an intense debate. We will have a markup in the Finance Committee on Thursday. Then this bill will come to the floor.

I think we will have an opportunity to do something that I think, for the first time, gives seniors an opportunity to have a federally run program that provides private sector delivery, with choices that will benefit seniors. I think in the long term it will benefit all of us who are concerned about this.

I commend Senator BAUCUS for his work and for working with the chairman, Senator GRASSLEY, in putting together this package. The only way it is going to get done is bipartisan. Some will argue it is not enough, and I understand that, but this is 100 percent more than seniors have today. Congress should not walk away from a $400 billion program for providing prescription drugs to seniors because it is not more money, because that simply is not looking at what is possible and what is likely to happen in the real world.

This is a once-in-a-lifetime opportunity. I encourage my colleagues to work with us to produce this package.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Ms. STABENOW. Mr. President, I appreciate a moment to have a chance to give an alternative view. I thank my colleague from Louisiana. He has worked diligently on the issue of prescription drug coverage for many years, as have other of my colleagues on the floor regarding this issue. I wish to take this moment following his presentation to speak to the fact that there is much work left to be done by this body before we have prescription drug coverage that in fact meets the needs and the desires of the seniors of America.

The plan being put forward tomorrow in the Finance Committee basically does two things. It offers two structures. The majority of those supporting it will openly indicate that they would prefer that the seniors of America go into managed care rather than stay in traditional fee-for-service Medicare, where the senior determines their doctor, pharmacy, and other choices.

There is a desire to move people into what are called PPOs and HMOs and other managed care. We have experience with this because, since 1997, there has been the choice on behalf of American seniors to stay in traditional Medicare, choose their own doctor and pharmacies, and so on, or to go into a Medicare HMO. We know as of today that 89 percent of the seniors who chose—they made their choice—have chosen to remain in traditional Medicare, which I believe is a very strong message about the confidence seniors have in the current system, the stability of it, the dependability of it. They know what the premium is, they know what the services are, and they decide their doctor. This has been in place and serving the seniors of the country since 1965.

So the plan the committee is intending to report out tomorrow would create more choices of HMOs and PPOs and other managed care, and I support that for seniors. But what it does not do is add a prescription drug benefit

under traditional Medicare as an integrated part of the traditional fee-for-service Medicare.

All of the prescription drug plans that are part of this report tomorrow involve private insurance first. If private insurance is available in your State, or available in the region, if there are two or more companies there, regardless of the premium they choose, the benefits they choose, and how they structure it, the pharmacies that they will let you go to, however they structure it, you would have to choose one of those two private insurance plans.

Now, technically, they are saying it is under Medicare but this is not a Medicare prescription drug benefit as the seniors of the country have asked to have provided to them. The seniors, potentially every year, would get paperwork in the mail about two different insurance companies—if that is available in their area—and they would have to wade through the paperwork and decide which of the two is best for them. The next year, if those two companies were not both available—if there was only two and one decided it didn't want to cover seniors anymore; it was too costly—then there would only be one insurance company; and the senior would have the ability, then, to go to a backup plan—something administered through Medicare.

Then the next year, if there were two companies that decided they wanted to try their hand in covering Medicare prescription drug coverage in their region, they could not get the Medicare plan anymore; they would have to pick between those two companies.

Potentially, this could happen every single year for a senior. Seniors are not asking for more paperwork or more choices of insurance companies. They already picked—89 percent of them—traditional Medicare, run through Medicare. Yet we are not giving 89 percent of them that choice.

That is a major concern I have about this plan. There is a better way to do this, to give people more choices, but make sure one of the choices is traditional Medicare.

I find it quite amazing that we are even talking about the structuring of a plan in this way at this time when we look at the fact that Medicare has been rising in cost about 5 percent a year and private insurance is going up 15 to 20 percent a year. In fact, I have small businesses, as well as large businesses, including auto manufacturers and many others, coming to me concerned about the explosion in their private health insurance premiums every year instead of choosing an approach that costs less so we can take some of those pressures off and put them into the best benefit, the best way to provide medicine for seniors. This approach uses what is a more expensive model—arguably, putting more dollars into the pockets of insurance companies but certainly not more dollars into the pockets of our senior citizens in the form of access to more lower cost medicines.

This is a deep concern of mine. Why are we going through all this convoluted process? Well, I think there are two reasons. One is there are those who philosophically believe we should move to private insurance, managed care. I respect that. I have a disagreement with that but I respect the philosophical difference. Some don't believe we should have universal health coverage under Medicare. I disagree.

I think Medicare has been a great American success story since 1965. In fact, it is the one part of the universal health care we have in this country, and it concerns me deeply if we are going to roll that back. There is a difference in philosophy—and I appreciate that—on the part of colleagues on both sides of the aisle.

We know there is something else at work here, and that is a very large and powerful prescription drug lobby, which I believe, at all costs, wants to make sure our seniors are not in one insurance plan together—40 million seniors and disabled people in our country, who would then be able to negotiate big discounts in prices. By dividing folks up into lots of different insurance plans, making it more confusing for people to stay in traditional Medicare and get prescription drug help, and trying in every way to move people more to managed care, the prescription drug companies know they will not be put in a position of having to substantially lower their prices for our seniors. I have deep concerns about this. I agree with my colleagues that we have to work together in a bipartisan way if we are going to put forward a bill. I am hopeful that through amendments we can, in fact, provide a better bill. I will be offering an amendment that will set up a real choice for seniors, allow them prescription drug coverage under Medicare, which is what they want, and then also allow the other options colleagues have put together in the legislation that will be in front of us.

I believe that is a true choice, and I believe it is a choice that will allow prescription drug prices to go down, and that is a more cost-effective choice overall for Medicare as a system as well as for our seniors.

I will also be working with colleagues, as we have been for the last 2 years, on other efforts to lower prices for everyone. I am very proud of the fact that on this side of the aisle, we have brought the issue to this Chamber of lowering prices through greater competition in the marketplace and, in fact, we are seeing headway in that area.

I commend my colleagues on both sides of the aisle who have been coming together in agreement on the issue of generic drugs. I commend the leader of the HELP Committee, the Senator from New Hampshire, Mr. GREGG, for his leadership, the Senator from Massachusetts, Mr. KENNEDY, and the Senator from New York, Mr. SCHUMER, who helped lead this effort with Senator MCCAIN to close loopholes that have allowed brand-name companies essentially to game the system, to keep lower cost medicine off the market, unadvertised brands called generics.

There is a coming together that is very positive and bipartisan to pass legislation to close loopholes and allow greater competition. I believe this is one of the most important ways we will, in fact, lower prices more than anything else to get more competition for unadvertised brands in the marketplace.

There are two other issues about which we have been offering amendments that I encourage colleagues to support as a part of this process. One is to open the border to Canada for prescription drug coverage. From the State of Michigan, it is frustrating for the seniors, families and, in fact, the businesses in Michigan to literally look across the river and know that on the other side of that river they can get their American-made prescriptions at half the price and, in some cases, at even deeper discounts.

I urge we come together and open the border to Canada, and for colleagues who have resisted that, I ask that we look between now and 2006, when the prescription drug bill takes effect, at the idea of a pilot project of opening the border to Canada until 2006 so that we can drop prices immediately.

Our seniors have waited long enough. They do not need to wait another 2½, 3 years to see prices go down and Medicare help come. Let's open the border now. Let's sunset the pilot project when this bill takes effect, and then we can evaluate any concerns that have been raised about that process. That is something we can do right now that would have 10 times the effect of lowering prices than another discount card for seniors.

The other issue I am hopeful we can support on a bipartisan basis is to support States that are being creative in their purchasing power to get discounts for their citizens; efforts such as in the State of Maine to use their discount power to lower prices for the uninsured.

There are very positive steps we can take together. The generic drugs bill is a very positive initiative. I appreciate the leadership on both sides of the aisle for bringing that forward and coming together in a positive way.

To conclude, when it comes to Medicare prescription drug coverage, I remain deeply concerned about the direction in which we are going. I believe we are moving in a direction that actually dismantles the only part of universal care we have; that, in fact, will end up with more subsidies and more money in the pockets of insurance companies and drug companies as opposed to putting money in the pockets of our seniors who desperately need help with their prescription drugs.

I hope that as we enter into amendments in the next week, we will come together in a way that improves this

bill and strengthens it, keeping in mind that our first priority should be the people right now who need the help. We can do that if we are willing to work together.

I yield the floor.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Nevada.

ORDER OF BUSINESS

Mr. REID. Madam President, I know the Senator from New Jersey wishes to speak. There is a unanimous consent request that will be propounded which will help people understand what will happen. We are waiting for someone on the other side to read the request, and then we can agree to it. If the Senator will withhold for a moment.

Mr. LAUTENBERG. Without losing my opportunity to the floor.

Mr. REID. I have the floor. Madam President, we are shortly going to enter into an agreement to have a vote late today for two more judges. This will make 131 judges—I think that is the number—we have approved during the time the present President Bush has been President.

I am really not certain as to the number, but I believe it is 36 or 37 circuit court judges. The vacancy rate, as we discussed yesterday, is extremely low. There has been a lot of agitation and talk about how poorly the administration is being treated with their judicial nominees. Even the President can understand that a count of 131 to 2 is a pretty good record for him.

The PRESIDING OFFICER. The Senator from New Hampshire.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. SUNUNU. Madam President, I ask unanimous consent, as in executive session, that at 2:15 p.m. today, the Senate proceed to executive session for the consideration of Calendar No. 221, the nomination of J. Ronnie Greer to be a U.S. District Judge for the U.S. District of Tennessee; provided that the Senate then proceed immediately to a vote on the confirmation of the nomination, with no intervening action or debate; provided, further, that immediately following that vote, the Senate proceed to the consideration of Calendar No. 222, the nomination of Mark Kravitz to be a U.S. District Judge for the District of Connecticut; that there then be 5 minutes for debate equally divided between the chairman and ranking member or their designees; and that following the use of that time, the Senate proceed to vote on the confirmation of the nominees. Finally, I ask unanimous consent that following the votes, the President be immediately notified of the Senate's action and the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, in the statement I just gave, I indicated there have been 36 circuit judges approved. It is 26 circuit judges approved. I misspoke. The 131 figure that will be completed about quarter to 3 today is an accurate number of judges who have been approved in this administration.

Also, Madam President, the chairman of the full Energy Committee, the manager of this bill, along with Senator BINGAMAN, is in the Chamber, and the record should reflect we on this side are not holding up this Energy bill. I have no objection to the unanimous consent request.

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

ENERGY POLICY ACT OF 2003—Continued

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, as a manager of the bill, our side is awaiting communication from the executive branch by way of explanation of the Feinstein amendment. That should be arriving shortly. When it arrives, we will be ready on our side for the conclusion of any discussion. So it should not be too long—probably after lunch—before we are ready on our side for a vote on the Feinstein amendment.

For those who are wondering, that is what is happening. There is no need to be in the Chamber on that amendment until that event occurs. I am certain nothing will happen on the Energy bill until that time because there is no concurrence that anything can happen. In other words, we cannot do anything because the Feinstein amendment cannot be set aside for any other amendments.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I say to my friend from New Mexico, I am very appreciative of the statement he just made because I am going to do as he just did during this lull of time: Go get my hair cut.

Mr. DOMENICI. We hope it will be here shortly. I noted the presence a short time ago of the chairman of the Agriculture Committee, which has primary jurisdiction on the Feinstein amendment. He, too, was wondering what was happening. I want he and his staff to know that is exactly what is happening. It should not be too much longer until we then proceed in due course for a vote.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Madam President, I ask unanimous consent to speak as in morning business.

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

(The remarks of Mr. LAUTENBERG are printed in today's RECORD under ''Morning Business.'')

The PRESIDING OFFICER. The Senator from Alabama.

AMENDMENT NO. 876

Mr. SHELBY. Madam President, I rise today to encourage my colleagues to oppose the amendment of the senior Senator from California, Mrs. FEINSTEIN.

First, I address the second-degree amendment the senior Senator from Nevada, Senator REID, is offering. I encourage my colleagues to oppose this second-degree amendment, also. The Reid second-degree amendment would exempt derivative contracts on precious metals from the new regulatory scheme the Feinstein amendment creates. We are told the Feinstein amendment is necessary to avoid the manipulation of markets for commodities that are in limited supply like oil or metals.

Underpinning the Feinstein amendment is the belief the Enron debacle and the California energy crisis occurred because there was insufficient regulation and wrongdoers were able to accomplish massive frauds and manipulation. The Feinstein amendment is intended to close the alleged regulatory loophole for off-exchange transactions for exempt commodities.

Assume, only for argument's sake, that Senator FEINSTEIN is correct. Assume the regulatory regime established only 2½ years ago is insufficient and that we must close a so-called regulatory loophole. If you believe this and support the Feinstein amendment, you must necessarily oppose the Reid second-degree amendment, which will carve a vast number of derivative contracts out of the regulatory scheme the Feinstein amendment creates.

I don't believe we can have it both ways. What is necessary for the energy markets is necessary for the metals markets. I encourage my colleagues to oppose both the Reid second-degree amendment and the Feinstein amendment as unnecessary, redundant, and potentially destabilizing to our financial markets. I encourage my colleagues who feel compelled to support the Feinstein amendment to not support the Reid amendment, which is at direct cross-purposes to the underlying amendment.

Less than 3 years ago, in December 2000, Congress enacted the Commodity Futures Modernization Act of 2000, which was landmark legislation that provided legal certainty regarding the regulatory status of derivatives. Passage of the modernization act was the result of many months of analysis of the role that derivatives play in the marketplace and the consequences of increased regulation. In fact, because the modernization act addressed derivative products pertaining to commodities and financial products, both the Agriculture Committee and Banking Committee held numerous hearings to help Members and the public better understand the role the various derivative financial instruments and contracts played in our economy and what regulatory landscape, if any, is appropriate.

Now, only 3 years after enactment of the modernization act, Senator FEINSTEIN's amendment proposes fundamental changes to the law. I believe

this amendment could create many regulatory problems, including creating jurisdictional confusion between the Federal Energy Regulatory Commission, FERC, and the Commodity Futures Trading Commission, CFTC, imposing problematic capital requirements on facilities trading derivatives, and impugning the legal certainty of OTC derivatives put in place in 2000.

I am concerned this body does not have full appreciation of these consequences and potential unintended consequences that will likely follow if we were to adopt the Feinstein amendment.

I also believe it is premature to adopt this amendment because we have simply not had enough time to review the results of the modernization act. We have not received any reports from the CFTC detailing shortfalls in the regulatory authority conferred by the modernization act or recommendations requesting broader authority over derivatives. In fact, the CFTC had brought several major cases involving market manipulation since the passage of the modernization act. Congress should have more than a 2-year record before it decides to make rash but fundamental changes to legislation that was the product of so much deliberation a short time ago.

Proponents of the Feinstein amendment argue that the collapse of Enron and the disruption of the California energy market are prime examples of the need for greater regulation of derivatives. This assertion is simply not true. Enron collapsed as a result of deceptive accounting practices involving special purpose entities and poor corporate governance practices that permitted abusive business practices. Congress addressed such abuses in last year's Sarbanes-Oxley Act. More importantly, Enron's derivative business was in operation prior to enactment of the Modernization Act and was one of the business lines that retained value for sale after the collapse when most others didn't.

Further, FERC, the Federal Energy Regulatory Commission, recently concluded a year-long review of potential manipulation of electric and natural gas prices in the Western markets. Although FERC did find market manipulation, it also concluded:

> Significant supply shortfalls and a fatally flawed market design were the root causes of the California market meltdown.

In short, it was lack of energy supplies and poor State regulations that caused the disruption. I fear that the adoption of the Feinstein amendment could lead to uninformed and premature changes to the carefully considered provisions of the Modernization Act.

I believe the Feinstein amendment proposes unnecessary regulatory measures and significantly undermines the legal certainty achieved in the Modernization Act. Therefore, I strongly urge my colleagues to vote against the Feinstein amendment.

The President's Working Group on Financial Markets, which is comprised of the Secretary of the Treasury, the Chairman of the Federal Reserve Board, the Chairman of the Securities and Exchange Commission, and the Chairman of the CFTC, will be sending a letter today expressing its concerns with this amendment and urging Congress to carefully consider the potential unintended consequences of the amendment before acting. I intend to submit this letter for the RECORD when I receive it. I anticipate this letter will raise the same concerns that were raised in the working group's letter last year.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SUNUNU. Madam President, I rise to join my colleague, Senator SHELBY, my committee chairman on the Banking Committee as well, in opposing the Feinstein amendment. This amendment was debated at length about a year ago during the previous Senate Energy bill debate. At that time, Senator Phil Gramm raised a number of issues, a number of concerns with the legislation. He said a great many wise and commonsense things. One of the perspectives that he pointed out that stuck with me was noting that, in raising concerns about failures, companies that had gone bankrupt such as Long Term Capital Management, or perhaps closer to home for the Senator from California, the bankruptcy of Orange County, CA, that involved to a certain extent derivatives and then called for regulation—we were, in effect, blaming the instrument itself, blaming the derivative, which is a little bit like blaming a thermometer for a warm day. That is not the right approach for legislation and I think it will lead us to bad conclusions in trying to structure legislation that will strengthen financial markets.

As the Senator from Alabama indicated, at the root is our concern that we not pass legislation that has unintended consequences, not pass legislation that is counterproductive, and rather than strengthen the markets or increase confidence in markets, actually has the opposite effect.

This legislation would give a great deal of new power to FERC, which is a concern to me because that would be power given over to the FERC not just to regulate but really to arbitrate, to refer claims to different regulatory authorities. On its face, I ask whether FERC has the expertise or the knowledge in all of these sophisticated markets to make such decisions. It is, perhaps, a power best not given to FERC. But it is also a power, in referring and making these decisions as to which regulatory body a particular claim or complaint would go, that would have the effect of creating uncertainty, uncertainty as to which organization had regulatory oversight.

The Commodity Futures Trading Commission and FERC already coordinate their enforcement with respect to the energy markets. The CFTC has subpoena power. I think, as a number of other speakers indicated, in the year 2000 there was a Commodity Futures Modernization Act that was passed that was a good piece of legislation. A lot of work went into that. It drew from recommendations made by the President's working group. In particular, it strengthened the CFTC's hand in regulation in a number of areas.

I certainly do not think offering an amendment at this time on this particular bill is the appropriate way to modify that legislation, the Commodity Futures Modernization Act, that was a product of extended negotiations. The piece of legislation such as being offered by the Senator from California ought to go through the regular committee process. We ought to have hearings on it and certainly we ought to have an opportunity to debate it in the key area of the Banking Committee and Agriculture Committee jurisdictions.

Of particular interest as well is the fact that this amendment is opposed by a number of organizations, a number of the regulators themselves who are most concerned with stability and confidence in the markets—by the Fed, by the SEC, and by the CFTC. Even though this bill gives additional powers to the CFTC, they still oppose it. It is not often in Washington you have someone opposing an effort to give them more power and more jurisdiction, but these very organizations are worried every day about safety and soundness, about regulatory clarity, about ensuring a greater degree of stability and solvency in the marketplace. Why would they oppose this effort, to give more regulatory power to them or to their sister organizations?

I believe it is in part because of their concern that this might have unintended consequences, that this, unfortunately, might add uncertainty to the markets, that this might stifle transactions that so often act to reduce the risk in the marketplace.

Particularly telling is the fact that an amendment is being offered to strike the coverage of various metals from this provision. Obviously, someone recognizes that this might not be good, might not be healthy for a particular area of our economy, of the derivatives exchanges, and therefore wants to protect them from the uncertainty and the instability I have described.

Unintended consequences, we have to be so careful about exactly in an example such as this. These derivative markets are so complicated so the potential to have unintended consequences is effectively magnified by our collective lack of knowledge. There are some Senators who know more than others about these markets. The Senator from California has spent more time than others debating and discussing these issues. But any time we venture into

an area of such complexity we enhance the risk that a piece of legislation will have unintended consequences.

I certainly do not fault the intentions or question the intentions or the motives in offering the legislation. We share the goals of ensuring that we have good regulatory agencies with appropriate enforcement powers, but we also should be careful that we not disturb a market which I believe functions extremely efficiently. As complex as it is, and as large as it is—I have seen estimates of the size of the global derivatives market as high as $75 trillion—as large as that market is, it works very effectively.

These are not products that are sold on any exchanges and there is a reason for that. The principal reason is that they are unique. They are unique to the organizations that seek them out. The vast majority of these organizations seek out a particular swap or derivative transaction in order to reduce the risk they are exposed to at any given day. That is why these instruments were developed and exist in such great numbers in the first place. Companies, institutions, financial service companies, banks—they seek out these derivatives to reduce their exposure to risk. When they are able to do that, they ensure greater stability, they ensure greater certainty for their investors, and it has the effect of, obviously, making our markets stronger. And helping our economy to grow.

We have exercised great caution before stepping forward and trying to substitute some kind of new regulatory regime when a market is functioning this effectively and arguably enforcing its own level of discipline in the way that it functions. What kind of discipline is that? If I am going to engage in an interest rate swap, or some other derivative transaction with a financial institution, rest assured that I as an investor or as a counter-party to that transaction am going to want to know a great deal about the solvency, the exposure to other risks, exposure to interest rate changes, and exposure to different portions of our economy with which that institution I am engaging with in a transaction is dealing.

There is a level of inspection and a level of due diligence that takes place in this marketplace every single day, which I might argue is more detailed and more thorough and more consistent than any government regulatory agency could ever provide.

I believe we should oppose this amendment because it hasn't gone through the regular order because it attempts to impose a level of regulation that might well be counterproductive, that might increase the level of uncertainty in certain areas where jurisdiction is concerned, and that springs from a concern that somehow the derivatives themselves—the instruments themselves—are to blame rather than managers who have made some very bad decisions.

Derivatives didn't cause the energy crisis in California. Derivatives didn't cause the collapse of Enron. Managers making bad decisions did. In some cases, managers engaging in fraudulent behavior did. Certainly the Commodity Futures Trading Commission has the power to go after cases where fraud or price manipulation are concerned. They are completely empowered to do just that.

I encourage my colleagues to vote against the amendment, and I yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Madam President, I would like to use this time to respond to some of the comments that have been made.

It is really a misconception to think this is an amendment against derivatives. This isn't an amendment against derivatives. I have never said derivatives caused the western energy crisis. What I said was that there is a loophole in the law: Where all other finite commodities, except for energy and metals, have certain regulations with respect to transparency, these particular finite commodities do not; and that certain traders use this loophole to practice, if you will, a kind of fraud in their trading. The fraud was to artificially find ways to boost their products. I wish to respond to that.

Let's go into one of the ways they proceeded to do this—through what is called a round trip or a wash trade. Yesterday on the floor, Senator FITZGERALD and I, as well, very clearly pointed out what a wash trade is: I sell you a finite commodity, and you sell that same commodity back to me. On our balance sheets, we both carry a sale. Yet nothing ever changes hands. What we are saying is that this should be an illegal practice. What we are saying is that, at the very least, it ought to have transparency to it. We ought to be required to keep a record, to have an audit trail, and to have anti-fraud and anti-manipulation oversight of these practices by the Commodity Futures Trading Commission.

What we more fundamentally say is that a great deal of this was done in the western energy crisis through electronic trading.

Madam President, I understand I have the right to modify the amendment. Is that not correct?

The PRESIDING OFFICER. That is correct.

AMENDMENT NO. 876, AS MODIFIED

Mrs. FEINSTEIN. Madam President, I would like to send a modified amendment to the desk. That modified amendment contains an additional cosponsor, Senator KENNEDY. The modified amendment makes two changes to the amendment which I submitted before. The first change is to be absolutely crystal clear that this does not affect financial derivatives. I said that in my comments yesterday. I say it again today. To make it crystal clear, because some are concerned, and say, ''Oh, well, this will upset the financial derivatives marketplace,'' this is not the intent. It would only apply to finite commodities.

Right upfront, we are clearly saying that this title shall not apply to financial derivatives trading.

The other change to this amendment simply takes Senator REID's amendment to exclude metals and adds this to this bill.

If I may, I send that amendment, as a modified, to the desk at this time.

The PRESIDING OFFICER. The Senator has that right. The amendment is so modified.

Mrs. FEINSTEIN. I thank the Chair.

The amendment (No. 876), as modified, is as follows:

At the end, add the following:

TITLE ___—ENERGY MARKET OVERSIGHT

SEC. ___01. NO EFFECT ON FINANCIAL DERIVATIVES.

This title shall not apply to financial derivatives trading.

SEC. ___02. JURISDICTION OF THE FEDERAL ENERGY REGULATORY COMMISSION OVER ENERGY TRADING MARKETS.

Section 402 of the Department of Energy Organization Act (42 U.S.C. 7172) is amended by adding at the end the following:

''(i) JURISDICTION.—

''(1) REFERRAL.—

''(A) IN GENERAL.—To the extent that the Commission determines that any contract involving energy delivery that comes before the Commission is not under the jurisdiction of the Commission, the Commission shall refer the contract to the appropriate Federal agency.

''(B) NO EFFECT ON AUTHORITY.—The authority of the Commission or any Federal agency shall not be limited or otherwise affected based on whether the Commission has or has not referred a contract described in subparagraph (A).

''(2) MEETINGS.—A designee of the Commission shall meet quarterly with a designee of the Commodity Futures Trading Commission, the Securities Exchange Commission, the Federal Trade Commission, the Department of Justice, the Department of the Treasury, and the Federal Reserve Board to discuss—

''(A) conditions and events in energy trading markets; and

''(B) any changes in Federal law (including regulations) that may be appropriate to regulate energy trading markets.

''(3) LIAISON.—The Commission shall, in cooperation with the Commodity Futures Trading Commission, maintain a liaison between the Commission and the Commodity Futures Trading Commission.''.

SEC. ___02. INVESTIGATIONS BY THE FEDERAL ENERGY REGULATORY COMMISSION UNDER THE NATURAL GAS ACT AND FEDERAL POWER ACT.

(a) INVESTIGATIONS UNDER THE NATURAL GAS ACT.—Section 14(c) of the Natural Gas Act (15 U.S.C. 717m(c)) is amended—

(1) by striking ''(c) For the purpose of'' and inserting the following:

''(c) TAKING OF EVIDENCE.—

''(1) IN GENERAL.—For the purpose of'';

(2) by striking ''Such attendance'' and inserting the following:

''(2) NO GEOGRAPHIC LIMITATION.—The attendance'';

(3) by striking ''Witnesses summoned'' and inserting the following:

''(3) EXPENSES.—Any witness summoned''; and

(4) by adding at the end the following:

''(4) AUTHORITIES.—The exercise of the authorities of the Commission under this subsection shall not be subject to the consent of the Office of Management and Budget.''.

(b) INVESTIGATIONS UNDER THE FEDERAL POWER ACT.—Section 307(b) of the Federal Power Act (16 U.S.C. 825f(b)) is amended—

(1) by striking ''(b) For the purpose of'' and inserting the following:

''(b) TAKING OF EVIDENCE.—

''(1) IN GENERAL.—For the purpose of'';

(2) by striking ''Such attendance'' and inserting the following:

''(2) NO GEOGRAPHIC LIMITATION.—The attendance'';

(3) by striking ''Witnesses summoned'' and inserting the following:

''(3) EXPENSES.—Any witness summoned''; and

(4) by adding at the end the following:

''(4) AUTHORITIES.—The exercise of the authorities of the Commission under this subsection shall not be subject to the consent of the Office of Management and Budget.''.

SEC. ___04. CONSULTING SERVICES.

Title IV of the Department of Energy Organization Act (42 U.S.C. 7171 et seq.) is amended by adding at the end the following:

''SEC. 408. CONSULTING SERVICES.

''(a) IN GENERAL.—The Chairman may contract for the services of consultants to assist the Commission in carrying out any responsibilities of the Commission under this Act, the Federal Power Act (16 U.S.C. 791a et seq.), or the Natural Gas Act (15 U.S.C. 717 et seq.).

''(b) APPLICABLE LAW.—In contracting for consultant services under subsection (a), if the Chairman determines that the contract is in the public interest, the Chairman, in entering into a contract, shall not be subject to—

''(1) section 5, 253, 253a, or 253b of title 41, United States Code; or

''(2) any law (including a regulation) relating to conflicts of interest.''.

SEC. ___04. LEGAL CERTAINTY FOR TRANSACTIONS IN EXEMPT COMMODITIES.

Section 2 of the Commodity Exchange Act (7 U.S.C. 2) is amended by striking subsections (g) and (h) and inserting the following:

''(g) OFF-EXCHANGE TRANSACTIONS IN EXEMPT COMMODITIES.—

''(1) DEFINITIONS.—In this subsection:

''(A) COVERED ENTITY.—The term 'covered entity' means—

''(i) an electronic trading facility; and

''(ii) a dealer market.

''(B) DEALER MARKET.—

''(i) IN GENERAL.—The term 'dealer market' has the meaning given the term by the Commission.

''(ii) INCLUSIONS.—The term 'dealer market' includes each bilateral or multilateral agreement, contract, or transaction determined by the Commission, regardless of the means of execution of the agreement, contract, or transaction.

''(2) EXEMPTION FOR TRANSACTIONS NOT ON TRADING FACILITIES.—Except as provided in paragraph (4), nothing in this Act shall apply to an agreement, contract, or transaction in an exempt commodity that—

''(A) is entered into solely between persons that are eligible contract participants at the time the persons enter into the agreement, contract, or transaction; and

''(B) is not entered into on a trading facility.

''(3) EXEMPTION FOR TRANSACTIONS ON COVERED ENTITIES.—Except as provided in paragraphs (4), (5), and (7), nothing in this Act shall apply to an agreement, contract, or transaction in an exempt commodity that is—

''(A) entered into on a principal-to-principal basis solely between persons that are eligible contract participants at the time at which the persons enter into the agreement, contract, or transaction; and

''(B) executed or traded on a covered entity.

''(4) REGULATORY AND OVERSIGHT REQUIREMENTS.—

''(A) IN GENERAL.—An agreement, contract, or transaction described in paragraph (2) or (3) (and the covered entity on which the agreement, contract, or transaction is executed) shall be subject to—

''(i) sections 5b, 12(e)(2)(B), and 22(a)(4);

''(ii) the provisions relating to manipulation and misleading transactions under sections 4b, 4c(a), 4c(b), 4o, 6(c), 6(d), 6c, 6d, 8a, and 9(a)(2); and

''(iii) the provisions relating to fraud and misleading transactions under sections 4b, 4c(a), 4c(b), 4o, and 8a.

''(B) TRANSACTIONS EXEMPTED BY COMMISSION ACTION.—Notwithstanding any exemption by the Commission under section 4(c), an agreement, contract, or transaction described in paragraph (2) or (3) shall be subject to the authorities in clauses (i), (ii), and (iii) of subparagraph (A).

''(5) COVERED ENTITIES.—An agreement, contract, or transaction described in paragraph (3) and the covered entity on which the agreement, contract, or transaction is executed, shall be subject to (to the extent the Commission determines appropriate)—

''(A) section 5a, to the extent provided in section 5a(g)) and 5d;

''(B) consistent with section 4i, a requirement that books and records relating to the business of the covered entity on which the agreement, contract, or transaction is executed be made available to representatives of the Commission and the Department of Justice for inspection for a period of at least 5 years after the date of each transaction, including—

''(i) information relating to data entry and transaction details sufficient to enable the Commission to reconstruct trading activity on the covered entity; and

''(ii) the name and address of each participant on the covered entity authorized to enter into transactions; and

''(C) in the case of a transaction or covered entity performing a significant price discovery function for transactions in the cash market for the underlying commodity, subject to paragraph (6), the requirements (to the extent the Commission determines appropriate by regulation) that—

''(i) information on trading volume, settlement price, open interest, and opening and closing ranges be made available to the public on a daily basis;

''(ii) notice be provided to the Commission in such form as the Commission may require;

''(iii) reports be filed with the Commission (such as large trader position reports); and

''(iv) consistent with section 4i, books and records be maintained relating to each transaction in such form as the Commission may require for a period of at least 5 years after the date of the transaction.

''(6) PROPRIETARY INFORMATION.—In carrying out paragraph (5)(C), the Commission shall not—

''(A) require the real-time publication of proprietary information;

''(B) prohibit the commercial sale or licensing of real-time proprietary information; and

''(C) publicly disclose information regarding market positions, business transactions, trade secrets, or names of customers, except as provided in section 8.

''(7) NOTIFICATION, DISCLOSURES, AND OTHER REQUIREMENTS FOR COVERED ENTITIES.—A covered entity subject to the exemption under paragraph (3) shall (to the extent the Commission determines appropriate)—

''(A) notify the Commission of the intention of the covered entity to operate as a covered entity subject to the exemption under paragraph (3), which notice shall include—

''(i) the name and address of the covered entity and a person designated to receive communications from the Commission;

''(ii) the commodity categories that the covered entity intends to list or otherwise make available for trading on the covered entity in reliance on the exemption under paragraph (3);

''(iii) certifications that—

''(I) no executive officer or member of the governing board of, or any holder of a 10 percent or greater equity interest in, the covered entity is a person described in any of subparagraphs (A) through (H) of section 8a(2);

''(II) the covered entity will comply with the conditions for exemption under this subsection; and

''(III) the covered entity will notify the Commission of any material change in the information previously provided by the covered entity to the Commission under this paragraph; and

''(iv) the identity of any derivatives clearing organization to which the covered entity transmits or intends to transmit transaction data for the purpose of facilitating the clearance and settlement of transactions conducted on the covered entity subject to the exemption under paragraph (3);

''(B)(i) provide the Commission with access to the trading protocols of the covered entity and electronic access to the covered entity with respect to transactions conducted in reliance on the exemption under paragraph (3); and

''(ii) on special call by the Commission, provide to the Commission, in a form and manner and within the period specified in the special call, such information relating to the business of the covered entity as a covered entity exempt under paragraph (3), including information relating to data entry and transaction details with respect to transactions entered into in reliance on the exemption under paragraph (3), as the Commission may determine appropriate—

''(I) to enforce the provisions specified in paragraph (4);

''(II) to evaluate a systemic market event; or

''(III) to obtain information requested by a Federal financial regulatory authority to enable the authority to fulfill the regulatory or supervisory responsibilities of the authority;

''(C)(i) on receipt of any subpoena issued by or on behalf of the Commission to any foreign person that the Commission believes is conducting or has conducted transactions in reliance on the exemption under paragraph (3) on or through the covered entity relating to the transactions, promptly notify the foreign person of, and transmit to the foreign person, the subpoena in a manner that is reasonable under the circumstances, or as specified by the Commission; and

''(ii) if the Commission has reason to believe that a person has not timely complied with a subpoena issued by or on behalf of the Commission under clause (i), and the Commission in writing directs that a covered entity relying on the exemption under paragraph (3) deny or limit further transactions by the person, deny that person further trading access to the covered entity or, as applicable, limit that access of the person to the covered entity for liquidation trading only;

''(D) comply with the requirements of this subsection applicable to the covered entity and require that each participant, as a condition of trading on the covered entity in reliance on the exemption under paragraph (3), agree to comply with all applicable law;

''(E) certify to the Commission that the covered entity has a reasonable basis for believing that participants authorized to conduct transactions on the covered entity in reliance on the exemption under paragraph (3) are eligible contract participants;

''(F) maintain sufficient capital, commensurate with the risk associated with transactions; and

''(G) not represent to any person that the covered entity is registered with, or designated, recognized, licensed, or approved by the Commission.

''(8) HEARING.—A person named in a subpoena referred to in paragraph (7)(C) that believes the person is or may be adversely affected or aggrieved by action taken by the Commission under this subsection, shall have the opportunity for a prompt hearing after the Commission acts under procedures that the Commission shall establish by rule, regulation, or order.

''(9) PRIVATE REGULATORY ORGANIZATIONS.—

''(A) DELEGATION OF FUNCTIONS UNDER CORE PRINCIPLES.—A covered entity may comply with any core principle under subparagraph (B) that is applicable to the covered entity through delegation of any relevant function to—

''(i) a registered futures association under section 17; or

''(ii) another registered entity.

''(B) CORE PRINCIPLES.—The Commission may establish core principles requiring a covered entity to monitor trading to—

''(i) prevent fraud and manipulation;

''(ii) prevent price distortion and disruptions of the delivery or cash settlement process;

''(iii) ensure that the covered entity has adequate financial, operational, and managerial resources to discharge the responsibilities of the covered entity; and

''(iv) ensure that all reporting, recordkeeping, notice, and registration requirements under this subsection are discharged in a timely manner.

''(C) RESPONSIBILITY.—A covered entity that delegates a function under subparagraph (A) shall remain responsible for carrying out the function.

''(D) NONCOMPLIANCE.—If a covered entity that delegates a function under subparagraph (A) becomes aware that a delegated function is not being performed as required under this Act, the covered entity shall promptly take action to address the noncompliance.

''(E) VIOLATION OF CORE PRINCIPLES.—

''(i) IN GENERAL.—If the Commission determines, on the basis of substantial evidence, that a covered entity is violating any applicable core principle specified in subparagraph (B), the Commission shall—

''(I) notify the covered entity in writing of the determination; and

''(II) afford the covered entity an opportunity to make appropriate changes to bring the covered entity into compliance with the core principles.

''(ii) FAILURE TO MAKE CHANGES.—If, not later than 30 days after receiving a notification under clause (i)(I), a covered entity fails to make changes that, as determined by the Commission, are necessary to comply with the core principles, the Commission may take further action in accordance with this Act.

''(F) RESERVATION OF EMERGENCY AUTHORITY.—Nothing in this paragraph limits or affects the emergency powers of the Commission provided under section 8a(9).

''(10) METALS.—Notwithstanding any other provision of this subsection, an agreement, contract, or transaction in metals—

''(A) shall not be subject to this subsection (as amended by section ___05 of the Energy Policy Act of 2003); and

''(B) shall be subject to this subsection and subsection (h) (as those subsections existed on the day before the date of enactment of the Energy Policy Act of 2003).

''(11) NO EFFECT ON OTHER AUTHORITY.—This subsection shall not affect the authority of the Federal Energy Regulatory Commission under the Federal Power Act (16 U.S.C. 791a et seq.) or the Natural Gas Act (15 U.S.C 717 et seq.).''.

SEC. ___06. PROHIBITION OF FRAUDULENT TRANSACTIONS.

Section 4b of the Commodity Exchange Act (7 U.S.C. 6b) is amended by striking subsection (a) and inserting the following:

''(a) PROHIBITION.—It shall be unlawful for any person, directly or indirectly, in or in connection with any account, or any offer to enter into, the entry into, or the confirmation of the execution of, any agreement, contract, or transaction subject to this Act—

''(1) to cheat or defraud or attempt to cheat or defraud any person (but this paragraph does not impose on parties to transactions executed on or subject to the rules of designated contract markets or registered derivative transaction execution facilities a legal duty to provide counterparties or any other market participants with any material market information);

''(2) willfully to make or cause to be made to any person any false report or statement, or willfully to enter or cause to be entered for any person any false record (but this paragraph does not impose on parties to transactions executed on or subject to the rules of designated contract markets or registered derivative transaction execution facilities a legal duty to provide counterparties or any other market participants with any material market information);

''(3) willfully to deceive or attempt to deceive any person by any means whatsoever (but this paragraph does not impose on parties to transactions executed on or subject to the rules of designated contract markets or registered derivative transaction execution facilities a legal duty to provide counterparties or any other market participants with any material market information); or

''(4) except as permitted in written rules of a board of trade designated as a contract market or derivatives transaction execution facility on which the agreement, contract, or transaction is traded and executed—

''(A) to bucket an order;

''(B) to fill an order by offset against 1 or more orders of another person; or

''(C) willfully and knowingly, for or on behalf of any other person and without the prior consent of the person, to become—

''(i) the buyer with respect to any selling order of the person; or

''(ii) the seller with respect to any buying order of the person.''.

SEC. ___07. FERC LIAISON.

Section 2(a)(9) of the Commodity Exchange Act (7 U.S.C. 2(a)(9)) is amended by adding at the end the following:

''(C) LIAISON WITH FEDERAL ENERGY REGULATORY COMMISSION.—The Commission shall, in cooperation with the Federal Energy Regulatory Commission, maintain a liaison between the Commission and the Federal Energy Regulatory Commission.''.

SEC. ___08. CRIMINAL AND CIVIL PENALTIES.

(a) ENFORCEMENT POWERS OF COMMISSION.—Section 6(c) of the Commodity Exchange Act (7 U.S.C. 9, 15) is amended in paragraph (3) of the tenth sentence—

(1) by inserting ''(A)'' after ''assess such person''; and

(2) by inserting after ''each such violation'' the following: '', or (B) in any case of manipulation of, or attempt to manipulate, the price of any commodity, a civil penalty of not more than the greater of $1,000,000 or triple the monetary gain to such person for each such violation,''.

(b) MANIPULATIONS AND OTHER VIOLATIONS.—Section 6(d) of the Commodity Exchange Act (7 U.S.C. 13b) is amended in the first sentence—

(1) by striking ''paragraph (a) or (b) of section 9 of this Act'' and inserting ''subsection (a), (b), or (f) of section 9''; and

(2) by striking ''said paragraph 9(a) or 9(b)'' and inserting ''subsection (a), (b), or (f) of section 9''.

(c) NONENFORCEMENT OF RULES OF GOVERNMENT OR OTHER VIOLATIONS.—Section 6b of the Commodity Exchange Act (7 U.S.C. 13a) is amended—

(1) in the first sentence—

(A) by inserting ''section 2(g)(9),'' after ''sections 5 through 5c,''; and

(B) by inserting before the period at the end the following: '', or, in any case of manipulation of, or an attempt to manipulate, the price of any commodity, a civil penalty of not more than $1,000,000 for each such violation''; and

(2) in the second sentence, by inserting before the period at the end the following: '', except that if the failure or refusal to obey or comply with the order involved any offense under section 9(f), the registered entity, director, officer, agent, or employee shall be guilty of a felony and, on conviction, shall be subject to penalties under section 9(f)''.

(d) ACTION TO ENJOIN OR RESTRAIN VIOLATIONS.—Section 6c(d) of the Commodity Exchange Act (7 U.S.C. 13a–1(d)) is amended by striking ''(d)'' and all that follows through the end of paragraph (1) and inserting the following:

''(d) CIVIL PENALTIES.—In any action brought under this section, the Commission may seek and the court shall have jurisdiction to impose, on a proper showing, on any person found in the action to have committed any violation—

''(1) a civil penalty in the amount of not more than the greater of $100,000 or triple the monetary gain to the person for each violation; or

''(2) in any case of manipulation of, or an attempt to manipulate, the price of any commodity, a civil penalty in the amount of not more than the greater of $1,000,000 or triple the monetary gain to the person for each violation.''.

(e) VIOLATIONS GENERALLY.—Section 9 of the Commodity Exchange Act (7 U.S.C. 13) is amended—

(1) by redesignating subsection (f) as subsection (e); and

(2) by adding at the end the following:

''(f) PRICE MANIPULATION.—It shall be a felony punishable by a fine of not more than $1,000,000 for each violation or imprisonment for not more than 10 years, or both, together with the costs of prosecution, for any person—

''(1) to manipulate or attempt to manipulate the price of any commodity in interstate commerce, or for future delivery on or subject to the rules of any registered entity;

''(2) to corner or attempt to corner any such commodity;

''(3) knowingly to deliver or cause to be delivered (for transmission through the mails or interstate commerce by telegraph, telephone, wireless, or other means of communication) false or misleading or knowingly inaccurate reports concerning market information or conditions that affect or tend to affect the price of any commodity in interstate commerce; or

''(4) knowingly to violate section 4 or 4b, any of subsections (a) through (e) of subsection 4c, or section 4h, 4o(1), or 19.''.

SEC. ___09. CONFORMING AMENDMENTS.

(a) Section 2 of the Commodity Exchange Act (7 U.S.C. 2) is amended—

(1) in subsection (d)(1), by striking ''section 5b'' and inserting ''section 5a(g), 5b,'';

(2) in subsection (e)—

(A) in paragraph (1), by striking '', 2(g), or 2(h)(3)''; and

(B) in paragraph (3), by striking ''2(h)(5)'' and inserting ''2(g)(7)'';

(3) by redesignating subsection (i) as subsection (h); and

(4) in subsection (h) (as redesignated by subparagraph (C))—

(A) in paragraph (1)—

(i) by striking ''No provision'' and inserting ''IN GENERAL.—Subject to subsection (g), no provision''; and

(ii) in subparagraph (A)—

(I) by striking ''section 2(c), 2(d), 2(e), 2(f), or 2(g) of this Act'' and inserting ''subsection (c), (d), (e), or (f)''; and

(II) by striking ''section 2(h)'' and inserting ''subsection (g)''; and

(B) in paragraph (2), by striking ''No provision'' and inserting ''IN GENERAL.—Subject to subsection (g), no provision''.

(b) Section 4i of the Commodity Exchange Act (7 U.S.C. 6i) is amended in the first sentence by inserting '', or pursuant to an exemption under section 4(c)'' after ''transaction execution facility''.

(c) Section 8a(9) of the Commodity Exchange Act (7 U.S.C. 12a(9)) is amended—

(1) by inserting ''or covered entity under section 2(g)'' after ''direct the contract market'';

(2) by striking ''on any futures contract''; and

(3) by inserting ''or covered entity under section 2(g)'' after ''given by a contract market''.

Mrs. FEINSTEIN. Madam President, once again, what we are seeking to do is close a loophole that was created in 2000 when this Congress passed the Commodity Futures Modernization Act. That act exempted just energy and metals. It was not the intention actually to do that. The Senate part of that bill did not exempt them. What happened was Enron went to the House and Enron secured an exemption of energy and metals in the House. That exemption was handled in the conference, and the Senate language was not in the bill.

The exemption was effectively created. The loophole was created. We are just trying to eliminate that loophole. We are not attacking derivatives. All we are saying is: If you do this kind of trading, you must keep a record just as anybody else does. You must be transparent. You must have an audit trail, and you are subject to any fraud or manipulation oversight by the Commodity Futures Trading Commission.

This is where it gets a little complicated. If I sell energy to you and you deliver, then that is covered by the Federal Energy Regulatory Commission. If I sell energy to you and you sell it to a third person or entity that sells it to a fourth entity that sells it to a fifth entity and then it goes into the field, those interim trades are not covered.

That is what we seek to cover because that is where the games exist. It is a rather subtle point, but it is also an important point.

I heard people say that this will stifle the market. I will tell you what has been happening out there. Without transparency and without record keeping stifles the market.

When Mr. Fortney was arrested last week for creating schemes such as Ricochet, Death Star, and Get Shorty, you don't think that stifles the market when you have other traders pleading guilty to fraud and wire fraud?

Does that not stifle the market? And does that not give the average consumer the belief that they cannot trust this marketplace as being fair and transparent? I believe it does. More fundamentally, I believe the rules that govern the marketplace should be rules to protect the average consumer, not the big boys; they can take care of themselves. But the average consumer has to have confidence in the marketplace that it is fair and that it is transparent.

I would like to correct the idea that this amendment has not gone through regular order. I moved this amendment last year to the Energy bill. Senator Gramm of Texas, who, incidentally, subsequently went to work for EnronOnline in its new life with UBS Warburg—which is fine—argued against my amendment. We tried to settle our differences. It took quite some time. We could not settle our differences on this amendment, and we did have a vote.

Another reason for the vote is there were people who believed this had not had enough committee hearing. So we had a vote, and I think we got 48 votes. The amendment went to the Agriculture Committee. The Agriculture Committee held hearings. The staff of both sides reviewed the legislation. Senator HARKIN, who was chairman, and Senator LUGAR, who was ranking member, are both cosponsors of this amendment.

The problem is, the end of the session came without a markup, so this is really the opportunity we have to place this amendment into some form of law, and so we take this opportunity.

I also wish to say that the President's working group in 1999, in their report—this was before the Commodity Futures Modernization Act of 2000—very specifically said, on page 2 of their report, that:

> An exclusion from the CEA [Commodities Exchange Act] for electronic trading systems for derivatives, provided that the systems limit participation to sophisticated counterparties trading for their own accounts and are not used to trade contracts that involve non-financial commodities with finite supplies. . . .

In other words, they are saying that commodities with finite supplies should be included in the bill, but they are recommending that those that do not have finite supplies, such as financials derivatives, not be included in the bill. Now, apparently, they are changing their position. But I want to make very clear that was the position of the ''Over-the-Counter Derivatives Markets and the Commodity Exchange Act, Report of The President's Working Group on Financial Markets'' dated November 1999. And the Senate version of the Commodity Futures Modernization Act actually did just what this working group stated.

Again, to refute the allegation that I am in some way blaming derivatives for the western energy crisis—I am not—I am blaming this loophole which allows all this secret trading, which we have seen result in fraudulent schemes, to try to close that loophole. And the way to close it is to bring the light of day to it. That is what we are trying to do.

I pointed out yesterday, because some people said, well, we need to study this more, that it has been studied more and that the ''Final Report On Price Manipulation In Western Markets, Fact-Finding Investigation Of Potential Manipulation Of Electric And Natural Gas Prices,'' which was prepared by the staff of the Federal Energy Regulatory Commission, and dated March 2003, says the following as one of their recommendations:

> Recommend that Congress consider giving direct authority to a Federal agency to ensure that electronic trading platforms for wholesale sales of electric energy and natural gas in interstate commerce are monitored—

That is what we do—

> and provide market information that is necessary for price discovery in competitive energy markets.

That is exactly what this does, as recommended by this report of the Federal Energy Regulatory Commission.

With the modification I made, metals will have the same level of oversight as exists under current law today.

Now, let me go back again to 2000. I mentioned the change that was made to accommodate Enron lobbying to the Commodity Futures Modernization Act. It also did not take long for EnronOnline and others in the energy sector to take advantage of this new freedom by trading energy derivatives absent any transparency or regulatory oversight. Thus, after the 2000 legislation—and really right away—EnronOnline began to trade energy derivatives bilaterally without being subject to proper regulatory oversight.

It should not surprise anyone that without this transparency, prices soared. In 2000, if Enron's derivatives business had been a stand-alone company, it would have been the 256th largest company in America. That year, Enron claimed it made more money from its derivatives business—$7.23 billion—than Tyson Foods made from selling chicken. That is according to author Robert Bryce, who wrote a book on Enron called ''Pipe Dreams.''

EnronOnline rapidly became the biggest platform for electronic energy trading. But unlike regulated exchanges, such as the New York Mercantile Exchange, the Chicago Mercantile Exchange, the Chicago Board of Trade, EnronOnline was not registered

with the CFTC, the Commodity Futures Trading Commission, so it set its own standards. And that is the problem. Traders and others in the energy sector came to rely on EnronOnline for pricing information. Yet the company's control over this information, and its ability to manipulate it, was large.

As this same author, Robert Bryce, describes—and let me quote—

> Enron didn't just own the casino. On any given deal, Enron could be the house, the dealer, the oddsmaker, and the guy across the table you're trying to beat in diesel fuel futures, gas futures, or the California electricity market.

The Electric Power Supply Association, EPSA, has sent a letter to all Senators asking them to oppose our oversight amendment. This should not be strange to anybody because its members are exactly the same companies that are being investigated and have been investigated by FERC for wrongdoing in the western energy crisis. It is AES Corporation; it is BP Energy; it is Duke Energy; it is Mirant Energy; it is Reliant Energy; it is UBS Warburg, which purchased Enron's trading unit; and it is Williams Energy. Now, with others, they are all members of EPSA, not companies that Westerners trust very much these days in light of what we have been through.

Now, I want to just document some of this.

Let me quickly run through these again because, again, a lot of these round-trip trades were done on the Internet.

Other schemes were carried out on the Internet. Let's just go through this. Duke Energy disclosed that $1.1 billion worth of trades were round trip since 1999. Roughly two-thirds of these were done on the Intercontinental Exchange, which is an online trading platform owned by the banks, again, where there is no transparency, no net capital requirements, and no record-keeping whatsoever. Now, this also meant that thousands of subscribers would have seen false price signals.

Why would they see false price signals? That is because of the nature of a wash or round-trip trade. Again, a wash or round-trip trade would be that I am going to sell you energy at a certain price and you are going to sell me energy at a certain price, but no energy ever changes hands; yet we both post sales. That is what a wash trade or a round-trip trade is.

A class action suit accused the El Paso Corporation of engaging in dozens of round-trip energy trades that artificially bolstered its revenues and trading volumes over the last 2 years.

CMS Energy admitted conducting wash energy trades that artificially inflated its revenue by more than $4.4 billion. These round-trip trades accounted for 80 percent of their trade in 2001. So 80 percent of this company's trades in 2001—in the heart of the energy crisis—were not trades at all. No energy ever traded hands. They just boosted their sales—artificially.

This is another facet of artificially filing false reports: reporting fictitious natural gas transactions to an industry publication. You can read it for yourself. The overwhelming figure in this is, if you look at what was done with energy and you look at California, where one year the total cost of energy was $7 billion and the next year it was $28 billion, which is a 400 percent increase, there is no way that could be legitimate. There is no way the energy need of a State could increase 400 percent in 1 year. Demand didn't increase 400 percent.

So without this type of legislation, there really is insufficient authority to investigate and prevent fraud and price manipulations since parties making the trade are not required to keep a record. What we would require them to do is keep a record. Therefore, the Commodity Futures Trading Commission, in the event of many of these interim trades, and the FERC, where energy is directly delivered as a product of a trade, has the ability to do the investigation based on records. If you don't keep records, it is very hard to prove that.

I would like to repeat that this amendment does not ban trades. This amendment does not affect financial derivatives. This amendment would only require oversight and transparency for those energy trades that are now taking place within this loophole, and it would provide oversight, as recommended in the FERC report.

We are very proud to have the support of the National Rural Electric Cooperative Association, the Derivative Study Center, the American Public Gas Association, American Public Power Association, California Municipal Utilities Association, Southern California Public Power Authority, Transmission Excess Policy Study Group, U.S. Public Interest Research Group, Consumers Union, Consumers Federation of America, Calpine, Southern California Edison, Pacific Gas and Electric, and FERC Chairman Patrick Wood.

Again, this amendment is not going to do anything to change what happened in California and the West. But it does provide the necessary authority for the CFTC and the FERC to help protect against another energy crisis.

I might say I am very suspicious of people who want to do trading in the dark. I am very suspicious when they say, oh, we are so sophisticated you cannot possibly know how this is done and you are going to stifle trade, because they don't want to keep a record of that trade, they don't want transparency, they don't want to keep an audit on trade, and they don't want any Government agency assuring there isn't fraud or manipulation. I am doubly suspicious of them, particularly because of the fraud and manipulation we now know took place.

So, please, don't tell me I am not sophisticated enough to understand. I understand plenty. I understand, when the price goes from $7 billion to $28 billion in a very short period of time, that you have to begin to look. I understand now that these arrests are occurring and the manipulations of Ricochet and Death Star and Get Shorty and wash trades are all becoming well known. I understand. The point is it is wrong. The point is, you cannot prove it is wrong if there are no records of those trades.

So what we are saying is these trades can go on, but you keep records. We give the CFTC the responsibility to set net capital requirements commensurate with risk. That is good oversight for the public and that is good oversight for anybody who is going to invest, because when net capital is not available and the house begins to collapse, as it did with Enron, the company goes bankrupt.

I think I have made my case. We have gone over this. I sent this legislation to the head of Goldman Sachs. They run an electronic exchange. I said, please, if you have problems with it, let me know. I did not hear. We have vetted it and talked over the past year and a half, 2 years, with virtually anyone who wanted to come in and talk with us about it.

Mr. President, I am absolutely determined and I am going to come back and back and back until this loophole is closed. Nobody can tell me I am not sophisticated enough to know that sunshine and records and transparency are critical to the effective functioning of a free marketplace, because I believe that just as much as I believe in the Pledge of Allegiance—and I do believe in the Pledge of Allegiance. When you allow hiding and you allow these trades to take place surreptitiously, that is when there are problems.

I am afraid I have said this over and over again, but we went through it and we saw it. We read the 3,000 pages California has sent to the FERC. This is another intrigue. Can you imagine that no State has the right today to present evidence to the FERC of fraud or manipulation?

California had to go to the Supreme Court to get that right, and then when we got that right, we were told it had to be in in 100 days. California submitted 3,000 pages within the 100 days, and it is loaded with examples of fraud and manipulation.

We know there is fraud, we know there is manipulation, and we know that was present in the western energy crisis, and all we are trying to do is bring light of day to one loophole that was in the Commodity Futures Modernization Act because a major offender lobbied for it in the laws. It was not in the Senate bill. The Senate bill originally covered this, but they lobbied in the House. It was taken out in conference, and the loophole was created.

If the past 3 years have not been evidence enough, if the arrests are not evidence enough, if we do not want a transparent marketplace, if we want people to be able to do this trading—

and we can tell you the language of some of these trades; if they knew they were being recorded, I do not think they would do it in the way they did it—if we want to allow those procedures to continue to happen, that is what a motion to table and a tabling vote will do.

I am very hopeful and I am asking my colleagues to vote nay on the motion to table and vote yea on the modified amendment which is now at the desk.

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

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

The legislative clerk proceeded to call the roll.

Mr. 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.

AMENDMENT NO. 877, WITHDRAWN

Mr. REID. Mr. President, I ask that the Reid amendment be withdrawn.

The PRESIDING OFFICER. The Senator has that right. The amendment is withdrawn.

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

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

Mr. COCHRAN. Mr. President, the Senate is considering the amendment offered by the distinguished Senator from California, Mrs. FEINSTEIN, to the Energy bill now before the Senate. This amendment seeks to transfer, in effect, regulatory authority from the body that now has that authority, the Commodity Futures Trading Commission, to the Federal Energy Regulatory Commission.

There are several good reasons why the Senate should not adopt this amendment and force that transfer of regulatory authority. First, the Federal Energy Regulatory Commission has special responsibilities but this will give them new and different responsibilities where there is no experience, there is no body of law or regulatory decisionmaking on which to base the assumption that this kind of regulation or this regulation carried out by this Commission would be of any better character or type than that which would be exercised by the Commodity Futures Trading Commission.

The Commodity Futures Trading Commission has been operating for some time now and has actually shown that it is capable of taking action to prevent abuses and illegal activities that can occur in these trading markets and in the energy trading area as well.

The Feinstein amendment would give the Federal Energy Regulatory Commission authority over areas that are currently regulated by the Commodity Futures Trading Commission and would require, in addition, regulation of energy derivatives. These are complex instruments. They are used to transfer risks among traders and they are important tools in the energy markets today.

Congress considered in the past, when it took up the Commodity Futures Modernization Act of 2000 several years ago, regulating these instruments. But it decided not to do so. The Federal Energy Regulatory Commission has no current responsibility in regulating derivatives.

It seems to me that when you look to see who has been carrying out duties now complained about by some Senator, you can find that the Commodity Futures Trading Commission has a record of taking legal action against companies such as Enron, El Paso, and others regarding energy market problems. The Commodity Futures Trading Commission has recovered millions of dollars in fines from these companies, and it has several ongoing investigations in this area, and more charges are possible.

To transfer now the regulatory authority to a different commission and purport to take away the authority from the Commodity Futures Trading Commission is going to create disruption in ongoing investigations and actions that are taken to discipline this market and make it more predictable and trustworthy.

The Senator from California has suggested that the amendment she has offered is needed to prevent wash trades. These are trades that are fictitious. A company will buy a commodity and then sell it creating the impression that this is a legitimate trade. It establishes a price. It establishes volume. But it is fictitious trading. It shouldn't have that effect but it does.

The Commodity Futures Trading Commission has taken action to discourage that activity and to punish that activity. It has specific authority to do that under the Commodity Exchange Act. The Commodity Futures Trading Commission has brought several actions under that authority in the last several years. Its authority to take this kind of action has been upheld by two decisions from U.S. appeals courts.

Just this year, the Commodity Futures Trading Commission has recovered tens of millions of dollars from merchant energy traders for so-called wash trades and false trades.

Another claim that is made in support of the amendment of the Senator from California is that because the exempt commercial markets are not regulated under the Commodity Exchange Act that they have no regulatory oversight. That is just not true. Those markets are required by statute today to have electronic audit trails. They are required by statute to keep records for 5 years. They are required to be subject to the Commodity Futures Trading Commission's antifraud and antimanipulation authorities. They are subject to special call examinations by the Commodity Futures Trading Commission. To suggest there are no regulatory requirements on those exempt commercial markets is just not true.

It is also claimed that the Feinstein amendment would impose capital requirements on exempt commercial markets. It would require capital requirements. That doesn't necessarily solve anything. Capital requirements aren't imposed now on the Chicago Mercantile Exchange, or the New York Mercantile Exchange, or the Chicago Board of Trade. They are not viewed as necessary. Those markets have been functioning without capital requirements. To now impose them on exempt commercial markets is inappropriate and unnecessary.

Capital requirements or other exempt commercial markets would be difficult to establish. They would change on a regular basis—weekly probably—because of new contracts being offered, and change financial positions of participants. Capital requirements would impose significant costs and there are no identifiable benefits.

The amendment would also impose large trader reporting on exempt commercial markets. Large trader reporting works on retail futures exchanges with standardized contracts but would not work on exempt commercial markets. They don't have the same type of standardization. Large trader reporting on exempt commercial markets could actually lead to misleading information being provided to the public. Large trader reporting is used for market surveillance in retail futures markets.

The Commodity Futures Trading Commission's statutory authority for exempt commercial markets is after the fact, antifraud and antimanipulation enforcement, and is inconsistent with a large trader reporting scheme.

In closing, the Senate has to take into account the fact that the leading figures in our Government who are responsible for enforcement and managing the departments that understand financial markets and the impact they have on our economy and on our place in the world economy are urging that the Senate not adopt the Feinstein amendment.

This is a letter which was put on every Senator's desk in the last several minutes signed by John W. Snow, Secretary of the Department of the Treasury, Alan Greenspan, Chairman of the Board of Governors of the Federal Reserve System, William H. Donaldson, Chairman, U.S. Securities and Exchange Commission, and James E. Newsome, Chairman of the Commodity Futures Trading Commission.

With the permission of the Chair, I will read the letter.

It is addressed to Senator CRAPO of Idaho and Senator MILLER of Georgia.

Thank you for your letter of June 10, 2003, requesting the views of the President's Working Group on Financial Markets [PWG] on proposed Amendment No. 876—

That is the Feinstein amendment—

to S. 14, the pending energy bill.

As this amendment is similar to a proposed amendment on which you sought the views of the PWG last year, we reassert the positions expressed in the PWG's response dated September 18, 2002, a copy of which is enclosed. The proposed amendment could have significant unintended consequences for an extremely important risk management market—serving businesses, financial institutions, and investors throughout the U.S. economy. For that reason, we believe that adoption of this amendment is ill-advised.

We would also point out that, since we wrote that letter last year, various federal agencies have initiated actions against wrongdoing in the energy markets. As you note, the CFTC has brought formal actions against Enron, Dynegy, and El Paso for market manipulation, wash (or roundtrip) trades, false reporting of prices, and operation of illegal markets. The Securities and Exchange Commission, the Federal Energy Regulatory Commission, and the Department of Justice have also initiated formal actions in the energy sector. Some of these actions have already resulted in substantial monetary penalties and other sanctions. These initial actions alone make clear that wrongdoing in the energy markets are fully subject to the existing enforcement authority of federal regulators.

The Commodity Futures Modernization Act of 2000 brought important legal certainty to the risk management marketplace. Businesses, financial institutions, and investors throughout the economy rely upon derivatives to protect themselves from market volatility triggered by unexpected economic events. This ability to manage risks makes the economy more resilient and its importance cannot be underestimated. In our judgment, the ability of private counterpart surveillance to effectively regulate these markets can be undermined by inappropriate extensions of government regulation.

It is clear from the letter that the Senate has received no response to inquiries from Senator CRAPO and Senator MILLER clearly explaining the dangers in adopting the Feinstein amendment.

At the appropriate time it will be our intention to move to table the Feinstein amendment and ask for the yeas and nays at that time. I hope Senators will carefully review the information we now have available on each Senator's desk and vote to table the Feinstein amendment.

Madam President, I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

Mr. FRIST. 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. FRIST. Madam President, I ask unanimous consent that the vote in relation to the Feinstein amendment No. 876 occur at 3:15 today, with no amendments in order to the amendment prior to the vote.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Madam President, it is my understanding that would be a motion to table.

Mr. FRIST. That is correct.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

EXECUTIVE SESSION

NOMINATION OF J. RONNIE GREER, OF TENNESSEE, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF TENNESSEE

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The senior assistant bill clerk read the nomination of J. Ronnie Greer, of Tennessee, to be United States District Judge for the Eastern District of Tennessee.

Mr. FRIST. Madam President, in a few moments, I believe at 2:15, the vote for J. Ronnie Greer's nomination as a United States District Court Judge for the Eastern District of Tennessee will take place.

As we come to the final few moments before that vote, I want to express my strong support for a very good friend over the years, Ronnie Greer.

People who come from the mountains of northeast Tennessee are known in our State for certain qualities. They are the qualities of loyalty, of steadfastness, of a can-do spirit. This individual, who we will be voting on in a few minutes, really personifies that tradition. He is a highly accomplished public servant who has served as an attorney in Tennessee's judicial system with great distinction for more than 20 years. His academic career speaks for itself—he graduated at the top of his class at the University of Tennessee Law School and was invited to be on Law Review. Since starting his own law office in Greeneville, he has represented numerous clients on a wide range of issues, and he has considerable experience before the Federal courts. Recognizing the need to help his fellow man, he has not hesitated to accept the appointments of indigent clients, representing them in both the District Court and the Sixth Circuit Court of Appeals.

Ronnie has also had a distinguished career in politics and public service outside of his law practice. He was a State Senator in Tennessee's General Assembly for nine years, ably serving the people of District One. He served on both the Judiciary Committee and as Chairman of the Environment, Conservation and Tourism Committee. Ronnie also served as a Special Assistant in then-Governor LAMAR ALEXANDER's first term, forming a friendship and a bond that continues to this day.

You can't demand respect from the people of northeast Tennessee, you have to earn it, and Ronnie has without question. He is known for his sense of fair play and his compassion for others. With his easy-going, thoughtful manner, yet quick mind and keen legal ability, he has the temperament and judgement required for the Federal bench. For the last nineteen years, Judge Thomas Hull has served as District Judge in Tennessee's Eastern District, and his distinguished career will long be remembered. While Judge Hull leaves big shoes to fill, I am confident Ronnie is up to the task.

Mr. President, Ronnie Greer's dedication to the citizens of our State, his love of the law, and his desire to serve his country make him an ideal choice to serve as a U.S. District Judge. He has my highest recommendation and unqualified support, and I am delighted to urge my colleagues to vote for his confirmation today.

Mr. ALEXANDER. Madam President, within a few minutes, we will be voting on the President's nomination of J. Ronnie Greer, of Greeneville, TN, to be a Federal District Judge for the Eastern District of Tennessee. I want to just say a word about that.

The President has made a superb nomination. Ronnie Greer is a distinguished lawyer. He knows the people of east Tennessee. He has earned our respect. I am delighted the Senate has moved so expeditiously to consider this exceptional nominee.

I had the privilege, as Governor, of appointing nearly 50 men and women as judges, and I know how important it can be. What I always looked for was intelligence and good character; someone who knew and understood the people; and someone who would be courteous to the men and women to come before the judge once the judge assumes the bench. In this case, it is a lifetime position, and it is even more important that the judge have those qualities.

Ronnie Greer has all those qualities. I have known him since he was student body president at East Tennessee State University. He was a champion debater. That was some 30 years ago. I knew then he would amount to something special, and he already has.

He has served his community in many ways. He has served his political party, the Republican party, in many important ways. He has been a State senator from his part of upper east Tennessee. He has been active on issues that have to do with solid waste and the environment. He has been chairman of his local committee.

I think one of the things that most strongly recommends Ronnie Greer is he takes this most important position in what we call in upper east Tennessee having been a trial judge. He will have lots of people before him, litigants before him trying cases, making decisions on many different kinds of things. He has actually practiced law in the grand manner. He has been the kind of lawyer we used to see all over the country, where a single lawyer

would try many different kinds of cases. They would have a criminal case one day, a civil case the next day, and a domestic relations case the next day. The lawyer had many talents and was broad gauged. Today, so much of our legal profession is in very large law firms, where we have very specialized lawyers. They do not see big slices of life. As a result, many of them are not very well prepared for a Federal judgeship, particularly a district judgeship where many slices of life come before that judge.

Ronnie Greer is well prepared. He has tried hundreds of cases in his career. He has represented the people of his area. The fact the President nominated him and that this Senate has moved so quickly to confirm him suggests his reputation goes well before him.

Mr. Greer was born and raised in Mountain City, TN. He received his Bachelor of Science degree from the East Tennessee State University in 1974. He received his Juris Doctorate from the University Of Tennessee College Of Law in 1980.

Mr. Greer served in the Tennessee General Assembly as a Senator for 8 years and served on the judiciary committee for 5 years. During his term of service, the committee considered legislation relative to the judiciary, State criminal code and criminal sentencing. This committee approved bills: that rewrote the Tennessee Criminal Code; that dealt with the appointment and retention of State appellate court judges; and that revised the Tennessee Rules of Evidence; the Tennessee Rules of Civil Procedure; and the Tennessee Rules of Criminal Procedure.

While in the Tennessee General Assembly, Mr. Greer also served as Chairman of the Senate Environment, Conservation and Tourism Committee for 7 years. This committee considered bills related to environmental issues, wildlife, State parks and tourism. He also authored and was chief sponsor of the Tennessee Solid Waste Management Act and sponsored and cosponsored numerous pieces of significant environmental legislation.

Mr. Greer has vast litigation experience in civil and criminal law. He served as County Attorney for Greene County, TN. In his capacity of County Attorney and in private practice, Mr. Greer tried approximately 200 lawsuits in State or Federal courts as sole or chief counsel. As a practicing attorney, he practiced general civil litigation primarily in the areas of personal injury, environmental law and bankruptcy. Mr. Greer has represented many defendants in criminal cases in both State and Federal courts. Mr. Greer has represented numerous cases for indigent clients on a pro bono basis and routinely accepted two to three criminal cases appointed by federal courts per year.

Mr. Greer has received honors and awards for his outstanding service to the community. To name a few, he was the 1989 recipient of the Tennessee Conservation League's Legislator of the Year Award and, in 1993, he received the Environmental Action Fund's Legislator of the Year Award.

Madam President, I join Senator FRIST in saying how proud we both are of his nomination. I look forward to casting my vote for him in a few minutes and urge all my colleagues to support this nomination.

Mr. HATCH. Madam President, I rise in support of the nomination of James Ronnie Greer to the U.S. District Court for the Eastern District of Tennessee. Mr. Greer has extensive experience in both the private and public sectors of the legal community.

Upon graduating from the University of Tennessee College of Law, Mr. Greer became the special assistant to then-Gov. LAMAR ALEXANDER.

For the past 20 years, Mr. Greer has maintained a successful general legal practice. During this time, his practice has consisted of considerable litigation involving both jury and bench trials in the areas of State and Federal criminal defense, personal injury, and workers compensation. He has also practiced in the areas of domestic relations and has represented a number of clients on environmental issues. From 1985 to 1986, Mr. Greer was county attorney for Green County, TN.

From 1986 to 1994, Mr. Greer served as a State senator in the Tennessee General Assembly, during which time he was a member of the Judiciary Committee, and chairman of the Environment, Conservation and Tourism Committee. During his tenure, he helped pass bills which rewrote the Tennessee Criminal Code, revised the Rules of Evidence, Civil Procedure, and Criminal Procedure. Mr. Greer was also the author and chief sponsor of the Tennessee Solid Waste Management Act.

I am confident that he will serve on the bench with integrity and fairness, and I urge my colleagues to confirm him today.

Mr. LEAHY. Madam President, today, we vote to confirm J. Ronnie Greer to the United States District Court. With this confirmation we will have filled the sole vacancy on this court, one that arose in October 2002. Judge Greer will join Judge J. Daniel Breen and Judge Thomas Varlan, who we confirmed to lifetime appointments to the Western District of Tennessee and Eastern District of Tennessee, respectively, earlier in March of this year. These three confirmations build on the progress we were able to make while I chaired the Judiciary Committee during the 107th Congress. During those months we proceeded expeditiously to consider and confirm Judge Thomas Phillips to the Eastern District of Tennessee and Samuel Hardy Mays, Jr. to the Western District of Tennessee. In addition, during my tenure as chairman we broke the logjam on appointments to the United States Court of Appeals to the Sixth Circuit by confirming Judge Julia Smith Gibbons of Tennessee to that circuit court. She was the first Sixth Circuit confirmation in almost 5 years during which the Republican Senate majority had refused to proceed on three of President Clinton's Sixth Circuit nominees and vacancies grew to half the circuit court.

The Tennessee total during the last few years now stands at six and its Federal bench is completely filled. Working with Senator FRIST, Senator ALEXANDER, and before them my good friend Senator Thompson, we have been able to make tremendous progress during the last 2 years.

Mr. FRIST. Madam President, I ask for the yeas and nays on the nomination.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Shall the Senate advise and consent to the nomination of J. Ronnie Greer, of Tennessee, to be United States District Judge for the Eastern District of Tennessee?

The clerk will call the roll.

The senior assistant bill clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Illinois (Mr. FITZGERALD) is necessarily absent.

Mr. REID. I announce that the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the the Senator from Massachusetts (Mr. KERRY) would vote ''yea.''

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

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 216 Ex.]

YEAS—97

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

NOT VOTING—3

Fitzgerald	Hollings	Kerry

The nomination was confirmed.

NOMINATION OF MARK R. KRAVITZ, OF CONNECTICUT, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF CONNECTICUT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the following nomination, which the clerk will report.

The assistant legislative clerk read the nomination of Mark R. Kravitz, of Connecticut, to be U.S. District Judge for the District of Connecticut.

The PRESIDING OFFICER. Under the previous order, there will be 5 minutes for debate equally divided between the chairman and ranking member or their designees prior to a vote.

Who yields time?

Mr. LEAHY. I yield such time as the senior Senator from Connecticut desires.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, I thank Senator LEAHY and Senator HATCH for moving the nomination of Mark Kravitz. This is a first-rate nomination. I commend the President and others who recommended Mark Kravitz. He is a first-class nominee to sit on the Federal bench. My colleague Senator LIEBERMAN and I strongly support this nomination. He has been a wonderful lawyer in Connecticut, a graduate of Wellesley University, Georgetown Law School, a clerk for then-Justice Rehnquist, has written extensively and taught at the University of Connecticut Law School. He is going to be a wonderful addition to the district court bench.

We wanted our colleagues to know how strongly Senator LIEBERMAN and I felt about this nomination. We urge our colleagues to give their unanimous support.

I yield back my remaining time.

Mr. LEAHY. Madam President, I thank the Senator from Connecticut. This was a case where the White House worked with the Senators from the home State in an effort to unite rather than divide. I suspect this nominee will be easily confirmed.

With the confirmation of Mark R. Kravitz to the District Court, we will have filled the only vacancy on that court. I commend Senator DODD and Senator LIEBERMAN for their work in connection with this outstanding nomination and congratulate the nominee and his family.

The Senate has now confirmed 131 judges, including 26 circuit court judges, nominated by President Bush. One hundred judicial nominees were confirmed when Democrats acted as the Senate majority for 17 months from the summer of 2001 to adjournment last year. After today, 31 will have been confirmed in the other 12 months in which Republicans have controlled the confirmation process under President Bush. This total of 131 judges confirmed for President Bush is more confirmations than the Republicans allowed President Clinton in all of 1995, 1996 and 1997 the first 3 full years of his last term. In those 3 years, the Republican leadership in the Senate allowed only 111 judicial nominees to be confirmed, which included only 18 circuit court judges. We have already significantly exceeded that total with 6 months remaining to us this year.

If the Senate did not confirm another judicial nominee all year and simply adjourned today, we would have treated President Bush more fairly and would have acted on more of his judicial nominees than Republicans did for President Clinton in 1995–97. In addition, the vacancies on the federal courts around the country are significantly lower than the 80 vacancies Republicans left at the end of 1997. We continue well below the 67 vacancy level that Senator HATCH used to call ''full employment'' for the federal judiciary.

Indeed, we have reduced vacancies to their lowest level in the last 13 years. So while unemployment has continued to climb for Americans to 6.1 percent last month, the Senate has helped lower the vacancy rate in federal courts to an historically low level that we have not witnessed in over a decade. Of course, the Senate is not adjourning for the year and the Judiciary Committee continues to hold hearings for Bush judicial nominees at between two and four times as many as he did for President Clinton's.

For those who are claiming that Democrats are blockading this President's judicial nominees, this is another example of how quickly and easily the Senate can act when we proceed cooperatively with consensus nominees. The Senate's record fairly considered has been outstanding—especially when contrasted with the obstruction of President Clinton's moderate judicial nominees by Republicans between 1996 and 2001.

Mr. DODD. Mr. President, I thank Chairman Hatch, Senator LEAHY and all the members of the Judiciary Committee for acting on this judicial nomination in a thorough and expeditious manner. I am pleased to recommend Mr. Kravitz to my colleagues to serve as Federal District Judge for the District of Connecticut.

Mark Kravitz is a graduate of Wesleyan University in Middletown, Connecticut and Georgetown Law School. After graduating from law school, Mr. Kravitz clerked for Judge James Hunter of the U.S. Court of Appeals for the Third Circuit. Mr. Kravitz also served as a clerk for then-Justice William H. Rehnquist of the United States Supreme Court.

In 1976, Mr. Kravitz joined the respected law firm of Wiggin & Dana in New Haven, CT, where he is now a partner and heads their appellate practice. Mr. Kravitz's law practice has been devoted to civil litigation in State and Federal courts. He has been lead counsel on more than 60 appeals in State and Federal courts. In addition to his appellate and litigation practice, Mr. Kravitz has been an Adjunct Professor of Law at the University of Connecticut School of Law.

Over the course of the last quarter of a century, Mr. Kravitz has built an excellent reputation. He has become a respected and admired member of the Connecticut bar and he has contributed to the larger community, giving his time and talents to such causes as the Guilford Land Conservation Trust, the Connecticut Foundation for Open Government, and the Connecticut Council on Environmental Quality. Mr. Kravitz has been listed as one of the Best Lawyers in America since 1991. He has been elected as a fellow to the American Academy of Appellate Lawyers and as a member of the American Law Institute. In 1995, Mr. Kravitz received the Deane C. Avery Award for ''advancing the cause of freedom of information and freedom of speech in Connecticut.''

Recently, there has been a great deal of debate in the Senate about judicial nominations. I don't believe there should be any debate about this nomination. Mark Kravitz is the kind of nominee whom I believe the Framers of the Constitution had in mind when they envisioned an independent judiciary composed of jurists whose experience, intellect, and commitment to justice are unquestionable.

I believe that Mark Kravitz possesses the intellect, the experience, and the disposition to be an impartial finder of fact, a faithful legal analyst, and a fair and just jurist. He is an outstanding lawyer, and given everything I know about him, I am certain that he has the capacity to be an outstanding judge, as well. The State of Connecticut is proud to have him as one of our own. I'm certain that he will serve his country with honor and distinction, and I look forward to his confirmation. Again, I commend Mark Kravitz without reservation and I urge my colleagues to vote to confirm his nomination.

Mr. LIEBERMAN. Mr. President. I rise to support the nomination of Mark Kravitz, whose nomination to the U.S. District Court for the District of Connecticut the Senate is currently considering.

Mr. Kravitz's confirmation will be good for Connecticut and for the Federal bench.

Connecticut isn't the biggest State in the Union, but we are blessed to have countless principled and professional lawyers, judges, and legal scholars. Maybe that is because we were the first State to have a written constitution; maybe it is due to the gravitational tug of fine law schools like UConn and my own alma mater, Yale. Regardless, in a State filled with lawyers, it is no exaggeration to say that Mark Kravitz has proven himself among the best. And I have no doubt he will uphold the highest standards of jurisprudence on the Federal bench.

Mark graduated magna cum laude and Phi Beta Kappa in 1972 from Wesleyan University in Middletown, Connecticut. He later graduated from

Georgetown Law School, where he was managing editor of the Law Review. Out of law school, Mark clerked for Judge James Hunter of the Third Circuit Court of Appeals, and Supreme Court Justice William Rehnquist. He is currently a partner at Wiggin and Dana in New Haven, where he has worked since 1976. He has served as lead counsel on more than 60 appeals in State and Federal courts, and has argued before the United States Supreme Court.

Mark has been listed as one of the Best Lawyers in America since 1991. He was endorsed by the Connecticut Bar Association as exceptionally well qualified to be a District Judge, and has been unanimously rated as Well Qualified by the American Bar Association.

Forgive the pun, but this is an open and shut case. Mark Kravitz has the intellect, the independence, and the integrity to do this job and do it well. I am confident he will carefully read and apply the laws of the United States in Federal court, abiding only by the law-not by any ideology, passion, or prejudice. He will be an exemplary judge. I urge my colleagues to confirm him today.

Mr. HATCH. Madam President, I rise today in support of Mark. R. Kravitz to be a United States District Judge for the District of Connecticut. I am confident that with his accomplishments and experience, Mr. Kravitz will make an excellent Federal judge. After graduating from Georgetown University Law Center, where he was managing editor of the Georgetown Law Journal, Mr. Kravitz clerked for the Honorable James Hunter III of the U.S. Court of Appeals for the Third Circuit. He then went on to clerk for the Honorable William H. Rehnquist on the U.S. Supreme Court.

Mr. Kravitz has spent the bulk of his legal career at the firm of Wiggin & Dana in New Haven, CT, where he is currently a partner. He also serves as an adjunct professor of law at the University of Connecticut School of Law and has also been a visiting lecturer at Yale University Law School. For the past 12 years, Mr. Kravitz has been recognized in the publication ''The Best Lawyers in America.'' He enjoys the support of both home State Democrat Senators and was unanimously approved by the Judiciary Committee. I urge my colleagues to vote in favor of this exceptional nominee.

I yield back our remaining time.

Mr. LEAHY. Madam President, I yield back the remaining time.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nominatin of Mark R. Kravitz, of Connecticut, to be United States District Judge for the District of Connecticut? The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Illinois (Mr. FITZGERALD) is necessarily absent.

Mr. REID. I announce that the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ''Yea''.

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

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 217 Ex.]

YEAS—97

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

NOT VOTING—3

Fitzgerald	Hollings	Kerry

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the President will be notified of the Senate's action.

LEGISLATIVE SESSION

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

ENERGY POLICY ACT OF 2003—Continued

AMENDMENT NO. 876, AS MODIFIED

Mr. REID. Madam President, I ask unanimous consent that the time be equally divided and that Senator FEINSTEIN control our time and Senator COCHRAN control the time on the other side.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Who yields time?

Mr. REID. Madam President, on behalf of Senator FEINSTEIN, I yield to the Senator from Washington 4 minutes.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Ms. CANTWELL. Thank you, Madam President.

I am here to support the Feinstein amendment, which I am pleased to cosponsor. It is a very important piece of legislation. I thank my colleague for her hard work on this very important issue. We have all heard about the dysfunctions in our western regional power market and how it has cost our western economy more than $35 billion.

Madam President, it was more than a year ago that the Senator from California and I stood on the floor to have this debate with many of my colleagues. During the Omnibus Appropriations bill in 2000, Congress granted an exemption from regulatory scrutiny for businesses such as EnronOnline and electronic trading platforms. Unsurprisingly, Enron was chief among its boosters in lobbying for this language. Even though Congress listened to Enron and not the President's Working Group on Financial Markets, which opposed this exemption.

Now we have history. What has happened? We know that the Enron loophole has caused quite a bit of a problem. In fact, in light of evidence which during last year's debate was just beginning to emerge, we have found that the markets for energy derivatives and the physical energy prices and supplies have caused a problem. In the West, we had huge spikes. We have had a long and vigorous floor debate about this amendment.

There were many detractors who basically said at the time there was no conclusive evidence that Enron manipulated western energy markets and there was no need to proceed. This year, we have heard a lot about how Enron in fact has manipulated markets.

Less than a month after the Senate passed this comprehensive Energy bill with this language in it, Enron's ''smoking gun'' memos were released detailing a number of the company's schemes for driving up the prices. My colleagues are aware that Enron has continued to release various amounts of information about this unbelievable scandal and manipulation of prices.

Just last week, another Enron trader was arrested. And the complaint of Federal prosecutors said they are uncovering even more details of ploys to manipulate energy prices. We wanted evidence. We got it. In a long-awaited report, the Federal Energy Regulatory Commission concluded this spring that manipulation was ''epidemic'' in the western market during the crisis of 2000–2001.

But more specifically, in a staff report the Federal Energy Regulatory Commission detailed the manner in which EnronOnline helped Enron to game the California markets. The Commission concluded that ''the relationship between the financial and physical energy products . . . provides the opportunity to manipulate the

physical markets and profit in the financial markets.''

Further, the Federal Energy Regulatory Commission estimated that EnronOnline allowed the company to reap more than $500 million in additional profits. There it is, right from the Federal Commission: EnronOnline allowed them to reap those additional profits.

As we approach this very important issue in a vote here in a few minutes, my colleagues need to step up and close this loophole that the President's Working Group on Financial Markets first argued against because it said we didn't have real credibility on manipulation. Now we have the credibility, and we have a Federal Commission pointing to the fact that EnronOnline was responsible for part of this market manipulation.

I urge my colleagues to support the Feinstein amendment.

The PRESIDING OFFICER. Who yields time?

Mr. COCHRAN. Madam President, I yield such time as he may consume to the Senator from Idaho, Mr. CRAPO.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAPO. Thank you, Madam President. I will be very brief.

I want to reiterate, once again, we are not here dealing with a question of whether those who did try to and succeeded in manipulating markets should be held accountable for that. We are talking about what is the correct way to regulate the derivatives market in our country.

I would like to read into the RECORD, once again, a portion of a letter which we have just received signed by the Secretary of the Department of the Treasury, John W. Snow; Alan Greenspan, Chairman of the Board of Governors of the Federal Reserve System; William H. Donaldson, Chairman of the U.S. Securities and Exchange Commission; and James E. Newsome, Chairman of the Commodity Futures Trading Commission. They write:

Dear Senators Crapo and Miller:

Thank you for your letter of June 10, 2003, requesting the views of the President's Working Group on Financial Markets on proposed Senate Amendment # 876 to S. 14, the pending energy bill. As this amendment is similar to a proposed amendment on which you sought the views of the PWG last year, we reassert the positions expressed in the PWG's response dated September 18, 2002, a copy of which is enclosed. The proposed amendment could have significant unintended consequences for an extremely important risk management market—serving businesses, financial institutions, and investors throughout the U.S. economy. For that reason, we believe that adoption of this amendment is ill-advised.

And this next paragraph responds directly to the allegations that there is some manipulation in the market and there is a loophole there. They go on to say:

We would also point out that, since we wrote that letter last year, various federal agencies have initiated actions against wrongdoing in energy markets.

I do not have time to go through the list of wrongdoing they have initiated action against, but they conclude in their letter:

These initial actions alone make clear that wrongdoers in the energy markets are fully subject to the existing enforcement authority of federal regulators.

This amendment will not be helpful to our economy. It will take away one of the needed elements of our economy that gives it the dynamic nature that it has, to be able to resist some of the difficult burdens that the economy has faced in the last several years.

Madam President, I ask unanimous consent that the letter I just referred to dated June 11, 2003, and an additional letter dated September 18, 2002, be printed in the RECORD.

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

DEPARTMENT OF THE TREASURY, BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, U.S. SECURITIES AND EXCHANGE COMMISSION, COMMODITY FUTURES TRADING COMMISSION,

Washington, DC, June 11, 2003.

Hon. MICAHEL D. CRAPO,
U.S. Senate, Russell Senate Office Building, Washington, DC.

Hon. ZELL B. MILLER,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATORS CRAPO AND MILLER: Thank you for your letter of June 10, 2003, requesting the views of the President's Working Group on Financial Markets (PWG) on proposed Senate Amendment No. 876 to S. 14, the pending energy bill. As this amendment is similar to a proposed amendment on which you sought the views of the PWG last year, we reassert the positions expressed in the WPG's response dated September 18, 2002, a copy of which is enclosed. The proposed amendment could have significant unintended consequences for an extremely important risk management market—serving businesses, financial institutions, and investors throughout the U.S. economy. For that reason, we believe that adoption of this amendment is ill-advised.

We would also point out that, since we wrote that letter last year, various federal agencies have initiated actions against wrongdoing in the energy markets. As you note, the CFTC has brought formal actions against Enron, Dynegy, and El Paso for market manipulation, wash (or roundtrip) trades, false reporting of prices, and operation of illegal markets. The Securities and Exchange Commission, the Federal Energy Regulatory Commission, and the Department of Justice have also initiated formal actions in the energy sector. Some of these actions have already resulted in substantial monetary penalties and other sanctions. These initial actions alone make clear that wrongdoers in the energy market are fully subject to the existing enforcement authority of federal regulators.

The Commodity Futures Modernization Act of 2000 brought important legal certainty to the risk management marketplace. Businesses, financial institutions, investors throughout the economy rely upon derivatives to protect themselves from market volatility triggered by unexpected economic events. This ability to manage risks makes the economy more resilient and its importance cannot be underestimated. In our judgment, the ability of private counterparty surveillance to effectively regulate these markets can be undermined by inappropriate extensions of government regulation.

Yours truly,

JOHN W. SNOW,
Secretary, Department of the Treasury.

WILLIAM H. DONALDSON,
Chairman, U.S. Securities and Exchange Commission.

ALAN GREENSPAN,
Chairman, Board of Governors of the Federal Reserve System.

JAMES E. NEWSOME,
Chairman, Commodity Futures Trading Commission.

DEPARTMENT OF TREASURY, BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, U.S. SECURITIES AND EXCHANGE COMMISSION, COMMODITY FUTURES TRADING COMMISSION,

Washington, DC, September 18, 2002.

Hon. MICHAEL D. CRAPO,
U.S. Senate, Russell Senate Office Building, Washington, DC.

Hon. ZELL B. MILLER,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATORS CRAPO AND MILLER: In response to your letter of September 13, we write to express our serious concerns about the legislative proposal to expand regulation of the over-the-counter (OTC) derivatives markets that has recently been proposed by Senators Harkin and Lugar.

We believe that the OTC derivatives markets in question have been a major contributor to our economy's ability to respond to the stresses and challenges of the last two years. This proposal would limit this contribution, thereby increasing the vulnerability of our economy to potential future stresses.

The proposal would subject market participants to disclosure of proprietary trading information and new capital requirements. We do not believe a public policy case exists to justify this governmental intervention. The OTC markets trade a wide variety of instruments. Many of these are idiosyncratic in nature. These customized markets generally do not serve a significant price discovery function for non-participants, nor do they permit retail investors to participate. Public disclosure of pricing data for customized OTC transactions would not improve the overall price discovery process and may lead to confusion as to the appropriate pricing for other transactions, as terms and conditions can vary by contract. The rationale for imposing capital requirements is unclear to us, and the proposal's capital requirements also could duplicate or conflict with existing regulatory capital requirements.

The trading of these instruments arbitrages away inefficiencies that exist in all financial and commodities markets. If dealers had to divulge promptly the proprietary details and pricing of these instruments, the incentive to allocate capital to developing and finding markets for these highly complex instruments would be lessened. The result would be that the inefficiencies in other markets that derivatives have arbitraged away would reappear.

It is also unclear who would benefit from the proposed disclosures and regulations other than whoever simply copied existing products and instruments for their own short-term advantage. Weakening the protection of proprietary intellectual property rights in the market arena would undercut a complex of highly innovative markets that is among this nation's most valuable assets.

While the derivatives markets may seem far removed from the interests and concerns of consumers, the efficiency gains that these markets have fostered are enormously important to consumers and to our economy. We urge Congress to protect these market's contributions to the economy, and to be aware of the potential unintended consequences of current legislative proposals.

Yours truly,

PAUL H. O'NEILL,
Secretary, Department of Treasury.
HARVEY L. PITT,
Chairman, U.S. Securities and Exchange Commission.
ALAN GREENSPAN,
Chairman, Board of Governors of the Federal Reserve System.
JAMES E. NEWSOME,
Chairman, Commodity Futures Trading Commission.

Mr. CRAPO. Madam President, I encourage my colleagues to vote against the amendment.

The PRESIDING OFFICER. Who yields time?

The Senator from New Mexico.

Mr. DOMENICI. Madam President, do they have any time left on their side?

The PRESIDING OFFICER. Fifty-five seconds.

Mrs. FEINSTEIN. I yield our time to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Madam President, I join Senator FEINSTEIN as a cosponsor of her amendment to strengthen Federal oversight of energy markets. I strongly support the amendment's provisions enhancing the ability of the Commodity Futures Trading Commission to investigate and punish fraud and manipulation in over-the-counter markets in energy derivatives and derivatives based on other ''exempt commodities'' under the Commodity Exchange Act.

As chairman of the Committee on Agriculture, Nutrition and Forestry during the last Congress, I held a hearing on the scope of the CFTC's authority to insure market transparency and prevent fraud and manipulation in markets in OTC derivatives based on ''exempt commodities,'' such as energy and metals, following passage of the CFMA. Following that hearing, Senator LUGAR and I worked closely with Senator FEINSTEIN on an earlier version of this amendment to improve it. At the beginning of the 108th Congress, Senator FEINSTEIN introduced S. 509, incorporating the work we did within the Agriculture Committee last summer and fall. The only difference between S. 509 and this amendment is that S. 509 was drafted to fill a gap in oversight created by the CFMA and fully and clearly affirm the CFTC's authority to oversee trading in all ''exempt commodities''—OTC energy and metals derivatives as well as derivatives based on other commodities such as broadband and weather—whereas this amendment now does not change the treatment of metals derivatives. I have some concerns about this approach. Metals, like energy, are commodities of finite supply. They are equally susceptible to market manipulation and should therefore be subject to the same level of oversight. The legislative process often requires compromise in order to make progress toward important policy goals, however, and because I hope this amendment will result in significant progress in addressing a problem created by the CFMA, I support it.

The CFMA amended the Commodity Exchange Act in a number of positive ways, based for the most part on the recommendations of the President's Working Group on Financial Markets issued in 1999. The President's Working Group recommended that certain transactions involving financial derivatives be excluded from the CFTC's jurisdiction. The President's Working Group did not recommend a similar exclusion for transactions involving energy and metals derivatives, or other commodities of finite supply.

During 1999 and 2000, as legislation was being developed in the Senate, there was discussion of the issue of oversight of energy and metals derivatives markets, and Senator LUGAR who was at the time chairman, and I both supported, in the committee, a version of the legislation that was consistent with the recommendations of the President's Working Group, and excluded only financial derivatives—not energy and metals derivatives—from the CFTC's jurisdiction. The bill codified an exemption, with specific safeguards, for certain commodities such as energy and metals, but clearly retained the CFTC's authority to investigate and act against fraud and manipulation.

The final version of the CFMA included in the omnibus appropriations bill in December 2000 differed from our committee bill regarding energy and metals derivatives markets. I supported the CFMA, although I had some concerns about its treatment of energy and metals products, because I thought it had a number of very positive features, and on the whole was a good bill. I still believe so. It is important that we not undermine the legal certainty that legislation brought to the OTC derivatives markets. I would not support this amendment if I thought it would do that. But I do believe it is important to close the loophole that has resulted in an important segment of the overall OTC derivatives market—that is, derivatives based on energy and other ''exempt commodities,'' as the CFMA defined them—being completely excluded from oversight. At the time of passage of the CFMA, many Members of Congress believed these exempt commodities would no longer be subject to most requirements of the Commodity Exchange Act, but they certainly did not believe these commodities would be removed entirely from oversight by the CFTC or any other agency, which is what has happened.

We know now that this lack of oversight has resulted in harm to consumers. Last August, the Federal Energy Regulatory Commission, FERC, issued a report finding significant evidence that Enron used its unregulated OTC electronic trading platform, Enron Online, to manipulate natural gas prices to increase its revenue. This manipulation affected prices not only for Enron's trading partners but industry-wide, as reporting firms used price information displayed electronically on Enron Online as a significant source of natural gas pricing data. And a recent report prepared by the Minority Staff of the U.S. Senate Permanent Subcommittee on Investigations, after a year-long investigation on crude oil price volatility, found that crude oil prices are similarly affected by trading on unregulated OTC markets, and that the lack of information on prices and large positions in OTC markets makes it difficult if not impossible to detect price manipulation. This report concluded that routine market disclosure and oversight of the OTC energy derivatives markets are essential to halt manipulation before economic damage is inflicted upon the market and the public.

This amendment will provide the CFTC with the authority it needs to require routine market disclosure and ensure effective oversight of the OTC energy derivatives markets and markets for other ''exempt commodities,'' such as broadband and weather derivatives. The amendment clarifies that the CFTC has anti-fraud and anti-manipulation authority over transactions in ''exempt commodities'' other than metals. This amendment is not regulatory overreaching by any means. It just gives the CFTC the authority it needs to establish adequate notice, transparency, reporting, record-keeping, and other transparency requirements which are the minimum needed to allow the agency to effectively police OTC markets in energy derivatives, and thereby detect and deter fraud and manipulation of these markets. It also increases criminal and civil penalties for manipulation, including ''wash'' or ''round trip'' trades.

It is clear that the impact of OTC energy derivatives markets reaches well beyond the immediate parties to the transactions. Derivatives play an increasingly important role in the diverse range of energy markets, which are in turn critical to our overall economy. We must ensure the integrity of these markets and restore shareholder, investor, and consumer confidence in them. This amendment moves us in that direction, and I urge my colleagues to support it.

Madam President, this amendment basically closes a small loophole that was left in the Commodity Futures Modernization Act passed in the year 2000. We saw what happened with Enron. And what happened is, Enron Online was used to influence energy prices far beyond Enron. This impacted

consumers not only on the West Coast but in my State and all over the United States.

As a result, we looked at this amendment last year. Both Senator LUGAR and I looked at it. We had a hearing on it last year in the Agriculture Committee.

This amendment, I believe, does exactly what we want it to do; that is, to make sure the Commodity Futures Trading Commission——

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

Mr. HARKIN. Madam President, I ask unanimous consent for 30 more seconds to complete my sentence.

Mr. DOMENICI. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DOMENICI. Madam President, how much time is on this side?

The PRESIDING OFFICER. Two minutes 39 seconds.

Mr. DOMENICI. I have no objection.

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

The Senator from Iowa.

Mr. HARKIN. I just wanted to say, this gives the CFTC the authority again to provide the oversight they need to make sure we have integrity in these markets for derivatives based on energy, but also for derivatives based on other things, too, such as weather and broadband. It is a step in the right direction to provide that oversight and transparency.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Madam President, what this amendment really does is transfer some new power and authority to the Federal Energy Regulatory Commission to regulate some of these highly sophisticated and important markets. They have never done this before. There is no expertise, background, or experience in the Federal Energy Regulatory Commission to do the things this amendment would have them do. So that is not plugging a loophole. It may be creating a bigger one. It may be counterproductive. That is what I am suggesting the Senate should consider.

Look at the letter that has been signed by Alan Greenspan, by John Snow, the Secretary of the Treasury, by the head of the Securities and Exchange Commission. These are the people who understand the impact of this amendment on our economy and on our economic power in the world today.

This is serious business. I am hopeful the Senate will look carefully. The amendment appears to grant FERC authority with respect to derivatives, but it leaves a jurisdictional gap. The amendment would replace regulatory certainty with regulatory uncertainty. It is a bad amendment and it ought to be defeated.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, do we have any time remaining on our side?

The PRESIDING OFFICER. One minute 21 seconds.

Mr. DOMENICI. I yield the Senator from Wyoming the remainder of our time.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Madam President, I do want to point out we debated this issue a year ago. The conclusion was these are professionals dealing with professionals. The people who have the oversight over it do have oversight and are taking advantage of that oversight.

We also passed Sarbanes-Oxley in the meantime. And if the Feinstein amendment were to be adopted, it would lead to some confusion over exactly who has jurisdiction.

I know this is an extremely difficult issue. This is my third time debating it. I do know how to spell it now. But it is a very complicated issue, and it is not something we ought to be doing in a reaction that will result in overreaction. So I ask that we vote against this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, I yield back any time we have on our side.

The PRESIDING OFFICER. Time is yielded back.

Mr. DOMENICI. I move to table the amendment and 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 Massachusetts (Mr. KERRY) is necessarily absent.

I further announced that, if present and voting, the the Senator from Massachusetts (Mr. KERRY) would vote ''nay''.

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

The result was announced—yeas 55, nays 44, as follows:

[Rollcall Vote No. 218 Leg.]

YEAS—55

Alexander	DeWine	Murkowski
Allard	Dole	Nelson (NE)
Allen	Domenici	Nickles
Bayh	Ensign	Pryor
Bennett	Enzi	Roberts
Bond	Frist	Santorum
Breaux	Graham (SC)	Sessions
Brownback	Grassley	Shelby
Bunning	Gregg	Smith
Burns	Hagel	Snowe
Campbell	Hatch	Specter
Carper	Hutchison	Stevens
Chambliss	Inhofe	Sununu
Cochran	Kyl	Talent
Coleman	Landrieu	Thomas
Collins	Lincoln	Voinovich
Cornyn	Lott	Warner
Craig	McConnell	
Crapo	Miller	

NAYS—44

Akaka	Durbin	Levin
Baucus	Edwards	Lieberman
Biden	Feingold	Lugar
Bingaman	Feinstein	McCain
Boxer	Fitzgerald	Mikulski
Byrd	Graham (FL)	Murray
Cantwell	Harkin	Nelson (FL)
Chafee	Hollings	Reed
Clinton	Inouye	Reid
Conrad	Jeffords	Rockefeller
Corzine	Johnson	Sarbanes
Daschle	Kennedy	Schumer
Dayton	Kohl	Stabenow
Dodd	Lautenberg	Wyden
Dorgan	Leahy	

NOT VOTING—1

Kerry

The motion was agreed to.

Mr. DOMENICI. Madam 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. 880

The PRESIDING OFFICER. The Senator from Tennessee.

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. ALEXANDER], for himself, Mr. SANTORUM, Mr. CORNYN, Ms. LANDRIEU, Mr. BINGAMAN, and Mr. DOMENICI, proposes an amendment numbered 880.

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

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

The amendment is as follows:

(Purpose: To require a report from the Secretary of Energy on natural gas supplies and demand)

Page 52, after line 22, insert:

''SECTION . NATURAL GAS SUPPLY SHORTAGE REPORT.

''(a) REPORT.—Not later than six months after the date of enactment of this act, the Secretary of Energy (''Secretary'') shall submit to the Congress a report on natural gas supplies and demand. In preparing the report, the Secretary shall consult with experts in natural gas supply and demand as well as representatives of State and local units of government, tribal organizations, and consumer and other organizations. As the Secretary deems advisable, the Secretary may hold public hearings and provide other opportunities for public comment. The report shall contain recommendations for federal actions that, if implemented, will result in a balance between natural gas supply and demand at a level that will ensure, to the maximum extend practicable, achievement of the objectives established in subsection (b).

''(b) OBJECTIVES OF REPORT.—In preparing the report, the Secretary shall seek to develop a series of recommendations that will result in a balance between natural gas supply and demand adequate to—

''(1) provide residential consumers with natural gas at reasonable and stable prices;

''(2) accommodate long-term maintenance and growth of domestic natural gas dependent industrial, manufacturing and commercial enterprises;

''(3) facilitate the attainment of natural ambient air quality standards under the Clean Air Act;

''(4) permit continued progress in reducing emissions associated with electric power generation; and

''(5) support development of the preliminary phases of hydrogen-based energy technologies

''(c) CONTENTS OF REPORT.—The report shall provide a comprehensive analysis of natural gas supply and demand in the United States for the period from 2004 to 2015. The analysis shall include, at a minimum,—

''(1) estimates of annual domestic demand for natural gas that takes into account the effect of federal policies and actions that are likely to increase and decrease demand for natural gas;

''(2) projections of annual natural gas supplies, from domestic and foreign sources, under existing federal policies;

''(3) an identification of estimated natural gas supplies that are not available under existing federal policies;

''(4) scenarios for decreasing natural gas demand and increasing natural gas supplies comparing relative economic and environmental impacts of federal policies that—

''(A) encourage or require the use of natural gas to meet air quality, carbon dioxide emission reduction, or energy security goals;

''(B) encourage or require the use of energy sources other than natural gas, including coal, nuclear and renewable sources;

''(C) support technologies to develop alternative sources of natural gas and synthetic gas, including coal gasification technologies;

''(D) encourage or require the use of energy conservation and demand side management practices; and

''(E) affect access to domestic natural gas supplies; and

''(5) recommendations for federal actions to achieve the objectives of the report, including recommendations that—

''(A) encourage or require the use of energy sources other than natural gas, including coal, nuclear and renewable sources;

''(B) encourage or require the use of energy conservation or demand side management practices;

''(C) support technologies for the development of alternative sources of natural gas and synthetic gas, including coal gasification technologies; and

''(D) will improve access to domestic natural gas supplies.''.

Mr. ALEXANDER. Madam President, I offer an amendment on behalf of Senator SANTORUM, Senator CORNYN, Senator LANDRIEU, Senator BINGAMAN, the ranking member of our committee, and Senator DOMENICI, the chairman of our committee has joined the amendment as well, which I deeply appreciate.

This is an amendment about the emerging natural gas crisis. It would require the Secretary of Energy, within 6 months from the date of enactment of this Energy bill, to submit a report on natural gas supplies and demand. I offer this amendment because I believe it will help us deal with what I am afraid is an emerging natural gas crisis. If that were to occur, we would be able to protect our jobs, heat or cool our homes at reasonable costs, and clean our air to the standard that we wish.

As chairman of the Subcommittee on Energy, working with our chairman of the full committee, I intend to help schedule hearings as soon as possible on this emerging crisis. This report and these hearings should help us take a hard, honest look at what we do short term and long term.

Alan Greenspan is usually a little difficult to interpret when he testifies but he was not difficult to understand on May 21 when he testified before the Joint Economic Committee. This is what he said about natural gas:

In contrast, prices for natural gas have increased sharply in response to very tight supplies. Working gas in storage is presently at extremely low levels, and the normal seasonal rebuilding of these inventories seems to be behind the typical schedule. The colder-than-average winter played a role in producing today's tight supply as did the inability of heightened gas well drilling to significantly augment net marketed production. Canada, our major source of gas imports, has little room to expand shipments to the United States. Our limited capacity to import liquefied natural gas effectively restricts our access to the world's abundant supplies of natural gas. The current tight domestic natural gas market reflects the increases in demand over the past two decades. That demand has been spurred by myriad new uses for natural gas in industry and by the increased use of natural gas as a clean-burning source of electric power.

I asked Mr. Greenspan to elaborate on that, and I will not read all of his remarks but this is the way he began his response to my question on May 21:

Senator Alexander, I am surprised at how little attention the natural gas problem has been getting. Because it is a very serious problem. It's partly the result of new technologies employed in the areas of growing technologies and the whole exploratory procedures which embarked over the last decade or so.

He talked about our contradictory Federal policies. This is not some abstract issue. The price of natural gas was $3.50 or so last summer. It spiked to $9 or better in the winter. Today it is $6.25 or so. That affects the cost of heating and cooling our homes, but it affects our jobs in a big way.

For example, someone from a large chemical industry in our State came to see me a few weeks ago when gas prices spiked up. The thousands of employees there had taken a voluntary 3-percent cut in their pay. The management had taken a 6-percent cut in their pay. They were worried about the price of natural gas which is a raw material for that chemical industry.

It does not just affect the chemical industry. In California, for example, where not much coal is burned because it pollutes the air, natural gas effectively sets the price of electricity. So this emerging crisis in natural gas affects jobs in the whole economy, as we have been debating.

There are answers but we have contradictory policies. We have plenty of gas but no access to the gas. We have a lot of alternatives, and we are trying to encourage them, but when we talk about windmills, we think we may want a limit on the number of windmills we want to see. When we talk about nuclear, we have very close votes because people are skeptical about nuclear power. When we talk about coal, it pollutes the air. When we talk about drilling more oil, we vote no about going to Alaska. When we consider liquid gas from overseas, we are worried it might blow up in big terminals on the sea coast. And hydrogen we all are for but it is 20 years away.

The bottom line: We have contradictory policies short term. This could slow down our recovery and keep unemployment high and hurt our jobs long term. It could mean electric rates go sky high and our manufacturing jobs go to Mexico and China. We need to take an honest, hard look at the consequences of our failure to achieve a balance of natural gas and its alternatives, and I hope this report required by this amendment will help do just that. I will work with the chairman, with the ranking member, to make certain our committee hearings help do that, as well.

I yield the floor.

Mr. DOMENICI. Madam President, I understand that amendment will be accepted on both sides.

Mr. BINGAMAN. Madam President, that is correct. We support the amendment and urge its passage.

Mr. DOMENICI. The Senator from Louisiana asked if she might speak for 1 minute.

Ms. LANDRIEU. I understand the amendment offered by my colleague from Tennessee will be accepted. That is good. It is a good amendment and certainly should be part of this bill.

Since I am in the Chamber, I wish to speak a minute in support of the amendment and add to the record he has so ably outlined. In one case in Louisiana—and there are many cases, but in one case Louisiana Ammonia Producers has gone from, in 1998, 9 companies employing more than 3,500 people to 3 companies employing fewer than 1,000 people. Part of the reason for this tremendous decline at a time when we are trying to create jobs instead of losing them is the rising price of natural gas. The price of natural gas, because supplies are so tight, in the first quarter of 2003, was $5.91 a million Btu's, a 129 percent increase over the average price for the first quarter of the previous 10 years.

The Senator from Tennessee is absolutely right. A commission to study ways to increase the supply of natural gas is critical and important if we are going to keep the companies, large and small, in this country competitive.

I yield the floor.

Mr. DOMENICI. Madam President, I congratulate the Senator. The first comment was on a question the Senator put to Dr. Greenspan and his response about being surprised at how little attention was being paid to matters. We are quite proud that this committee started paying attention to natural gas as soon as we convened this year. Our first hearings indicated, through our experts, that we were going to have a serious shortage. We were questioning even then; that was only 3 or 4 months ago.

We have nothing further.

The PRESIDING OFFICER. If there is no further debate, the question is on

agreeing to the amendment of the Senator from Tennessee.

The amendment (No. 880) was agreed to.

Mr. DOMENICI. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. REID. Madam President, staff is retyping the proposed agreement, but to save time I wonder if we could go to the Bingaman amendment. Originally, the plan was to vote on Bingaman and the Burma matter after debate was completed on both issues. We have an objection on our side to doing that. We could go to the Bingaman amendment immediately, have 40 minutes of debate equally divided, then following that have a vote on or in relation to the Bingaman amendment, and then go to the Burma matter after that.

Mr. DOMENICI. I ask Senator CAMPBELL if that is all right.

Mr. CAMPBELL. That is fine.

Mr. DOMENICI. We have no objection.

AMENDMENT NO. 881

(Purpose: To provide for a significant environmental review process associated with the development of Indian energy projects, to establish duties of the federal government to Indian tribes in implementing an energy development program, and for other purposes)

Mr. BINGAMAN. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for himself, Mr. INOUYE, and Mr. DASCHLE, proposes an amendment numbered 881.

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

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

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

Mr. BINGAMAN. Madam President, this is an amendment I am offering on behalf of myself and Senator INOUYE. It is an amendment that will make several changes in section 303 of the Indian energy title in this legislation that is pending before the Senate.

First, a little background on these issues so my colleagues understand what is at stake. Title III of S. 14 contains a very strong Indian energy title. It would provide tribes with the financial and technical assistance they need to help them develop and utilize energy resources on Indian land.

This title III represents a combination of sections from two separate bills. One was introduced by Senator CAMPBELL; the other was introduced by Senator INOUYE and myself. I very much appreciate the willingness of the majority to work with us and include in the bill now before the Senate a number of sections from the Bingaman-Inouye bill. Most of these measures were included as part of last year's Senate-passed Energy bill and were generally agreed to in the House-Senate conference without controversy. Unfortunately, as we all know, those sections did not become law.

Notwithstanding the general support that exists for the Indian energy title in this bill, there is one section that is fairly controversial. That is the subject of our amendment. It is section 2604. It would authorize tribes to enter into leases and business agreements and issue rights-of-way for energy development projects on tribal lands without the separate approval of the Secretary of the Interior. These leases and business agreements and rights-of-way would involve a broad range of energy projects, including oil and gas extraction, powerplants development and construction, and even some mining activity would be covered under the language in the bill. This activity could take place on any tribal trust lands, not just those on reservation but also lands that have been designated as tribal trust lands off reservation. There are many of those, as we know.

There is no disagreement on whether we should allow tribes to exercise more control over development on tribal lands. There is, however, a disagreement on how we go about that.

The present language in section 2604 raises two significant issues. The first is that by eliminating the Secretarial approval of leases and agreements and rights-of-way, section 2604 eliminates the ''major Federal action'' determination that triggers the application of the National Environmental Policy Act, NEPA. This effectively waives the analysis and the public participation requirements that are in that law. It thereby reduces the ability to protect the interests of both those residing on reservations and those residing in adjacent communities.

While a substantial environmental review process is included in section 2604, it is limited in the range of impacts that require review. It does not require the implementation of mitigation measures. It does not require any changes in response to the concerns of affected tribal members or the concerns of local communities.

Obviously, eliminating NEPA is a concern to many national and local environmental groups and also to some Native American organizations that have weighed in with strong letters on the issue. It is also of concern to the counties around the country. In a letter dated May 14 of this year, the National Association of Counties is calling for section 2604 to be modified so that a NEPA analysis is completed for each new energy project that goes forward on Indian lands.

There is a bipartisan group of attorneys general representing the States of Arizona, New Mexico, Nevada, North Dakota, Utah, Wyoming, and Connecticut that have also expressed strong concerns about the diminishment of environmental review for tribal energy resource development projects. They have expressed their views in a letter dated June 9 of this year. In that letter they wrote:

While we understand that this provision is intended to promote the worthy goals of tribal self-determination and sovereignty, we are concerned that it goes too far in facilitating significant development activity without ensuring that adequate protections exist for affected communities and adjacent lands. Section 2604 represents a significant change in the law that could have serious implications for the States that we represent. We therefore urge the provision be amended to ensure that significant energy development activity on tribal lands continues to be subject to meaningful environmental review, including an ability for State and local governments to participate in the process.

The concern expressed by those attorneys general and the counties underscores the fact that without some applicable Federal law related to the significant development activity contemplated under this section 2604, it is unclear what standard is to apply. Some have argued that tribal lands should be treated just as private lands are and tribes should be free, as private landowners are, to go forward with development projects. In my view, that is not a good analogy because private lands are subject to State and local laws; tribal lands are not. We are all aware that a private landowner has requirements by virtue of State and local law that do not apply on tribal lands. Tribal law can and should apply to energy development on tribal lands, but at the same time Congress has a responsibility to ensure that certain Federal parameters are in place.

The second issue that is raised by this section 2604 is that the language in the section undermines the Secretary's trust responsibility to Indian tribes. A number of tribes have expressed strong concerns about the language which appears to change the traditional trust relationships between the Federal Government and Indian tribes. Tribal concern is driven by a decision 3 months ago by the U.S. Supreme Court in the case of United States v. Navajo Nation. The Supreme Court specifically addressed the Federal trust responsibility and the standard for ensuring that statutes affecting Native Americans contain fiduciary duties by which the Federal Government as trustee can be held accountable for its actions that may have serious and negative impacts on tribal interests.

Section 2604, the subject of our amendment here, as currently drafted does not meet the standards established by the Supreme Court. In fact, it goes in the opposite direction. It diminishes the Federal Government's trust responsibility and accountability to tribes. This is inconsistent with the current Federal policy of tribal self-determination and self-governance. These policies, in effect since the landmark Indian Self-Determination Act of 1975,

clearly preserved the Federal trust responsibility and accountability to tribes while facilitating tribal control over Federal Indian programs.

The amendment Senator INOUYE and I are offering addresses both the environmental review question I talked about and the trust responsibility issues, as well as other miscellaneous matters, in the hope that we can improve the final Indian energy title from a tribal perspective, from an environmental perspective, from a State perspective, and from a local perspective.

With respect to the environmental issue, the amendment does the following four things:

No. 1, it ensures sufficient time for the Secretary to review the proposed tribal energy resource agreements without a waiver of Federal environmental laws.

No. 2, it improves the environmental review process so that it is comparable to the standards required under NEPA, while maintaining tribal control over that review.

No. 3, it removes language limiting who can petition for a review of the implementation of tribal energy resource agreements.

No. 4, it requires Congress to review and reauthorize this section of the program 7 years from now, without it just continuing indefinitely.

With respect to trust responsibility, the amendment deletes language that would prevent the tribes from asserting claims against the Secretary of the Interior related to the Secretary's approval of tribal energy resource agreements. It also eliminates a broad waiver that limits the liability of the United States for any losses associated with the leases or with agreements or with rights-of-way.

The language being eliminated is unacceptable to a large number of Indian tribes. Because of the language, the Navajo Nation, the largest tribe in our country and the one involved in this recent Supreme Court decision that I described, stated in a letter they sent to us dated June 4 that the ''tribal energy proposal must be defeated.''

The letter goes on to say that the language, if successfully included in the bill:

> . . . would be a virtual endorsement by the Indian tribes' trustee itself [of course, that is the Federal Government], of the fraud, dishonesty, and unethical treatment that was the subject of the Navajo Nation's claim against the United States, and would open the door for future similar conduct by federal officials.

The Jicarilla Apache Tribe, in a letter dated April 28, stated that the provisions currently in the bill ''are inconsistent with the United States' trust relationship with Indian tribes . . .'' This is a quotation from their letter. They go on to say they would ''actually turn the current legal and political relationship between Indian tribes and the United States Government on its head.''

In addition to deleting most of the offending language, our amendment also established Secretarial duties to the tribes in implementing section 2604. In light of the United States v. Navajo Nation decision, we view this language as necessary to maintain a trust relationship in which the Federal Government has some accountability to the tribes electing to enter into agreements under section 2604. The language we are proposing to add is taken directly from the existing self-determination law and therefore relies on longstanding precedent.

Finally, our amendment includes a number of minor changes that are technical. I believe it is a good, constructive improvement to the bill, and I urge my colleagues to support it.

Madam President, let me ask, how much time remains on our side?

The PRESIDING OFFICER. The Senator has used 10 minutes.

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

The PRESIDING OFFICER. Who yields time?

The Senator from Colorado.

Mr. CAMPBELL. Madam President, I rise in opposition to the Bingaman amendment. I will try to go through this as quickly as I can because I know Senator DOMENICI also wants to speak.

On Thursday I introduced an amendment and withdrew it yesterday. That amendment was supported by the National Congress of American Indians, which is over 300 tribes, the Council of Energy Resource Tribes, which represents 50 additional tribes, and the U.S. Eastern and Southern Tribes, which represents 50. It was supported by five New Mexico Pueblos, including the Jicarilla Apache Tribe of New Mexico, the National Tribal Environmental Council, which represents 180 tribes, and the U.S. Chamber of Commerce.

I pulled that back yesterday to refine some of the language but will be reintroducing it shortly—tomorrow or as soon as I can, as soon as we revise a little bit of the language.

Let me point out this chart I have over here. Under existing law, current law, we have a real disparity among tribes. Tribes are treated like individuals in that, if they own land and want to develop the land for minerals or oil or gas, they could do it without complying with NEPA as individual owners or States can. If the Secretary gets involved by virtue of the tribe signing some agreement with an outside entity, she has to then approve the lease or not approve the lease.

What has happened is that wealthy tribes have had the ability to develop their own resources. I live on one reservation, the Southern Ute Reservation, and they do that; they don't have to comply with NEPA. Most tribes are not that wealthy and have to seek an outside partner. Basically, that puts them at a terrific disadvantage for developing their own resources.

I will not go into all resources now under Indian land because I did go through that the other day, but it is very clear that a great deal of American unutilized oil, natural gas, coal, and other minerals are under Indian land now. We are talking about a people who have 70 percent unemployment in some cases, so they definitely need the jobs and help as well as America needs the energy to become less dependent on foreign energy.

In any event, let me go through the Bingaman amendment a little, if I may. We spoke about 2604 primarily. As I understand it, and as I believe, Senator BINGAMAN's amendment would force the statutory NEPA equivalent upon all tribes. As it is now, some are not required to go through NEPA, as I just mentioned.

Also, it will create an unfunded mandate that will completely defeat the goal of facilitating energy development on tribal lands and diminish tribal sovereignty.

I take strong issue with another aspect of the Bingaman amendment having to do with the liability of the United States for tribal decisions. Under title III, along with the power to create approved leases, agreements, and rights-of-ways without Secretarial approval, the tribes have the responsibility for the decisions they make.

Mr. BINGAMAN's amendment in effect de-links the two, eliminating the language that says the Secretary will not be liable for losses arising under the terms of the leases the tribe negotiates on its own. That would mean he would keep the Secretary on the hook for those losses arising from lease terms negotiated by the tribe, even though the Secretary had nothing to do with the negotiations. I don't think that is very good policy, frankly.

Paradoxically, Senator BINGAMAN's amendments would give the Secretary of the Interior authority to negotiate a tribe's remedies against the United States for breach of its duties under the tariff on a tribe-by-tribe basis.

I know of one tribe—I believe two now—the Navajo, that supported the Bingaman amendment but opposes this one. But I think it has very little to do with section 2604. It has more to do with court cases recently which did not go their way. As I understand it, they really want some language that would effectively bail them out of losing that court case.

The vast majority of tribes support the amendment that I introduced the other day.

I think it is a particularly dangerous idea. In some instances, speaking of the Secretary's obligations, the Secretary might effectively negotiate away her obligations, although by including a provision that says the tribe will have no remedies against the United States, the Bingaman amendment expressly allows her to do that without limitation.

Do the obligations referred to in the Bingaman amendment include the trust obligation? They must because there are no obligations on the part of the Secretary mentioned in his amendment other than duty to conduct annual trust evaluations.

I point out that in the amendment I offered the other day, in section 2604 there was some question about whether it decreased trust responsibility. I know my colleagues can read as I can. Let me read, on page 14, section (6)(a), line 19:

Nothing in this section shall absolve the United States from any responsibility to Indians or Indian tribes, including those which derive from the trust relationship or from any treaties, Executive Orders, or agreements between the United States and any Indian tribe.

The Secretary shall continue to have trust obligation to ensure the rights of an Indian tribe are protected in the event of a violation of Federal law or the terms of any lease, business agreement or right-of-way under this section or any other party to any such lease, business agreement or right-of-way.

Under the amendment which I introduced and which I will reintroduce, these trust responsibilities are very well protected.

Finally, Senator BINGAMAN's amendment would sunset section 2604 in 7 years. I think that has somewhat of a chilling effect. First of all, if a tribe wants to avail itself of section 2604 as an alternative to the status quo, it will have to make considerable effort to develop this relationship and agreement to demonstrate its capacity to be able to develop its minerals resources.

Under the Bingaman amendment, the alternative procedure would evaporate in 7 years. Very frankly, the tribe advances to self-determination would evaporate right with it. I think that would effectively prevent any tribe from pursuing the section 2604 alternatives.

Senator BINGAMAN, as I understand his amendment, believes that section 2604 effectively waives NEPA. It does not. The language in the amendment expressly states that the Secretary must review the direct effects of her approving agreement under the provisions of NEPA. That means even though the tribe, when it is making agreements with an outside entity, will have to comply with NEPA upfront, before the Secretary can approve that agreement, she has to subscribe and conform to all NEPA provisions.

The other provisions in the section require an opportunity for public and local governmental input and comment.

The Senator mentioned some opposition from local communities. This is also taken care of under 2604, and it must ensure compliance with all applicable environmental laws in 2604.

The Bingaman amendment also states that there is a tribal concern for section 2604 as it undermines the trust responsibility. I have already dealt with that.

But, clearly, the United States is only held harmless from losses arriving from terms negotiated by a tribe operating under an approved agreement. Hopefully, as we move forward, we will be able to deal with the Navajo problem.

I understand the Navajo. It is a very important tribe. And I have many friends in the tribe who are very willing to do that.

Very frankly, when we talk about the responsibility of the Federal Government to Indians, let me go back a little bit and refresh my colleagues' memory about how tough they have had it in this Nation.

This Government, as you know, took by hook or crook—and usually at gunpoint—roughly 98 percent of all the land from the American Indians. This Government also reduced the very proud, independent people to the poorest ethnic group in America with the highest unemployment rate, the highest degree of poor health, the highest high school dropout rate, and the highest suicide rate among any other group. This Government also has time and again told the Indians: We know what is best for you whether you like it or not.

That is basically what I think the Bingaman amendment does. We will stifle your religious beliefs, destroy your culture, relocate and relegate you to a life of poverty and deprivation, as happened in the 1950s under the Terminations Act and the Relocation Act. We will drive you through a time bordering on ethnic cleansing, and we will not let you be a citizen in your own land—until 1924. That is when Indians got the right to vote in the United States.

Through all of those years, the few threads of hope Indians clung to were that they would not lose what little they had left. And a few things that gave them hope were closely held beliefs about so-called Mother Earth, their belief in a creator, and that all things will get better. And one in particular was that U.S. Government promise; that promise is called ''trust responsibility.''

For the past 30 years, since the Nixon Doctrine of Self-Determination, American Indians have been making small strides. But in their culture, they are rather big gains considering how far they have come. It has been an endless struggle to try to share in the same American dream that Members of this body take for granted.

In my view, the Bingaman amendment would literally strip tribes of 30 years of that direction of self-determination and would circumvent the trust responsibilities this Government has to tribes because it would force the statutory equivalent of NEPA on all decisions they make with their own land. As I mentioned, it is an unfunded mandate.

I say to my colleagues in this body that if you want to keep American Indians on their knees, unable to provide jobs for their families and facing a dead end future, then vote for the Bingaman amendment. If you believe that fairness should be right for all Americans, including Indians, to do best what they can with their own resources and for their own people, vote against the Bingaman amendment and help me craft a better alternative, which is the one I mentioned that I introduced and pulled back and which I am going to reintroduce, and which already has the support of the vast majority of Indian people in this Nation.

I yield the floor. I thank my colleague, Senator DOMENICI, for giving me time.

Mr. DOMENICI. Mr. President, how much time do we have on our side?

The PRESIDING OFFICER. Ten minutes 30 seconds.

Mr. DOMENICI. I will use 7 minutes and leave 3 minutes.

First, I congratulate the distinguished Senator CAMPBELL from the State of Colorado. I don't believe I could say it any better.

In a nutshell, the Bingaman amendment is not good for the Indians in the United States. If we are crafting a bill here that says we want them to develop their energy resources, the amendment before us takes the unprecedented step of applying the NEPA process to the Indian tribes just as if they were the Federal Government.

This amendment goes well beyond current environmental regulations and adds unnecessary regulations and costs to the tribal energy projects.

This proposal is opposed by numerous Indian tribes and tribal associations that are already burdened by the lease approval process through the Federal bureaucracy.

I will read a list of Indian tribes and associations that I would assume do not favor the Bingaman amendment because they were in favor of the amendment alluded to by the distinguished Senator, Mr. CAMPBELL, with whom I was going to cosponsor, for they all refer to it:

The National Congress of American Indians, the Council of Energy Resource Tribes, National Tribal Environmental Council, Southern Ute Tribe, Cherokee Nation, Chickasaw Nation, Native American Energy Group, Mohegan Tribe, Five Sandoval Indian Pueblos, Dine Power Corporation, Jicarilla Apache Nation, and the U.S. Chamber of Commerce.

I ask unanimous consent that this list be printed in the RECORD.

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

TRIBAL LETTER SUPPORTING CAMPBELL/DOMENICI AMENDMENT TO TITLE III

1. National Congress of American Indians (NCAI)—Is the largest and oldest Tribal organization.

2. Council of Energy Resource Tribes (CERT)—Represents over 50 tribes interested in developing energy resources.

3. National Tribal Environmental Council—Represents 180 tribes on environmental matters.

4. Southern Ute Tribe (Colorado).

5. Cherokee Nation (Oklahoma).

6. Chicasaw Nation (Oklahoma).

7. Native American Energy Group (Wyoming).

8. Mohegan Tribe (Connecticut).

9. Five Sandoval Indian Pueblos (New Mexico).

10. Dine Power Corporation—A Navajo Corporation (New Mexico, Arizona).

11. Jicarilla Apache Nation (New Mexico).
12. U.S. Chamber of Commerce.

Mr. DOMENICI. Mr. President, the amendment will do the following:

It will force the tribes to pay the cost of NEPA, extend the bureaucratic delays of energy projects, and diminish tribal sovereignty.

There isn't a tribe in the country that would volunteer for this program because it doesn't do anything to improve their current process. So why would they volunteer to join it?

I am confused by the purpose of the amendment. If the intention is to mandate that the tribes comply with NEPA for every single lease or permit, why not offer an amendment to strike the entire Indian energy title and argue for the status quo?

This amendment goes far beyond existing law and expands NEPA beyond the scope of the Federal Government to cover tribes, independent of any Federal action.

By requiring an environmental impact statement to be performed for every lease, it will impose a cost of hundreds of thousands of dollars to be financed by the tribes. A cost they should not have to afford.

If adopted, the amendment would encourage the generation of paper, not the generation of natural gas and crude oil and coal, which I thought we were here supposed to do.

The objective of title III has to be to help the tribes by streamlining current lease approval processes that have hampered investment and the development of the Indian tribal lands as far as energy is concerned.

Senator CAMPBELL and I have worked closely with the tribes to craft a careful compromise that will protect the trust responsibility of the Secretary and the environment. That bill will be offered later, but it is not the bill pending before the Senate. It is a bill you will know because it will bear the name of the distinguished chairman of the Committee on Indian Affairs, Senator CAMPBELL.

The Secretary's approval of the tribes' energy resource agreement will trigger NEPA if the Secretary of the Interior believes it will have a significant impact on the environment. Once an energy resource agreement is approved, tribes will not be required to seek Secretarial approval but will be required to comply with relevant environmental laws, just like any other landowner.

Senator CAMPBELL and I have worked with tribes to ensure that the trust relationship between tribes and the Secretary of the Interior is protected.

This proposal is embodied in the Campbell-Domenici amendment which will be offered at a later date.

The Bingaman amendment, however, would require the Secretary of the Interior to take full responsibility for all liability incurred by tribes—even if the Secretary wasn't party to the negotiations. That simply doesn't make sense.

However, a separate and conflicting provision in this amendment allows the Secretary to negotiate all remedies to the Secretary's trust responsibility in the energy resource agreement.

As I read it this will give the Secretary authority to drive a hard bargain with individual tribes that are desperate to gain the Secretary's approval of their energy resource agreement. Of course, this will vary from tribe to tribe and further confuse the trust issues.

I believe a more simple solution is to ensure that tribes take full responsibility for the leases and business agreements they negotiate. The Secretary will not be liable for anything she is not a party to, but will continue to conduct annual trust evaluation to ensure that the assets are protected.

Such a solution as included in the Campbell amendment has the support of many tribes.

I am not aware that the administration has reviewed the Bingaman amendment and I am not aware of how many tribes support Senator BINGAMAN's amendment.

The current system has failed to stimulate investment on Indian land, despite the resource potential.

The Bingaman amendment will only exacerbate this problem and continue to restrict the quest for Tribal self-determination.

I urge my colleagues to oppose the Bingaman amendment.

I will state, I would not be offering these kinds of remarks in any normal situation regarding the relationship between the Indian people, the Federal Government, and third parties. But clearly when you have an energy bill, and the purpose of the bill is to have a section in it that will encourage, will cause, will say to the Indian people, we want you to be players, participants, owners of energy, so that you can be part of America's energy solutions and become owners in that solution, then I think we cannot adopt the laws that are as restrictive as the ones proposed in the amendment that is pending.

I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The Senator from Hawaii.

Mr. INOUYE. Mr. President, I rise this moment to speak in favor of an amendment proposed by my dear friend from New Mexico, Senator BINGAMAN.

I find it rather uncomfortable and sad that my remarks may be counter to that of my colleague from New Mexico, my dear friend, Mr. DOMENICI, and my colleague, the chairman of the Indian Affairs Committee.

Mr. President, as you know, there is a longstanding relationship between the United States and the sovereign Indian nations that won exercise, exclusive dominion, and control over lands that now comprise our great country.

The large body of Federal Indian law is known as trust responsibility, and it was first given expression by the Chief Justice of the United States Supreme Court, John Marshall, in 1832. This relationship is premised upon the sovereignty of the Indian nations, a sovereignty that existed well before the U.S. Government was formed, and it is memorialized in the United States Constitution.

This trust relationship that has always formed the course of dealings between the U.S. and Indian tribes is well understood and beyond debate. The United States holds legal title to lands that it held in trust for Indian tribes. Accordingly, activities affecting Indian lands and resources have always been subject to approval by the Secretary of the Interior Department, acting as the principal agent for the United States. That is the law of the land.

In the Congress, we have always understood the United States trust responsibility as being derived from treaties, statutes, regulations, executive orders, rulings, and agreements between the Federal Government and Indian tribal governments. We have legislated on this basis. The courts have issued rulings on this basis. And until recently the executive branch has premised policy on this basis and promulgated regulations on this fundamental principle of law.

However, in the arguments before the U.S. Supreme Court earlier this year, the Government took the position that the duties of the U.S., as trustee for Indian lands and resources, exist only as they may be spelled out in statute, and are legally enforceable only if a statute provides a remedy for any breach of the trust.

The Supreme Court accepted the Government's argument that the duties of the trustee must be spelled out in statute, but ruled that as long as the Government had complete management control over the trust land or trust resources at issue, then the trustee's duties could be legally enforced and there could be a damage remedy for a breach of the Government's trust duties.

Tribal governments are also paying keen attention to the arguments that are being advanced by the Government in pending legislation over the management of funds which are held in trust by the United States for individual Indians and Indian tribes. Most of us have heard of the assertions in this case in which it maintained that the Government is unable to account for more than $2 billion in Indian trust funds.

With the Government's advocacy for a new perspective on the United States trust responsibility, it is readily apparent why the eyes of Indian country are sharply focused on the tribal provisions of this bill and the amendments that are the subject of our discussion today.

Native America wants to see what position the Congress will adopt as it relates to the ongoing viability of the trust relationship. They are closely scrutinizing our words and our actions in the context of this measure to determine whether they signal a departure from the traditional and well-established principles of the United States trust responsibility.

That is why I believe it is incumbent upon us to make sure we understand what is at stake in this debate. There has always been, and likely always will be, a tension between a greater measure of tribal control and a diminished Federal presence in Indian country, one that has to be reconciled in each distinct area. But the reality is that as long as the United States holds legal title to Indian lands, the Federal Government and tribal governments will have to work together on these matters.

Not all tribal governments have managed their resources, and not all of those who do seek to develop those resources. But for those that do, we well understand that they would want to reduce the amount of time that is customarily involved in securing the Secretary's approval of leases of tribal land and grants of right of way over Indian lands.

Can this be accomplished without altering or diminishing the trust relationship? I believe it can. The tribal industry resource agreements that are authorized, the amendment that we consider today, can serve as an instrument for defining and adapting this relationship to accommodate the unique circumstances of each tribe's energy resource development objectives.

But should the United States trust responsibility for Indian lands and resources be waived? I am not aware of any tribal government that supports an unlimited waiver of the United States trust responsibility. Certainly, one of the largest land-based tribes in the United States, the Navajo Nation, has made it clear that it will not countenance such a waiver.

Indian country has a long history and a long memory. That history documents the sad reality that there have been too many times in the past when those who did not have the best interests of Indian country in mind have exploited tribal lands and resources and then walked away.

In those instances, tribal governments and the United States shared a common interest in addressing the damage to tribal lands and in pursuing those who caused the damage.

Mr. President, I think it is clear that the provisions of this title as currently formulated, and if not further amended, will foreclose the cause of action when there is damage to tribal lands. So I join my colleague, Senator BINGAMAN, in sponsoring this amendment because I believe strongly in Federal Indian responsibility for Indian lands, and the resources must be maintained and strengthened, not diminished.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Colorado is recognized.

Mr. CAMPBELL. How much time do we have?

The PRESIDING OFFICER. The Senator has consumed 16 minutes.

Mr. CAMPBELL. We have 20 minutes; correct?

The PRESIDING OFFICER. It is the understanding of the Chair that no agreement has been reached about the time limit on this amendment.

Mr. CAMPBELL. Mr. President, I will just make a couple of comments. Senator INOUYE and I have been friends for a great number of years. When he was chairman, and now as the ranking member, we have worked on an awful lot of Indian legislation together.

With all due respect, I think he might be mistaken about what 2604 did. In fact, maybe something else, too, and that is simply this. Tribes, generally, if they are not absolutely sure of themselves when they enter into agreements, or when they are dealing with the Federal Government, hire pretty sophisticated attorneys to do the research for them. All of these different groups, including the National Congress of American Indians, representing over 300 tribes; the Council of Energy Resource Tribes, representing over 50 tribes; the U.S. Eastern and Southern Tribes, representing over 50 tribes; the Pueblos of New Mexico; the Jicarilla Apache Tribe of New Mexico; and the National Tribal Environmental Council have had attorneys look at 2604 and, clearly, none of them has said anything about erosion of trust responsibility because—and I mentioned earlier—it is stated in 2604, on page 14, line 18 through page 15, line 3, that, if anything, tribal trust relationship is strengthened under 2604, which is the amendment I introduced the other day and am going to reintroduce.

Unlike the Bingaman amendment, which I think, frankly, weakens trust responsibility—as near as I can tell, the language in his amendment weakens it. That is one of the questions: which one strengthens it and which one weakens it? My belief is that 2604 would be strengthened with the language I will be reintroducing.

The other one is NEPA. I do not believe, frankly, that tribes are off the hook for NEPA unless they want to develop resources with their own money on their own land without outside agreements or Secretarial approval. Once the Secretary looks into it, or agrees to take it up after they have reached some negotiated agreement, she has to conform with all NEPA requirements. That is clear in 2604. Nobody is off the hook from NEPA for trust responsibility.

One more thing. Under 2604, which hasn't been mentioned, and the amendment that I introduced and will reintroduce, no tribe needs to participate in this agreement at all. It is totally voluntary, tribe by tribe. Senator BINGAMAN mentioned that the Navajo Nation was not supportive of 2604 and my amendment. That is all right; they don't have to participate. This is open for the tribes that want to, and those that do not want to don't have to.

As I understand the Bingaman amendment, they are all going to be caught in the same net. That is, they will all be required to come up with the money, as Senator DOMENICI mentioned, to subscribe to NEPA even before they reach an agreement. They don't have the money to do that. All it is going to do is prevent tribes from moving forward in this Nation.

I have no further comments. I yield the floor.

Mr. DOMENICI. Mr. President, I thought we agreed to 20 minutes on each side.

Mr. BINGAMAN. That is my understanding. I was hoping we would have a vote right away. How much time remains on each side?

The PRESIDING OFFICER. The majority has consumed 20 minutes.

Mr. DOMENICI. They want to set it aside and go to the Burma measure. We had 20 minutes on each side, but they want to proceed to the Burma debate and vote, stacked, with yours going first.

Mr. BINGAMAN. I thought the agreement was that we would have a vote on ours.

Mr. DOMENICI. They want to stack them.

Mr. REID. Mr. President, we entered into an agreement, and we all thought there was going to be a vote following this 40 minutes of debate. The majority leader was not part of that agreement. In deference to him, we will not push our 40-minute vote. We will agree to go to that. That time is gone now, isn't it?

The PRESIDING OFFICER. The majority has used 20 minutes.

Mr. BINGAMAN. We were anxious to get a vote. Senator SCHUMER wanted to be here for a vote. He had to leave. He indicates he will have to leave.

Mr. REID. He has left.

Mr. BINGAMAN. I request that we do our vote so he can be here later on. Is that acceptable?

Mr. DOMENICI. What was the request again?

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BINGAMAN. 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. BINGAMAN. How much time would remain on our side if we had entered into that agreement?

The PRESIDING OFFICER. Two minutes.

Mr. BINGAMAN. I will use those 2 minutes.

Mr. President, the underlying bill, which we are trying to amend here, has in it really clear language that essentially lets the Secretary of the Interior off the hook. It eliminates responsibilities that the Secretary of the Interior would otherwise have. It says the United States shall not be liable for any loss or injury sustained by any party, including an Indian tribe, or any member of an Indian tribe, to a lease,

business agreement, right-of-way, executed in accordance with the tribal energy resource agreements approved under this subsection.

Then it says that on approval of a tribal energy resource agreement of an Indian tribe, under paragraph 1, the Indian tribe shall be estopped from asserting a claim against the United States on the grounds that the Secretary should not have approved this agreement.

That is a clear statement by the Congress—if that becomes law—that the Secretary of the Interior is off the hook. This may be on Indian trust land. It may be that the Secretary of the Interior is the trustee of that Indian trust land. We are saying in this language—if we don't amend it by the amendment Senator INOUYE and I have prepared, we are saying that the Secretary of the Interior is off the hook and the Indian tribe has no one to go to for any kind of remedy. I don't think we intend to do that.

Senator INOUYE and I have put together an amendment we believe keeps trust responsibility with the Federal Government, where it should be. It sets up a good procedure that the tribe can work with the Federal Government. The tribe still has decisions, makes decisions over these energy development projects, but clearly the Federal Government needs to be part of that and needs to have responsibility for seeing that decisions are in the best interest of the tribe.

Mr. President, I think this is a good amendment. I hope that once we do get to a vote, whenever that occurs, we will see this amendment adopted. It will strengthen the bill, and I hope very much we can approve it.

I yield the floor.

Mr. JEFFORDS. I rise in support of the amendment offered by Senator BINGAMAN.

His amendment does not go as far as I would wish, because it does not fully preserve the integrity of NEPA or the Endangered Species Act.

These two Federal statutes, which are under the jurisdiction of the Environment and Public Works Committee, have been cornerstones for the protection of environmental quality for decades. Section 2604 of the bill negates or weakens application of these laws to most energy development on tribal lands.

Section 2604 would allow tribes to grant leases or rights-of-way for mineral development, electric generation, transmission or distribution facilities or facilities to process energy resources of any sort on tribal lands.

The tribes could do this without the approval of the Secretary of the Interior.

This would effectively remove the current legislative authority of the Department of the Interior over these matters.

Under existing law, the oversight of the Secretary of the Interior over energy development on tribal lands triggers a variety of Federal permitting requirements which will ensure that NEPA, section 7 of the Endangered Species Act, and a variety of other Federal laws will apply to these activities.

Removal of the Secretary's approval authority over many of these actions would have a number of consequences.

First, it would mean that Federal NEPA laws would no longer apply. It would also mean that the section 7 Federal consultation provisions of the Endangered Species Act would cease to apply.

This is particularly significant in that tribal lands are often adjacent to some of the most protected and pristine Federal lands, including wildlife refuges, wilderness areas, and National Parks. Wholesale changes in the application of the Federal mineral leasing and development laws—and potentially a host of environmental laws—to tribal lands, could have significant impacts on adjacent sensitive lands, air quality, water quality and wildlife.

Because of their sovereign immunity and special trust status, tribes are also generally exempt from many State environmental and other laws, to which private lands are subject.

Section 2604 represents a sweeping reversal of years and years of established environmental and energy laws, many of which are within the jurisdiction of the Senate Environment and Public Works Committee. Our committee has never held hearings on this, nor had the opportunity to examine the extent to which this language would weaken or amend Federal environmental laws, or laws relating to the development of commercial nuclear power.

My preference would be to insert language which I filed yesterday, which would clarify that Federal environmental and nuclear laws would continue to apply to these tribal lands, regardless of removing the approval of the Secretary of the Interior under the Indian Mineral Development Act.

However, because I think that the language offered by Senator BINGAMAN has a greater chance for success, I will vote in favor of his amendment.

At a minimum, his amendment would remove any implicit waiver of Federal environmental laws and would create an environmental review process to be conducted by tribes to ensure at lease some modicum of public involvement in what could possibly be massive energy development on tribal lands.

Section 2604 creates an unprecedented lack of Federal oversight for development with potentially massive environmental impacts, and I urge my colleagues to adopt Senator BINGAMAN's amendment.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, we yield back our time on our side. I move to table the Bingaman amendment and 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 Massachusetts (Mr. KERRY) is necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ''nay''.

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

The result was announced—yeas 52, nays 47, as follows:

[Rollcall Vote No. 219 Leg.]

YEAS—52

Alexander	Dole	Miller
Allard	Domenici	Murkowski
Allen	Ensign	Nickles
Bennett	Enzi	Roberts
Bond	Fitzgerald	Santorum
Brownback	Frist	Sessions
Bunning	Graham (SC)	Shelby
Burns	Grassley	Smith
Campbell	Gregg	Snowe
Chafee	Hagel	Specter
Chambliss	Hatch	Stevens
Cochran	Hutchison	Sununu
Coleman	Inhofe	Talent
Collins	Kyl	Thomas
Cornyn	Lott	Voinovich
Craig	Lugar	Warner
Crapo	McCain	
DeWine	McConnell	

NAYS—47

Akaka	Dorgan	Levin
Baucus	Durbin	Lieberman
Bayh	Edwards	Lincoln
Biden	Feingold	Mikulski
Bingaman	Feinstein	Murray
Boxer	Graham (FL)	Nelson (FL)
Breaux	Harkin	Nelson (NE)
Byrd	Hollings	Pryor
Cantwell	Inouye	Reed
Carper	Jeffords	Reid
Clinton	Johnson	Rockefeller
Conrad	Kennedy	Sarbanes
Corzine	Kohl	Schumer
Daschle	Landrieu	Stabenow
Dayton	Lautenberg	Wyden
Dodd	Leahy	

NOT VOTING—1

Kerry

The motion was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. DOMENICI. I yield to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. CAMPBELL. I thank my colleagues for voting for this on the last motion to table. I know it is a difficult vote for some of my colleagues. I want to reintroduce tomorrow the amendment I spoke to earlier. I want to assure Senator BINGAMAN and Senator INOUYE, who have worked on a lot of different Indian issues with us in the past, that if the language on trust is not strong enough, I will be more than happy to review that and work with you to make it even stronger and also to try to clarify the language dealing with NEPA.

The PRESIDING OFFICER. The Senator from Kentucky.

UNANIMOUS CONSENT AGREEMENT—S. 1215

Mr. MCCONNELL. Madam President, I ask unanimous consent the Senate now proceed to the consideration of S. 1215, the Burma sanctions bill; that there then be 60 minutes of debate equally divided under the control of myself and the Democratic leader or his designee; further, that no amendments be in order other than a substitute amendment and a technical amendment to that substitute. I ask unanimous consent that following the debate time and the disposition of the above amendments, the bill be read a third time and the Senate proceed to a vote on the passage of the bill, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Reserving the right to object.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I will have none. But when the matters that have just been agreed upon have been completed, we will then have another amendment on the Energy bill. It will be offered by the distinguished Democratic Senator from Florida with reference to an inventory of the Outer Continental Shelf assets, inventory that is provided for in the bill. He will move that be taken out. That will be debated tonight and voted on tomorrow.

Mr. REID. Reserving the right to object, the two leaders have indicated that we would have more debate on that in the morning, however, on the offshore oil inventory. I don't know what time they are going to schedule a vote, but I think it will be sometime in the morning and that will be worked out later tonight.

Mr. DOMENICI. I would like to comment, before we proceed, just a further 30 seconds?

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. We have been working very hard to get a complete list—I think we are very close—of amendments we can agree to and put at the desk. As everybody knows, a lot is riding on this Energy bill: a full ethanol package; soon there will be the renewables that many are relying on in this country which have extenders that are required that are part of the tax amendments that are going to go on this bill. Those are providing for the existing—continuation of the renewables in the area of wind and Sun and others. If we do not get the bill moving, none of that moves along.

So I do ask all Senators who have amendments to concur that they can write them up, get them in, get them on this list so we know where we are and when we might look for daylight on this bill. I yield the floor.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Madam President, I say to the distinguished Senator from New Mexico, the chairman of the committee, we have a list on our side. We are now waiting. Tentative lists have been exchanged by the two sides. As far as we are concerned, we are ready at any time to enter into that agreement. We do have a finite list of amendments. As soon as we get a finite list of amendments from the majority, a unanimous consent agreement could go forward at that time.

Mr. DOMENICI. Madam President, I thank the distinguished Senator for his cooperation. That is a true statement.

The PRESIDING OFFICER. Is there objection to the unanimous consent request of the assistant Republican leader? Without objection, it is so ordered.

BURMESE FREEDOM AND DEMOCRACY ACT OF 2003

The PRESIDING OFFICER. The clerk will report the bill by title.

The bill clerk read as follows:

A bill (S. 1215) to sanction the ruling Burmese military junta, to strengthen Burma's democratic forces and support and recognize the National League of Democracy as the legitimate representative of the Burmese people, and for other purposes.

The PRESIDING OFFICER. The assistant Republican leader.

Mr. MCCONNELL. Madam President, the situation in Burma is indeed dire and requires our immediate response. We will make that response within the next hour.

S. 1215, which is now the pending business in the Senate, has 56 cosponsors. I particularly want to thank Senator FEINSTEIN, who will be speaking on this measure, and Senator MCCAIN, who have had a particular interest in this subject for quite some time.

Until yesterday, Aung San Suu Kyi and other democracy activists have been held incommunicado by the repressive State Peace and Development Council, SPDC, following an ambush on her convoy several hundred kilometers north of Rangoon. Scores are feared murdered and injured in this blatant assault on democracy in Burma.

In the 11th hour of his trip to Rangoon, the SPDC finally allowed U.N. Special Envoy Razali Ismail a 15-minute meeting with Suu Kyi. We are all relieved that his initial statements indicate that she is alive and unharmed, but the fate of other activists arrested remains unknown.

But simply seeing is not freeing. Razali's meeting with Suu Kyi was not a private one and she remains under the total control of SPDC thugs. Her continued silence in the wake of this bloodshed could not be more deafening, nor—despite Razali's brief visit—her predicament more pressing.

Horrific details of the attack continue to emerge and heighten the need for a swift and decisive response to the SPDC's brutality.

According to Monday's front-page article in the Washington Post, in the ''pitch dark amid the rice paddies'' thugs posing as Buddhist monks stopped Suu Kyi's car. Soon after, a crowd ''set upon her convey, attacking the entourage with wooden clubs and bamboo spikes. . . . Several hundred more assailants ambushed the motorcade from the rear.''

This is no simple act of harassment or intimidation. It was an act of terrorism against innocent civilians who simply believe in democracy and the rule of law in Burma.

The free world and free press have been quick to condemn the SPDC. But strong words from foreign capitals must be matched by stronger actions.

Last week, I introduced the Burmese Freedom and Democracy Act of 2003, along with Senators FEINSTEIN and MCCAIN. As I indicated earlier, we now have 56 cosponsors. I ask unanimous consent that the list be printed in the RECORD.

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

S. 1215 COSPONSORS

Akaka, Alexander, Allard, Allen, Baucus, Bennett, Biden, Bingaman, Boxer, Breaux, Brownback, Bunning, Burns, Chambliss, Clinton, Coleman, Collins, Corzine, Daschle, Dayton, Dole, Domenici, Dorgan, Durbin, Edwards, Feingold, Feinstein, Frist, and Grassley.

Hagel, Harkin, Hutchison, Jeffords, Kennedy, Kerry, Kyl, Lautenberg, Leahy, Levin, Lieberman, Lugar, McCain, Mikulski, Murkowski, Murray, Nelson, Ben (Nebraska), Reid, Rockefeller, Santorum, Sarbanes, Schumer, Smith, Specter, Stabenow, Voinovich, and Wyden.

Mr. MCCONNELL. Madam President, this bill, among other sanctions, imposes a ban on imports from Burma.

I am pleased that many of my colleagues—including the majority and minority leaders of the Senate and the chairmen and ranking members of the Senate Foreign Relations and Finance Committees—are cosponsors of this important legislation.

Let me share with my colleagues some of the feedback we have gotten from around the country on the act:

An editorial in today's Los Angeles Times stated:

[Burma's] trading partners, other countries in the region and aid givers like Japan need to get tougher by imposing sanctions and aid suspensions to push the country toward democracy; that's the outcome Myanmar's citizens show they favor every time they get the chance.

By the way, they haven't gotten a chance since 1990.

A Washington Post editorial yesterday advised that because Burmese dictators ''control the nation' economy, an import ban would affect those most responsible for Burma's repression, and senators supportive of democracy in Asia should vote for the bill without conditions or expiration dates.''

Deputy Secretary of State Rich Armitage recently wrote:

. . . we support the goal and intent of this legislation and agree on the need for many similar measures. . . . We are also considering an import ban, as proposed in your legislation.

A June 6 editorial in the Washington Post suggested that:

While the [Burmese Freedom and Democracy Act] moves through Congress, Mr. Bush could implement many of its provisions by executive order. He could find no better way to demonstrate his commitment to democracy and his revulsion at a brutal dictatorship.

A New York Times editorial endorsed the import ban and recommended that:

Europe . . . should now block Myanmar's exports as well. The junta has had a year to demonstrate that its opening was genuine. Now all ambiguity is gone, and the world's response must be equally decisive.

A Boston Globe editorial stated that President Bush:

. . . could and should issue an executive order that would swiftly accomplish [an import ban]. This is not a partisan matter. The great lesson that ought to have been learned in the last century is that free democrats betray their unfree brothers and sisters when they seek to appease dictatorships.

Dallas Morning News editor at large Rena Pederson, who also penned a superb article on this topic in the Weekly Standard, wrote in an op-ed:

The strongest possible pressure must be turned on the Burmese generals, who apparently calculated their opposition could be decapitated while the world was preoccupied with events in the Middle East. They shouldn't be allowed to get away with such a cowardly fast one. The Bush administration should support tougher sanctions now. Senator Mitch McConnell, R–KY., is pushing for increased sanctions.

That is the bill we have before us.

''He will need help . . .''

And we obviously are going to have help with 56 cosponsors, and I hope a very overwhelming vote shortly.

''He will need help, or the Bush administration could accomplish the same thing by executive order.''

A Baltimore Sun editorial rightly concluded: ''. . . this regime ought to be treated somewhat like North Korea, from which imports have long been barred.''

Finally, in endorsing the act, the American Apparel and Footwear Association called upon ''the rest of Congress for the swift and immediate passage of such import legislation.''

The idea of a ban on imports from Burma is not a new one to this body. In he 107th Congress, S. 926 sought to impose such restrictions and was cosponsored by 21 Senators. I would offer that the need for an important ban has only become more urgent in the wake of the May 30 attack on democracy in Burma.

Supporters of a free Burma want America to take the lead in defending democracy in that country.

Supporters of a free Burma believe that serving the cause of freedom is America's challenge and obligation. We should not abandon the people of Burma during the greatest moments of need. The people of Burma have made their aspirations known, and the regime has not silenced them into submission. They have not stilled their hearts for political change and they will not succeed in stemming our collective resolve.

Supporters of a free Burma agree with President Bush that:

Men and women in every culture need liberty like they need food and water and air. Everywhere that freedom arrives, humanity rejoices: and everywhere that freedom stirs, let tyrants fear.

It's time for tyrants to fear in Burma.

I ask unanimous consent that the following items be printed in the RECORD: a Washington Post article dated June 9; a letter from Under Secretary of State Rich Armitage; editorials from the Los Angeles Times, and the Baltimore Sun, and a Rena Pederson article in the Weekly Standard.

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

[From the Washington Post, June 9, 2003]

ATTACK ON BURMESE ACTIVIST SEEN AS WORK OF MILITARY

(By Alan Sipress and Ellen Nakashima)

BANGKOK, June 8.—Burmese opposition leader Aung San Suu Kyi's motorcade was rattling along a pocked one-lane road near Mandalay in Northern Burma after the sunset when a pair of men, disguised in the burnt orange robes of Buddhist monks, motioned for it to stop. They asked her to alight and make an impromptu speech to at least 100 people gathered at a narrow bridge over a creek and blocking her way, according to Burmese exiles who spoke with witnesses. But she was running late. It was already pitch dark amid the rice paddies.

When one of her bodyguards, a young unarmed man, got out of the four-wheel-drive vehicle to convey Suu Kyi's regrets, the crowd set upon her convoy, attacking the entourage with wooden clubs and bamboo spikes, according to the exiles and diplomats who also have spoken to witnesses. Several hundred more assailants ambushed the motorcade from the rear.

By the time the battle was over late in the evening of May 30, at least four of Suu Kyi's bodyguards were dead. Burmese exiles and diplomats said scores of her supporters were also probably killed. And Suu Kyi, the 1991 Nobel Peace Prize laureate, suffered head and shoulder injuries, they said, when her car windows were shattered and she was detained by Burmese soldiers along with at least 17 supporters.

U.S. and other diplomats have concluded that the attack was an ambush orchestrated by Burma's military rulers and carried out by a pro-government militia reinforced by specially trained prison inmates.

Suu Kyi, 57, has remained in custody, incommunicado and out of public sight ever since, prompting protests from the United Nations, the United States other governments.

The attack was not only a stunning bid to intimidate Suu Kyi and deflate a pro-democracy movement that over recent months had been attracting larger and larger crowds despite mounting governmental harassment, according to exiles and diplomats in Rangoon and Bangkok. It was also an effort by Burma's top leader, Gen. Than Shwe, who had been consolidating control in recent months, to make clear he had lost patience with those in the military advocating dialogue with Suu Kyi.

''This was a brutal power play to show them who is in charge here,'' a European diplomat said. ''This was a message from Than Shwe to the softies in the military that you [had] better watch out. You are not to tolerate Aung San Suu Kyi.''

Although supporters of political reform have despaired of progress for months, the attack outside Mandalay—the bloodiest confrontation since Burma crushed a pro-democracy uprising in 1988—could mark the end to the spring of hope that began almost exactly one year ago.

Under intense international pressure, the Burmese government had released Suu Kyi from house arrest in May 2002. Some high-ranking military officers had calculated that Suu Kyi's popularity had faded during her detention and that she no longer posed the same threat as she had in 1990 when her party, the National League for Democracy, won a landslide election victory, Burmese and other analysts said. Those results were voided by the military, plunging Burma into its current political crisis and a decade of international isolation.

The Burmese government, however, discovered that Suu Kyi still attracted jubilant crowds when she traveled the country reopening nearly 200 local offices for her party. Tens of thousands turned out to chant her name. Many supporters walked miles to see her. Increasingly, her rallies drew Buddhist monks, who command great respect in Burmese society, further alarming the military.

''They are worried that despite all the threats they can employ against the pro-democracy movement, people are continuing to go out and see Aung San Suu Kyi,'' said Win Min, a Burmese researcher who studies civilian-military relations.

Suu Kyi, who has always preached reconciliation, was also becoming openly critical of the government's unwillingness to engage in meaningful dialogue for a political settlement. The optimism that accompanied her release from house arrest had long dissipated.

These developments were an affront to Than Shwe, the junta's leader, who so loathes Suu Kyi that, as one European diplomat said, he ''hates even to hear her name mentioned.''

Than Shwe, 70, chairman of the ruling State Peace and Development Council and armed forces commander, has moved since last year to strengthen his grip on power. He has beefed up the United Solidarity and Development Association, the pro-government militia that witnesses said attacked Suu Kyi's motorcade. He has manipulated the military, government and courts to weaken his leading rivals while placing his loyalists in influential post, said diplomats and Burmese exiles.

''Than Shwe has been taking his time,'' said Zin Linn of the opposition National Coalition Government of the Union of Burma. ''He has purged many of the senior military men who are soft-liners and are in some way impressed with Aung San Suu Kyi'' and Tin Oo, the vice chairman of her party.

Most notably, Than Shwe's ascent has come at the expense of Gen. Khin Nyunt, 64, the head of military intelligence and a leading advocate of dialogue with Suu Kyi. His patron, former dictator Gen. Ne Win, died in December. While Khin Nyunt remains the third-highest-ranking official in the junta, his authority in running military intelligence has been limited and he has told diplomats that he no longer has a mandate to pursue the reconciliation talks, which had been medicated by U.N. special envoy Razali Ismail.

The dispute pits so-called pragmatists, such as Khin Nyunt, who believe Burma can string out the talks with Suu Kyi while placating foreign governments, against officers urging that the pro-democracy movement be crushed. But diplomats and analysts stress that the military is united in its determination to retain power.

Suu Kyi's recent month-long swing through northern Burma offered an opportunity for Than Shwe to deliver a resounding message to the pragmatists that their moment had passed, diplomats and exiles said.

As expedition to the northernmost state of Kachin, which began May 6, was her seventh road trip since her release. It was meant in part to bolster the morale of loyalists in her party, who were disappointed that the reconciliation talks had ground to a halt, said Debbie Stothard, coordinator of ALTSEAN-Burma, a human rights group in Southeast Asia.

The trips, especially this last, had provoked growing harassment by the government, which has staged protests by machete-wielding activists, blasted music to drown out Suu Kyi's speeches and blocked her way with logs and barbed wire. At least once, a firetruck turned its hoses on her supporters.

If the military wanted to escalate the confrontation, Sagaing Division northwest of Mandalay was a good place, Burmese exiles and diplomats said. This impoverished region is the stronghold of Lt. Gen. Soe Win, a Sagaing native and former military commander in the area. He was promoted by Than Shwe in February to the junta's fourth-highest position. Soe Win is also a leading activist in the militia and had toured several towns earlier this year demanding that dialogue with Suu Kyi be halted.

Diplomats and exiles said they have received reports that Soe Win was at a military headquarters in nearby Monywa either during or shortly before the ambush against Suu Kyi's motorcade. Exiles said they believe he ran the operation.

Military officials knew Suu Kyi was coming. She had been required to give them her itinerary.

''Clearly, orders were given for a violent attack,'' a U.S. Embassy official in Rangoon said.

The following account of the May 30 attack was provided by that official based on the findings of a two-person U.S. Embassy team dispatched to Sagaing Division late last week to investigate the incident. Much of the story has been corroborated by information from witnesses provided to other diplomats and exiles.

As Suu Kyi's motorcade traveled north toward the town of Dipeyin about two miles from Monywa, it was met by 100 to 200 people at the bridge. Most of them were disguised as monks but shed the costumes when the fighting erupted. About 400 other convicts and militia recruits disguised as monks with shaved heads, and wearing white armbands, blocked the motorcade from behind.

Though Suu Kyi's supporters tried to assuage the mob, the assailants began beating them and smashing the vehicles' windows. Trying to stave off the attack and shelter Suu Kyi, members of her party stood on the road and locked arms.

At the site, the investigating team found bloodied clothes, clubs and spears, broken glass and debris from damaged vehicles.

''It was pretty clear that a big fight had taken place,'' the embassy official said.

The team's findings contradict the brief version provided by the government—that the confrontation lasted two hours and was provoked by Suu Kyi's party. The government said four people were killed and 50 others injured.

The U.S. team reported that gunfire was heard in the middle of the night when the army arrived to clean up the site. According to other accounts, gunshots rang out during or shortly after the clash.

Reports reaching other diplomats and exile groups said Suu Kyi's driver, trying to remove the democracy activist from the melee, gunned the engine as the crowd pounded the car with rocks and other objects. She was detained by security forces farther down the road in Dipeyin.

Tin Oo, 75, the vice chairman of Suu Kyi's party, was assaulted when he left his car, according to Burmese exiles, who have expressed concern about his condition and whereabouts.

Following the attack, the military closed most of the party's offices across Burma, arrested other democracy activists and criticized Suu Kyi's movement in the press. Some suggest that these steps were part of a planned, concerted crackdown, not just a hurried attempt to prevent Suu Kyi's supporters from protesting the attack and arrests. They noted that in the weeks before the incident, 10 activists from the opposition party were arrested and sentenced to prison terms of two to 28 years.

Since the attack, more than 100 party activists have been arrested and at least a dozen imprisoned, said Stothard, coordinator of the human rights group.

Those killed trying to protect Suu Kyi, or ''The Lady,'' as she is popularly known, reportedly included Toe Lwin, 32, a rising star in the party's youth division who held a philosophy degree and was studying English in Rangoon, a Western diplomat said. He was in Suu Kyi's vehicle, wearing his orange opposition party jacket with its red badge emblazoned with a gold fighting peacock. Suu Kyi treated these supporters as ''surrogate sons,'' and saw in them a future generation of political leaders, Stothard said.

Suu Kyi is being held at Yemon military camp, about 25 miles outside Rangoon, without access to her doctor, party members or Western envoys, concerned diplomats said.

''If they lift her incommunicado status, she will speak,'' a European diplomat said. ''She will speak the truth and this will be damaging for them.''

DEPUTY SECRETARY OF STATE,
Washington June 6, 2003.

Hon. MITCH MCCONNELL,
Chairman, Subcommittee on Foreign Operations, Committee on Appropriations, U.S. Senate.

DEAR MR. CHAIRMAN: We are outraged by the May 30 attack on Aung San Suu Kyi and her convoy. The deteriorating conditions in Burma are of grave concern to the Administration and we appreciate your leadership in advancing legislation to respond to these events.

The Department of State also appreciates the opportunity to review and comment on the ''Burmese Freedom and Democracy Act of 2003 (S. 1182),'' which you introduced on June 4, 2003. We fully support the goal and intent of this legislation and agree on the need for many similar measures. For example, we are working on a unilateral expansion of the visa ban, extending it to all officials of the Union Solidarity Development Association (part of the SPDC) and their immediate families, rather than just to senior officials, as is current practice. We will also be adding managers of the state-run enterprises and their families to the list.

We agree on the need to prevent IFI funds going to the junta. We will continue to use our voice and vote in those institutions to oppose loans that benefit the military regime. We also agree on the need to express strong support for the NLD, and are doing so in every international forum in which the United States participates, including at the UN. Also significant are the findings of the annual Country Report on Human Rights Practices, Trafficking in Persons Report and Report on International Religious Freedom, which identify and strongly condemn known SPDC abuses. The President's Annual Report on Major Drug Transit or Major Illicit Drug Producing Countries has also identified Burma as a country that demonstrably has failed to meet its international obligations regarding narcotics.

In addition to the above efforts, which are already underway, we are determined to pursue additional measures against the regime, including an asset freeze, a possible ban on remittances and, with appropriate legislation, a ban on travel to Burma. We hope to move forward with these measures expeditiously and with the support of the Congress. We are also considering an import ban, as proposed in your legislation. We support the intent behind the ban but are reviewing the proposal in light of our international obligations, including our WTO commitments.

Again, thank you for your leadership on this issue and your commitment to the cause of freedom. We look forward to working with you on the bill.

Sincerely,

RICHARD L. ARMITAGE.

[From the Los Angeles Times, June 11, 2003]

FREEZE MYANMAR ASSETS

The military thugs running Myanmar finally may have opened their eyes to the esteem in which Aung San Suu Kyi is held outside their nation. They already knew how much their oppressed citizens thought of the woman who should be leading the nation formerly known as Burma: The huge numbers greeting her on her journeys around her country provided graphic evidence of her popularity.

Harboring despots' fears of ouster by a charismatic pro-democracy leader, the army rulers arrested Suu Kyi, again, after a deadly attack on her motorcade May 30. However, they let United Nations representative Razali Ismail meet with the democracy activist Tuesday after stalling for days.

Delay is not new for Razali, who has sought for two years to push the nation's autocrats toward democracy. He deserves credit for insisting on a meeting with Suu Kyi, so does his boss, U.N. Secretary-General Kofi Annan, who denounces the generals.

In 1947 a political rival assassinated Suu Kyi's father, an architect of the independence movement. Forty years later, his daughter began campaigning against the military regimes that ruled the country for much of its post-independence history. In 1990, she and her party won a parliamentary election but the military scrapped those results and kept her under house arrest. It also refused to let her leave to receive her 1991 Nobel Peace Prize or to be with her husband as he lay dying in England.

But a year ago, the junta let Suu Kyi travel again. Seeing her popularity undimmed, the government organized the May 30 ambush of her motorcade and cited the violence as cause for her arrest. She was held incommunicado until Razali met her. Nearby nations like Thailand and Malaysia feebly protested the assault and arrest.

The U.S. Congress is considering tougher measures to freeze the assets of the Myanmar government held in the United States and to bar the country's leaders from traveling here.

Those steps are warranted unless Suu Kyi is released and allowed to travel freely. The United States and other countries earlier imposed economic sanctions on Myanmar that devastated its economy. Trade with Thailand and China, plus the export of narcotics, has kept it afloat.

The trading partners, other countries in the region and aid givers like Japan need to get tougher by imposing sanctions and aid suspensions to push the country toward democracy; that's the outcome Myanmar's citizens show they favor every time they get the chance.

[From the Baltimore Sun, June 6, 2003]

SQUEEZE THE JUNTA

A top United Nations envoy was to arrive today in Myanmar, formerly known as

Burma, and not a moment too soon: Human rights and democracy once again are under siege by the narco-state's ruling military party.

The United Nations is demanding that Yangon's generals release 1991 Nobel Peace Prize laureate Aung San Suu Kyi, arrested Saturday after a violent attack on her pro-democracy party by security forces.

The violence, in which activists allege scores were killed, and the subsequent closing of Myanmar's universities and all of the offices of Ms. Suu Kyi's National League for Democracy mark a sudden darkening of the new dawn proclaimed last May when the military regime last released her from house arrest, promising dialogue with the NLD aimed at national reconciliation.

The renewed repression begs for stronger economic sanctions by the United States to squeeze this illegal junta.

This is a regime that competes with North Korea on human-rights abuses—including long quashing the NLD, a legally elected opposition party. As U.N. Secretary General Kofi Annan recently put it, the political aspirations of the Burmese people ''are overwhelming in favor of change.''

In 1990, Ms. Suu Kyi's party crushed the military's candidates in Myanmar's last legal parliamentary election; since then, she has spent much of the time under house arrest. In response, the United States barred new American investments in Myanmar in 1997. But that didn't end the involvement of Unocal Corp., the California energy giant, in a 1995 deal with the junta to extract natural gas off the Burmese coast and transport it via a 250-mile pipelines—a project allegedly built with forced labor and accompanied by military murders and rapes.

As a result, Unocal faces a groundbreaking federal lawsuit brought by international activists for 15 unnamed Burmese villagers under a 1789 U.S. statute allowing lawsuits against U.S. multinational corporations, holding them abroad to the same standards as at home. The outcome could be far-reaching; the Bush administration has weighed in on Unocal's side, arguing that such human-rights cases interfere with U.S. foreign policy and the war on terrorism.

This is precisely the wrong stance. Instead, the U.S. government ought to be moving quickly toward tightening the screws on Myanmar's generals and anyone keeping them afloat financially.

Trade sanctions against Myanmar were proposed last year but dropped when Ms. Suu Kyi was last released. This week, House and Senate bills were entered that call for an import ban and other sanctions, all of which seem fully warranted. Already, a leading U.S. apparel and footwear trade group and many large retailers—from Wal-Mart to Saks—are boycotting Burmese goods.

In other words, this regime ought to be treated somewhat like North Korea, from which imports have long been barred. Granted, Myanmar doesn't pose North Korea's nuclear threat, but it plays such a major role in the world's heroin trade that it's a destabilizing force internationally.

Ms. Suu Kyi is again detained and her party remains under attack because Myanmar's generals figure they can get away with it. The United States must send a stronger message that that's no longer an option.

BURMA'S JUNTA ''DISAPPEARS'' THE COUNTRY'S LEADING DEMOCRACT

(By Rena Pederson)

In the Trademark manner of thugocracies, Burma's military government, seeking to silence its critics, sent a mob to attack the motorcade of longtime democracy activist Aung San Suu Kyi on the night of Friday, May 30, as she traveled to a speaking engagement in the north of the country. The Nobel Peace Prize winner was assaulted and taken to an undisclosed location.

The government would say only that she had been placed in ''protective custody'' and that she had not been injured. But reports persisted that Suu Kyi had suffered a severe blow to the head and possibly a broken arm. Inside Burma, it was said that hundreds of her supporters had been murdered; international news agencies reported at least 70 killed and 50 injured. At least 18 people were believed detained.

''The problem with getting an accurate story about what happened is that everyone who could speak the truth in Burma is under arrest,'' said one democracy advocate in Washington. The government controls the only two newspapers and TV stations, and the leading journalist is in prison. One in four citizens reportedly spies for the government, so everyone is guarded about what is said in public.

Nevertheless, clandestine sources inside Burma that have proved reliable in the past report that hundreds of armed men attacked the motorcade, some disguised as Buddhist monks. Some were convicts released at the government's behest. They beat Suu Kyi's supporters with bamboo clubs three feet long and riddled her car with bullets. The window was shattered, and either a rock or a brick was thrown at Suu Kyi's head while she was seated in the car. Several students reportedly tried to shield her with their bodies, but they were beaten severely, and she was dragged away bleeding. According to this account, she was taken to a military hospital for stitches and then transferred to Yemon military camp about 25 miles from Rangoon.

Plainly, Suu Kyi, who is 57 and weighs about 100 pounds, faces long odds—though not for the first time. Since 1988, she has been standing up to one of the most brutal regimes in the world. In the process, she has become the photogenic symbol of democracy in Asia. In 1990, her party, the National League for Democracy, won 80 percent of the vote in elections the junta mistakenly had though they could control. Instead of seating the winners in parliament, the generals threw many NLD leaders in jail and placed Suu Kyi under house arrest, where she remained for most of the ensuing 13 years.

In this country, few people know her name, much less how to pronounce it (awn sawn soo chee). But her story has the sweep and drama of ''Gone With The Wind.'' Her father, General Aung San, was a leader of the democracy movement in Burma after World War II and was expected to become the first president after Great Britain relinquished control. He was assassinated when his daughter was only 2. His wife, a wartime nurse, went on to become ambassador to India.

Suu Kyi was educated at Oxford and married a fellow student, who became a professor of Tibetan studies. She lived quietly in England as a wife and mother of two boys until her own mother suffered a stroke in 1988, and she returned to Burma to care for her. In riots that year, soldiers shot and killed more student demonstrators than would die in 1989 at Tiananmen Square. Suu Kyi was entreated to stay and help lead the democracy effort, which she did, at great personal sacrifice. She has seen her sons only sporadically since. And four years ago, as her husband was dying of cancer, the junta refused to grant him a visa to visit her.

The international response to her rearrest has been near unanimous condemnation. In the midst of peace negotiations in the Middle East, President Bush expressed his deep concern and called for the immediate release of Suu Kyi and her supporters, as did United Nations Secretary General Kofi Annan. The most tepid responses came from Burma's Southeast Asian neighbors, who have their own concerns about stability. They asked for an explanation of Suu Kyi's detention, but would not demand her release. Japan, the leading investor in Burma, said the situation was not ''good'' and dialogue was needed for a democratic solution.

It will be up to the United States to increase pressure on the Burmese generals, who apparently thought they could decapitate their opposition while the world was concentrating on the Middle East. The Bush administration must back up its words with actions. On Capitol Hill, Sen. Mitch McConnell, a Kentucky Republican, and Rep. Tom Lantos, a Democrat from California, moved to toughen existing sanctions on Thursday. They will need help. As the Boston Globe pointed out, President Bush could issue an executive order that would accomplish the same thing.

The world hardly needs another crisis at this moment, but the situation in Burma could be destabilizing. Burma has been seeking aid from China, its neighbor to the north, which wouldn't mind having Burma as a vassal state providing port access to the Indian Ocean. That prospect has alarmed India, its neighbor to the west. At the same time, Thailand, to the east, is overwhelmed by the thousands of refugees pouring across the border each day to escape the rapacious Burmese military.

Further complicating the picture, Burma is one of the world's largest producers of heroin and amphetamines. Drug dealers are often seen playing golf with high-ranking generals and hold high positions in major banks. And, oh yes, Burma has one of the fastest-growing AIDS rates in the world-and one of the worst health systems.

When I spoke with Aung San Suu Kyi in February, she expressed frustration that the junta had not opened a dialogue with her party after her release from house arrest in May 2002. ''The government promised that it would begin discussions about the transition to democracy,'' she said. ''They have not. They promised they would release all political prisoners. They have not.'' And they promised to allow the publication of independent newspapers. She asked with a wry smile, ''You haven't seen one, have you?''

This spring she began speaking out more forcefully. When she ventured into the northern states two weeks ago, thousands of supporters risked their lives to greet the woman they call ''the Lady.'' Government harassment then increased. On May 24, 10 NLD members were jailed. On May 29, the day before the ambush, clashes broke out between government supporters armed with machetes and NLD backers, leaving several dead.

Even if Aung San Suu Kyi eventually emerges unharmed, the movement for free elections has been set back by the violent turn of events. The main office of the National League for Democracy, in Rangoon, has been closed, padlocked, and placed under guard, and other party offices have been shuttered. Universities, too, have been shut to prevent student protests.

''The Lady'' is in greater jeopardy than ever before. It remains to be seen what the long-repressed Burmese people and the much-distracted international community will do about it.

Mr. MCCONNELL. Madam President, I note that Senator FEINSTEIN is here. I yield the floor and retain the remainder of my time.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. I thank the Chair, and I also thank the distinguished Senator from Kentucky for his leadership on this issue. I am very proud to join with him.

Madam President, in 1996, Senator William Cohen and I introduced a sanctions bill on Bumra. It passed in 1996, and was signed by the President. In 1997, the sanctions were exercised.

We had a brief period of hope during that time, and the ASEAN nations were going to be helpful. It looked like the military junta was going to be receptive. Then, recently, for a brief period, Aung San Suu Kyi, the democratic leader of Burma, was released, and discussions took place. Well, that was short lived and this diabolical attack took place on Aung San Suu Kyi.

According to reports, her motorcade was met by 100 to 200 people at a bridge near Mandalay in northern Burma. Most of these people were disguised as monks. Another 400 people—convicts and other militia recruits who were also disguised as monks—blocked the convoy from the rear. Both groups then discarded their costumes and attacked the entourage with bamboo sticks and wooden clubs, smashing vehicles and beating up their targets. Officially, four people were killed and 50 injured. Witnesses contend that as many as 70 may have been killed and many more injured.

This is outrageous. The level of coordination, the deception, and the brutality of the crimes cannot go unanswered. They really demand a forceful and a substantive response that makes clear the United States will not deal with this junta and will not tolerate such blatant disregard for common human decency.

This legislation sends a message. It says: We will not import their products. And those Burmese exports to the United States are about 25 percent of what Burma exports. So it is a considerable message. It has to be remembered, Aung San Suu Kyi is the democratic leader of Burma. She has never been permitted to serve. Her people have been arrested. Members of the Parliament have been arrested and held in custody. Over 1,300 political prisoners are still in jail, many of them elected parliamentarians. The practice of rape as a form of repression has been sanctioned by the Burmese military. The use of forced labor is widespread. Trafficking in young boys and girls as sex slaves is rampant, and the government engages in the production and distribution of opium and methamphetamine. So the United States must act. Now, in general, I do not support trade embargoes as an effective instrument of foreign policy. However, there are certain circumstances—South Africa was one of them, largely because of the world response, and the world saying enough is enough—where there must be change, and where we are prepared to carry out these sanctions together to effect that change. I hope in this sense the United States will lead the way to enact these sanctions in a meaningful way in which other nations will follow.

Our legislation imposes a complete ban on all imports until the President determines and certifies to Congress that Burma has made substantial and measurable progress on a number of democracy and human rights issues.

As Senator MCCONNELL will indicate, there is a provision in the legislation, similar to the most favored nation status for China, that will allow an annual review of this to assess progress. It allows the President to waive the ban should he determine and notify Congress that it is in the national security interest of the United States to do this. It would freeze the assets of the Burmese regime in the United States. It directs United States executive directors at international financial institutions to vote against loans to Burma. It expands the visa ban against past and present leadership of the junta, and it encourages the Secretary of State to highlight the abysmal record of the junta in the international community.

Now, Senator MCCONNELL mentioned that both business and labor are united in support of this legislation. He said the American Apparel and Footware Association, which represents apparel, footware, and sewn products companies and their suppliers, has called for this ban. The president and CEO has stated—and I think this is worth being in the RECORD—''The government of Burma continues to abuse its citizens through force and intimidation, and refuses to respect the basic human rights of its people. AAFA believes this unacceptable behavior should be met with condemnation from not only the international public community, but from private industry as well.''

So well said.

A number of stores, including Saks, Macy's, Bloomingdales, Ames, and The Gap have already voluntarily stopped importing or selling goods from Burma. The AFL-CIO and other labor groups also support this legislation.

In addition, the International Labor Organization, for the first time in its history, called on all ILO members to impose sanctions on Burma.

Such diversity in support of this legislation speaks volumes about the brutality of this military junta and its single-minded unwillingness to take even a modest step toward democracy and national reconciliation.

And to add to it, Aung San Suu Kyi, the democratic leader, is once again being held in custody. This is unacceptable.

The military junta knows full well they do not enjoy the popular support of the Burmese people. That is why they resort to such actions.

As Aung San Suu Kyi traveled the country, and thousands turned out to hear her speak, the junta realized that after years of house arrest and repression, they had failed to curb the power of her message of democracy, of human rights, and the rule of law. They realized that the Burmese people were determined to see the democratic elections of 1990 fully implemented without delay. So in a cowardly and despicable manner they took this action.

Now we must take action. We must take a stand on the side of the people of Burma and on the side of the values we cherish the most.

I urge support and I hope it will be unanimous.

Thank you very much, Madam President. I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Madam President, I ask unanimous consent that Senator KOHL be added as a cosponsor.

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

Mr. MCCONNELL. Madam President, I say to my friend from California, as she was describing the provisions of the bill, the way it is now structured, we will have an annual debate about whether or not these sanctions should be lifted. It will be reminiscent of the most favored nation debates that we had annually regarding the People's Republic of China, which has now graduated to a new status.

But if ever there were a regime that deserved an annual review by those of us here in the Congress, this is a regime that deserves that. So I think that is a debate we are going to look forward to having.

Would you not agree, I say to my friend from California?

Mrs. FEINSTEIN. I certainly agree, I say to the Senator through the Chair. I think it would be very useful. And I think when the recalcitrance, the repression, is on the floor of this Senate every year, hopefully it will be helpful in changing the minds of this military junta.

Mr. MCCONNELL. Madam President, I first introduced a bill on this subject back in 1993. It is one of these issues that, I must regretfully say, you take an interest in and follow over a period of time and never see anything change. There is never any progress that could be measured—until a year or so ago when the junta led Aung San Suu Kyi basically out of house arrest. We were supposed to applaud that as some kind of remarkable step in the direction of recognizing the outcome of the election in 1998 in which she and her party got 80 percent of the vote. She won the Nobel Peace Prize in 1991 while she was essentially incarcerated. She remained under house arrest—except for about a year or so—ever since.

Various strategies have been tried. The Thai Prime Minister, who was in town yesterday—some of us talked with him, and I know he met with the President—this new Prime Minister in Thailand decided to engage in what he called ''constructive engagement.'' Obviously, constructive engagement doesn't work. What this regime needs is to be isolated. I know there are some skeptics even in this body with regard to the ability of sanctions to have a real impact.

Let me tell you, if there is one place in the world where sanctions worked, it was South Africa. The reason it worked there is because everybody participated and they were truly isolated. They became a pariah regime throughout the world, and that led to the dramatic changes that brought Nelson Mandela to power after decades in jail.

That can happen here. The United States needs to lead. Secretary Powell is going out to the ASEAN regional forum in Phnom Penh on June 18 and 19 next week. This is an opportunity for him to put it at the top of the agenda.

I said to the Thai Prime Minister that I thought constructive engagement wasn't working and they needed to join with us and help us lead the other ASEAN countries in the direction of a sanctions regime, on a multilateral basis, that could shut these people down. Some would say, well, if you have effective economic sanctions, it hurts the people. It doesn't hurt the people in Burma because the regime takes all profits off of the exports. They make money on the exports and the drug traffic, which they are quite good at.

So this regime needs to be squeezed by the entire world, isolated, and that is a strategy that we hope to begin today with the passage of this legislation in the next 30 or 45 minutes.

I know on our side, Senator MCCAIN wants to speak, KAY HUTCHISON wants to speak, and, I believe, Senator BROWNBACK wants to speak. How much time remains?

The PRESIDING OFFICER. There are 15 minutes 43 seconds.

AMENDMENT NO. 882

Mr. MCCONNELL. Madam President, there is a substitute amendment at the desk. I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL], for himself, Mrs. FEINSTEIN, Mr. MCCAIN, Mr. AKAKA, Mr. ALEXANDER, Mr. ALLARD, Mr. ALLEN, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mrs. BOXER, Mr. BREAUX, Mr. BROWNBACK, Mr. BUNNING, Mr. CHAMBLISS, Mrs. CLINTON, Mr. COLEMAN, Ms. COLLINS, Mr. CORZINE, Mr. DASCHLE, Mr. DAYTON, Mrs. DOLE, Mr. DOMENICI, Mr. DURBIN, Mr. EDWARDS, Mr. FEINGOLD, Mr. FRIST, Mr. HAGEL, Mr. DORGAN, Mr. BURNS, Mr. KOHL, Mr. HARKIN, Mrs. HUTCHISON, Mr. JEFFORDS, Mr. KENNEDY, Mr. KERRY, Mr. KYL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. LUGAR, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Nebraska, Mr. REID, Mr. ROCKEFELLER, Mr. SANTORUM, Mr. SARBANES, Mr. SCHUMER, Mr. SMITH, Mr. SPECTER, Ms. STABENOW, Mr. VOINOVICH, Mr. WYDEN, Mr. GRASSLEY, and Mr. BAUCUS, proposes an amendment numbered 882.

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

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

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

AMENDMENT NO. 883 TO AMENDMENT NO. 882

Mr. MCCONNELL. Madam President, there is a technical amendment to the substitute at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL], for himself, Mr. GRASSLEY, and Mr. BAUCUS, proposes an amendment numbered 883 to amendment No. 882.

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

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

The amendment is as follows:

(Purpose: To clarify the duration of certain sanctions against Burma, and for other purposes)

On page 5, line 5, insert ''and except as provided in section 9'' after ''law''.

Beginning on page 7, line 23, strike all through page 8, line 3, and insert the following:

(4) APPROPRIATE CONGRESSIONAL COMMITTEES.—In this Act, the term ''appropriate congressional committees'' means the Committee on Foreign Relations, the Committee on Finance, and the Committee on Appropriations of the Senate and the Committee on International Relations, the Committee on Ways and Means, and the Committee on Appropriations of the House of Representatives.

On page 8, beginning on line 5, strike all through line 13, and insert the following:

(1) IN GENERAL.—The President may waive the prohibitions described in this section for any or all products imported from Burma to the United States if the President determines and notifies the appropriate congressional committees that to do so is in the vital national security interest of the United States.

On page 11, beginning on line 16, strike ''Committees on Appropriations and Foreign Relations of the Senate'' and all that follows through ''House of Representatives'' on line 19, and insert ''appropriate congressional committees''.

On page 12, beginning on line 1, strike ''Committees on Appropriations and Foreign Relations of the Senate'' and all that follows through ''House of Representatives'' on line 4, and insert ''appropriate congressional committees''.

On page 12, after line 16, insert the following:

(3) REPORT ON TRADE SANCTIONS.—Not later than 90 days before the date that the import restrictions contained in section 3(a)(1) are to expire, the Secretary of State, in consultation with the United States Trade Representative and other appropriate agencies, shall submit to the appropriate congressional committees, a report on—

(A) conditions in Burma, including human rights violations, arrest and detention of democracy activists, forced and child labor, and the status of dialogue between the SPDC and the NLD and ethnic minorities;

(B) bilateral and multilateral measures undertaken by the United States Government and other governments to promote human rights and democracy in Burma; and

(C) the impact and effectiveness of the provisions of this Act in furthering the policy objectives of the United States toward Burma.

SEC. 9. DURATION OF SANCTIONS.

(a) TERMINATION BY REQUEST FROM DEMOCRATIC BURMA.—The President may terminate any provision in this Act upon the request of a democratically elected government in Burma, provided that all the conditions in section 3(a)(3) have been met.

(b) CONTINUATION OF IMPORT SANCTIONS.—

(1) EXPIRATION.—The import restrictions contained in section 3(a)(1) shall expire 1 year from the date of enactment of this Act unless renewed under paragraph (2) of this section.

(2) RESOLUTION BY CONGRESS.—The import restrictions contained in section 3(a)(1) may be renewed annually for a 1-year period if, prior to the anniversary of the date of enactment of this Act, and each year thereafter, a renewal resolution is enacted into law in accordance with subsection (c).

(c) RENEWAL RESOLUTIONS.—

(1) IN GENERAL.—For purposes of this section, the term ''renewal resolution'' means a joint resolution of the 2 Houses of Congress, the sole matter after the resolving clause of which is as follows: ''That Congress approves the renewal of the import restrictions contained in section 3(a)(1) of the Burmese Freedom and Democracy Act of 2003.''

(2) PROCEDURES.—

(A) IN GENERAL.—A renewal resolution—

(i) may be introduced in either House of Congress by any member of such House at any time within the 90-day period before the expiration of the import restrictions contained in section 3(a)(1); and

(ii) the provisions of subparagraph (B) shall apply.

(B) EXPEDITED CONSIDERATION.—The provisions of section 152 (b), (c), (d), (e), and (f) of the Trade Act of 1974 (19 U.S.C. 2192 (b), (c), (d), (e), and (f)) apply to a renewal resolution under this Act as if such resolution were a resolution described in section 152(a) of the Trade Act of 1974.

Mr. MCCONNELL. Madam President, I ask unanimous consent that the substitute amendment be agreed to.

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

The amendment (No. 882) was agreed to.

Mr. MCCONNELL. I ask unanimous consent that the technical amendment to amendment No. 882 be agreed to.

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

The amendment (No. 883) was agreed to.

Mr. MCCONNELL. Madam President, I will retain the remainder of my time, if I may.

Mrs. FEINSTEIN. Madam President, I will just use a quick minute. I mentioned some of the retail establishments supporting this but I left out a couple. I mentioned Saks Fifth Avenue, and there is also Macy's, the Gap, Bloomingdale's, Ames, Williams Sonoma, IKEA, Wal-Mart, Nautica, and Pottery Barn. I am very proud of these retail establishments for standing up and joining us. I wanted to recognize that on the floor.

Mr. MCCONNELL. Madam President, I am glad the Senator from California mentioned those important corporations. Obviously, they could conceivably benefit from low-cost imports but they are choosing not to allow the regime to make a profit off of these American corporations. They deserve our commendation.

I reserve the remainder of my time, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BIDEN. 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. BIDEN. Madam President, I ask unanimous consent to be able to proceed on the time controlled by Senator FEINSTEIN.

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

Mr. BIDEN. Madam President, I rise in support of the efforts of Senator MCCONNELL and Senator FEINSTEIN and acknowledge the leadership of Senator BAUCUS, as well, in working this out. Senator MCCONNELL has been tireless in his efforts to promote democracy in Burma and has been an acknowledged leader in this area. I thank him for not relenting.

I think it is to state the obvious that it is vital for us to express our concern for the freedom of Aung San Suu Kyi, leader of the National League for Democracy and a winner of the Nobel Peace Prize. On May 30, Government-affiliated thugs ambushed an automobile convoy carrying the leader and many of her supporters. Dozens of people were reportedly killed and injured in the crash. She was detained by Government authorities, who also ordered the NLD offices closed nationwide.

Aung San Suu Kyi remains under arrest, and the Government has refused to allow supporters or members of the diplomatic community to meet with her.

When Burma's military rulers freed Aung San Suu Kyi of house arrest last year, they claimed her release was unconditional and they pledged to continue the U.N.-facilitated dialog, which led to her freedom. With last month's premeditated attack and her current detention, the junta has abrogated all of its commitments and warrants no more time.

It is not hard to discern the motives of the junta.

They are scared. They are scared the people of Burma will rally and remove them from power, and they are right to be afraid. As Aung San Suu Kyi has toured schools, hospitals, businesses, and government organizations around Burma, she has been met by joyous crowds, and it is obvious to all observers that she remains as loved by the people of Burma as the military junta is reviled. It is time for the present military oligarchy to fade into history.

Burma's transition to democracy would be a most welcome development for all of Southeast Asia.

Despite pledges to crack down on narcotics production, the military continues to collaborate with heroin and methamphetamine traffickers. It has failed to address the legitimate demands of ethnic minorities for significant regional autonomy within a federal state, preferring military pressure to political accommodation.

The generals have enriched themselves while bankrupting the country. They have dismantled Burma's education system and ignored the growing threat to public health posed by AIDS, malaria, and tuberculosis. As the State Department notes with characteristic understatement in its most recent human rights report:

> The quality of life in Burma continues to deteriorate.

That may be the understatement of the month. It is well past time for the generals to do what they said they would do; namely, begin a process that would eventually transfer the reins to a representative civilian government that would enjoy domestic and international legitimacy.

Unfortunately, there are few indications that the regime intends to step down. Indeed, they apparently had high hopes the United States Government, taking note of Aung San Suu Kyi's release last year, would take steps to lift the many sanctions imposed when the army brutally suppressed Burma's democracy movement in 1988. The regime spent $450,000 to retain the services of a prominent Washington lobbying firm to help push the President and Congress to normalize relations, restore access to international financial institutions, and resume foreign aid.

They were willing to spend $450,000 to improve their image, but last year the officials operating the government spent less than $40,000 nationwide on HIV/AIDS care and prevention. Each of the nation's 35,000 primary schools receives on average less than $1 from the central government each year; $35,000 for the national education budget; $450,000 for lobbying in Washington.

No amount of money can hide the character of the Burmese military rulers. As the United States people stood with Nelson Mandela in his bid for freedom and democracy for the people of South Africa, so we should now stand with those who are moving Burma toward a free and open society and the National League for Democracy as they try through peaceful means to end the tyrannical, brutal rule of Burma's military rulers.

Again, I thank Senators MCCONNELL and FEINSTEIN for their leadership in this area, and I am confident we will win wide support of our colleagues. It is time that we are clearly standing on the right side of this issue.

The PRESIDING OFFICER. The assistant Republican leader.

Mr. MCCONNELL. Madam President, I thank my friend, the ranking member of the Foreign Relations Committee, for his contributions to the debate. I very much appreciate it.

I yield 8 minutes to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Madam President, I thank my colleague from Kentucky, Senator MCCONNELL, for his leadership, and I thank the Senator from California, Mrs. FEINSTEIN. I thank Senator MCCONNELL for his longstanding support of this brave and heroic person and the movement she leads.

Several years ago, I happened to visit Myanmar, which I will refer to from now on as Burma. I had the great honor—one of the great honors of my life—to meet this incredible hero, this incredible leader, this incredible person who has spent her life under duress, under punishment, under pressure, under house arrest, even to the point of physical mistreatment at the hands of this gang of thugs that runs and has ruined this country.

I will never forget the day I met her. I will never forget the grace, the dignity, and the heroism that was clearly radiating from every part of this incredible person who very appropriately has been recognized with the Nobel Peace Prize.

I remind my colleagues that she has been kept under house arrest for many years. She was released in 1995 finally, and then she was again confined to house arrest in 2000. Just a few days ago, as a motorcade of about 250 people drove through, about 500 armed soldiers, members of the military-backed Union Solidarity and Development Association, and an unknown number of convicts recruited from Mandalay prison with the promise of reward and freedom rushed and attacked it.

In the ensuing melee, which lasted about an hour, the attackers beat up NLD members, shot them with catapults, soldiers opening and firing, killing and wounding a large number of NLD members.

Aung San Suu Kyi was taken into custody in an unknown place. Apparently, thank God, according to the U.N. envoy, Mr. Ishmael, she is in good physical condition.

This junta has ruined the country. It has deprived the people of their fundamental freedoms. This gang of thugs has mistreated this great person in the most disgraceful fashion. She should be free. She should be free to lead her country as was already endorsed by one free and fair election overwhelmingly.

Why did they do that this time? Because everyplace Aung San Suu Kyi went, the people welcomed her by the thousands, and the junta could not stand it. So they had to kill her people, her supporters, and they had to throw her back into prison.

What did one of the leaders who is supposed to be a moderate, whom I also met when I was in Burma, GEN Khin Nyunt—remember that name—say? He said:

> Everyone needs to abide by the rules and regulations to be observed everywhere.

Adding:

> It is to be noted that the basic human rights would not protect those who violate an existing law.

What existing law? What existing law that would ever be judged a legitimate law in any court in the world was Aung San Suu Kyi in violation of when they killed her supporters, mistreated her, and put her back into prison?

I do not know why the Japanese, the Thais, the Chinese, and the ASEAN nations, that ostensibly are supposed to

be standing up for freedom and democracy, are not doing everything possible to punish this regime, free this incredible person, and let the people of Burma have a free and fair election.

I thank, again, Senator MCCONNELL. I point out that we should be taking every single measure possible, and I do not believe the Secretary of State should attend the ASEAN gathering in Phnom Penh, Cambodia, unless Aung San Suu Kyi and the situation in Burma are No. 1 on the agenda of ASEAN. Are we going to sit by and watch the brutalization of a people, the imprisonment of a Nobel Peace Prize winner, and the repression and devastation of a nation be carried out by a gang of thugs that call themselves generals? I hope not.

I hope the message today in the legislation we are considering, thanks to the Senator from Kentucky, is a message that this is the beginning—this is the beginning—of our efforts to free this person and to free the people of Burma.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, I strongly support the Burmese Freedom and Democracy Act of 2002 that has been introduced by Senators MCCONNELL and FEINSTEIN. The legislation, as was said, seeks to pressure the military junta in Burma to release Aung San Suu Kyi, and to help bring democracy and human rights to Burma.

Several days last week—in fact, time and time again—Senator MCCONNELL came to the floor to speak on this issue. I want to commend my colleague, the senior Senator from Kentucky, for his steadfast leadership. I associate myself gladly with his remarks. I have also joined him as an original cosponsor of this legislation.

The message the legislation sends to the ruling junta in Burma is clear: Its behavior is outrageous. By any standard anywhere in the world, its behavior is outrageous. Aung San Suu Kyi is the rightful and democratically elected leader of Burma. It is that simple. Aung San Suu Kyi is the rightful, elected leader of Burma, and the ruling junta does not want her to take office because they know that their days of repression, corruption, torture, and murder would be over. She and her fellow opposition leaders must be immediately released.

This legislation also sends a clear signal to the administration, to ASEAN members, and to the international community that we need to turn up the heat on this illegitimate regime.

The efforts of Senators MCCONNELL and FEINSTEIN are already having an impact. On June 5, 2003, our State Department issued a strong statement, which reads:

> The continued detention in isolation of Aung San Suu Kyi and other members of her political party is outrageous and unacceptable.

I agree. But we all know that U.S. actions can only go so far. Bringing democracy and human rights to Burma is going to require active pressure from Burma's neighbors in Southeast Asia, particularly Thailand, Japan, and China. I hope they apply the pressure for human rights and democracy that many of them profess to support. They should disavow the failed policies of engagement.

I am pleased to see that the McConnell-Feinstein legislation attempts to trigger a process to ratchet up the regional pressure on the Burmese Government. I am glad to see that the United States has demarched every government in Southeast Asia on this issue. I agree with the Bush administration on this very much. We have to bring this kind of pressure. As Senator MCCONNELL has pointed out, the administration could, on its own initiative, impose many of the sanctions called for in this legislation.

All of us were relieved yesterday when the U.N. envoy in Burma was finally able to see Aung San Suu Kyi. According to CNN, the U.N. envoy said that she shows no sign of injury following clashes with the pro-government group. His exact words were:

> She did not have a scratch on her and was feisty as usual.

That is indeed good.

I was also glad to see the U.N. envoy calling on the members of the ASEAN to drop the organization's policy of nonintervention. He stated:

> ASEAN has to break through the straitjacket and start dealing with this issue. . . .The situation in Burma can only be changed if regional actors take their positions to act on it.

I agree. The international community has the responsibility to act together to pressure the SPDC. The time, if there ever was a time, for appeasement is over. It is always a time for democracy to flourish. Democracy has spoken. It is being held back by the junta in Burma. It is time for them to step aside.

I see the distinguished senior Senator from Kentucky in the Chamber. I again commend him for his leadership, and I yield the floor.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Kentucky.

Mr. MCCONNELL. I thank my good friend from Vermont for his important contribution in this debate and his kind words about how we got to this point. Ultimately, I guess we will all be judged by whether or not this is effective, I say to my friend from Vermont. For these sanctions to be truly effective, we have to lead and the rest of the world has to join us in sanctions of a regime that truly operates on a multilateral basis like those that worked in South Africa.

I ask unanimous consent that Senator CAMPBELL be added as a cosponsor to this bill.

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

Mr. GRASSLEY. Mr. President, today I am pleased to express my strong support for the Burmese Freedom and Democracy Act of 2003. This bill sends a powerful message to the ruling military junta in Burma that their violent restrictions against freedom and democracy will not be tolerated and will have serious consequences. Their recent actions have yet again demonstrated to the world that this junta cannot be trusted.

The international community cannot allow the crimes committed by the Burmese military against the rightfully elected leader of Burma, Aung San Suu Kyi, her followers, and the Burmese people to go unpunished. So, it is my great hope that the actions that the Senate is taking today will provide the international leadership needed to put the spotlight on the Burmese military junta and make them change their ways.

I know that other countries, including the European Union, are also considering sanctions against Burma. A multilateral effort must be made so that we send the right message and so that our efforts are as effective as possible.

I am proud to be an original cosponsor of the Burmese Freedom and Democracy Act of 2003. I look forward to continuing to work with my colleagues to help bring freedom and justice to the Burmese people.

Mr. KENNEDY. Mr. President, when Aung San Suu Kyi and her supporters were so viciously assaulted last month, Burma's brutal leaders were responsible for yet another major crime against human rights. The violent repression of these democracy activists is a tragic and appalling example of the Burmese Government's shameful and continuing suppression of genuine reform.

Only a year ago, Suu Kyi had been released from one of her previous house arrests in Burma, and that arrest had lasted 19 months. This new atrocity has outraged the world once again, and stronger action by the United States and the entire international community is long overdue.

The Burmese Freedom and Democracy Act calls for stiffer economic sanctions and the immediate release of Suu Kyi and her supporters. She won the Nobel Peace Prize in 1991 for her inspiring courageous leadership. Again and again, she shows us why she deserves it. She is an inspiration to all who care about justice and human rights.

Mrs. HUTCHISON. Mr. President, I stand today in support of S. 1182, introduced by Senator MCCONNELL that I am cosponsoring. This bill answers the rising concern that democracy cannot begin to take its first promising steps in Burma. The news in the last few days clearly indicates that democracy in Burma is in serious trouble again.

On Friday, May 30, in its latest crackdown against the National League of Democracy, Burma's military regime detained Aung San Suu Kyi, a popular prodemocracy activist,

and other leaders of her political party. There are reports that her car had been hit by gunfire, and conflicting reports whether she had been hurt.

The clash came in a town 400 miles north of the capital city of Rangoon. She was transported to Rangoon where she remains under house arrest. It took nearly 2 weeks of constant international pressure on Burma's military regime for a United Nation's envoy to visit her yesterday. The envoy reported she is in good spirits and had not been hurt in the clash that resulted in her detention, but Burmese officials still refuse to give a timetable for her release.

When Aung San Suu Kyi was detained, the Burmese Government closed the offices of the National League of Democracy and arrested some of its provincial leaders. They also closed all university and college campuses. The Burmese military government is acting with renegade abandon.

The detention of Aung San Suu Kyi follows a clear pattern by the ruling military over the past decade to prevent her and her political party from assuming power, despite the democratic election they won by a landslide in 1990. Barely a year ago, the Burmese Government released her from 19 months of house arrest, but only after intense international pressure.

Aung San Suu Kyi captured the world's attention as a leader in the prodemocracy movement in her country after her Government refused to let her party take office. She received the Nobel Peace Prize in 1991 for her nonviolent efforts to promote democracy. Today, the military rule in Burma has shackled Aung Sun Suu Kyi again, but the world has not lost notice.

It is time to isolate this oppressive regime and demand the release of those it is holding for doing nothing more than seeking democracy for their nation.

Senator MCCONNELL'S bill will sanction the ruling Burmese military junta, strengthen Burma's democratic forces, and support and recognize the National League of Democracy as the legitimate representative of the Burmese people. It is time to increase the pressure on those who seek to snuff out the flame of democracy in a nation whose people clearly support it.

Mr. BAUCUS. Mr. President, I rise today to echo the condemnations of the military rulers of Burma that my colleagues have so forcefully offered.

Burma should by all rights be a prosperous country. It has over 50 million people, abundant natural resources, and a population hungry for democracy.

Instead, it is an international outcast, ruled by a few military men who finance their country through drug trafficking and forced labor.

Perhaps most egregious is the failure of the military rulers to recognize the results of a free and fair election in which the Burmese people overwhelmingly chose Aung San Suu Kyi as their leader. Rather than sitting at the head of a democratic Burmese Government, she is sitting in a Burmese jail, a prisoner of the military rulers.

The existence of a democratically elected government-in-waiting makes Burma unique, but that is not all that makes Burma unique.

Suu Kyi has consistently supported sanctions against the military rulers of Burma, and 3 years ago, the International Labor Organization, for the first time in its 82-year history, urged the world to impose sanctions against those rulers.

The bill we consider today will send a strong message to the illegitimate military regime in Burma that their recent actions in attacking Suu Kyi and her followers and imprisoning Suu Kyi are intolerable. A unanimous passage would send that signal loud and clear.

These sanctions would be most effective if the whole world joined us. Unilateral sanctions can send a strong message, but they are rarely effective. In fact, they can even end up unintentionally adding further misery to an already oppressed people while leaving their rulers unscathed.

Multilateral sanctions, on the other hand, can have a dramatic effect. I know that others are considering sanctions, including the European Union. I applaud their attention to this issue and urge them to act as we have acted.

I also urge the administration to work with our allies, particularly those in the region, to create a united front of sanctions against the military rulers of Burma. We must work toward multilateral support.

Importantly, this bill ensures that Burma will never fade from congressional minds. We will not simply impose sanctions now and then forget all about Burma.

Every year, we will vote on renewing sanctions. Every year, we will be talking about Burma and how best we can work to aid those working for democratic change in that country.

The military rulers of Burma should know that their crimes against Suu Kyi, her followers, and the Burmese people will be neither forgiven nor forgotten.

I appreciate the leadership of Senators MCCONNELL and FEINSTEIN on this issue. They deserve our thanks for consistently bringing the important issue of human suffering in Burma to the attention of this body.

I would also like to thank Senator GRASSLEY. He and I worked hard to make changes to this bill that, in my view, make it better.

I urge my colleagues to pass this bill unanimously today, and I urge the House of Representatives and the President to act soon to pass this bill into law. Let's send the strongest signal possible to the illegitimate regime in Burma.

Mrs. BOXER. Mr. President, 13 years ago, Aung San Suu Kyi and her party, the National League for Democracy, won an election in Burma with 82 percent of the vote.

It was a clear sign that the Burmese people had rejected its military rulers that had been in place since 1962. Unfortunately, the people of Burma were denied its true leader when the military regime arrested Suu Kyi and thousands of her supporters.

For the past 13 years, Suu Kyi has courageously pushed for democratic reform in Burma through nonviolent means even through she spent a great deal of this time under house arrest. For her bravery and dedication to freedom and democracy, she was awarded the Nobel Peace Prize in 1991.

Last year, the military rulers of Burma released Suu Kyi from house arrest. But, apparently, the strong support Suu Kyi continues to receive from the Burmese people was too much for the ruling military regime.

On May 30, in a northern Burmese town 400 miles from Rangoon, supporters of the military regime attacked Suu Kyi's convoy and had her arrested. Suu Kyi and thousands of her supporters were reportedly injured in the attack. Scores of Suu Kyi supporters were reportedly killed.

The international community must not let this act of brutality stand. That is why I am pleased to cosponsor and support Senator MCCONNELL's legislation to increase sanctions on Burma.

This legislation will impose a total import ban on Burmese goods, freeze the military regime's assets in the United States, tighten the visa ban on Burmese Government officials, and make it U.S. policy to oppose any new international loans to Burma's current leaders.

This is an important step. It is also important to make sure that the international community and regional powers do their part to provide real and sustained pressure on Burma's illegitimate rulers.

I was pleased to see that the United States has sent formal diplomatic requests to 11 nations in the region asking them to pressure the Burmese Government on the release of Suu Kyi.

I also sent a letter to the Japanese Ambassador asking his nation to put more pressure on Burma's military rules after Japan's Foreign Minister indicated that this incident would not set back democratization efforts in Burma. I know our Japanese friends will help us in this important issue of human rights and provide a stronger condemnation of the attack on Suu Kyi.

All nations, the international community, and regional organizations must take a stand against this outrage carried out by Burma's military leaders. We must do our part to support this brave woman and her followers.

Mr. LAUTENBERG. Mr. President, I rise today to support S. 1215 and to express my dismay about the current human rights situation in Burma.

On May 30, opposition leader Aung San Suu Kyi and at least 17 officials of

her party were detained after a violent clash with members of the Union Solidarity Development Association, a government-created organization that has increasingly taken on paramilitary activities.

The military junta that rules Burma has stated that ''only'' four died in the violence.

But the National League for Democracy, Suu Kyi's party, has put the death toll at 75. Furthermore, it is likely the Burmese Government deliberately provoked the clashes to justify cracking down on opposition leaders and closing down universities.

Since May 30, the junta has kept Suu Kyi, who is the 1991 Nobel Peace Prize recipient, in an undisclosed location.

We have recently received word from a U.N. envoy that Suu Kyi is safe, and members of the Burmese Government have promised that they will release her expeditiously.

I join with my colleagues in this body, and with the American people, in demanding that the Burmese regime fulfill this promise immediately. The Government must also find those responsible for the violence and hold them accountable.

The bill we have before us today addresses the serious human rights situation in Burma. The recent violence and detainment of opposition leaders exemplify Government repression conducted on a systematic and frequent basis.

S. 1215 would punish Burma's dictators, who have a chokehold on the nation's economic life, by barring the import into the United States of goods manufactured in Burma and by freezing the U.S. assets of the regime's leading generals. These are targeted sanctions that would punish the military dictators in Burma, those who are directly responsible for suppressing human rights there.

Nearly 55 years after the Universal Declaration of Human Rights, and only weeks after fighting a war to liberate 24 million Iraqis, the U.S. Senate must remain steadfast in its resolve to preserve the freedom of peoples throughout the world.

As a strong advocate for human rights and democratic governance in Southeast Asia, I call on this body to stand up to the military junta of Burma by passing this important legislation. We need to send a message to these thugs that their brutal reign of oppression and terror does not go unnoticed and will not last.

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

The PRESIDING OFFICER. Five minutes.

Mr. MCCONNELL. I reserve the remainder of my time, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCONNELL. 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. MCCONNELL. Mr. President, I believe I have about 5 minutes remaining.

Mr. ALEXANDER. That is correct.

Mr. MCCONNELL. How much time remains on the other side?

The PRESIDING OFFICER. One minute 48 seconds.

Mr. MCCONNELL. Maybe we could get some time on the other side. I yield the remainder of my time to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I thank my colleagues for allowing me to speak on this legislation.

The weekend before last, the military junta in Burma, ironically going by the name of the State Peace and Development Council, staged a violent clash between a government-supported militia called the United Solidarity and Development Association and activists of the National League for Democracy, the NLD.

As reported in the press, during the ensuing assault on the NLD, these thugs attacked the caravan of supporters led by Nobel Peace Prize laureate and democratic activist Aung San Suu Kyi and subsequently detained her and 19 members of the NLD, killed scores of NLD activists and, in the aftermath, closed down universities and NLD offices in the country. This is intolerable. Today I hope this institution can stand tall by roundly condemning this thieving, bantam tyranny that is taking place in Burma.

The regime claims they are detaining her, a Nobel Peace Prize winner, and NLD supporters for their safety. They accuse her of causing unrest and violence and claim she is in danger because of inflammatory speeches she has been giving on her tour of northern Burma.

I find this accusation to be absolutely ridiculous, but nevertheless, a common refrain coming from a government known for flaunting its human rights abuses which include slave labor, rape and forced prostitution, pressing children into the military, all a carefully constructed campaign to terrorize the people of Burma and consolidate the petty kleptocracy.

Aung San Suu Kyi's whereabouts are now known; the UN Secretary General's envoy Mr. Razali Ishmail is in Rangoon working to negotiate her release. I cannot bring myself to believe a word of what the SPDC says. It was reported in the press that she has a serious head injury; however, today I hear that Mr. Razali has seen her and that she is unharmed. My colleague from Kentucky and I do not believe it. And the regime has done nothing to reassure any member of the international community of their intentions. Aung San Suu Kyi is not free, Burma is not free.

In fact, this is part of a clear pattern of continually thwarting the advance of democracy and freedom in Burma—something for which Aung San Suu Kyi is the living symbol. More than that, she has recruited some of the most talented and most dedicated young people to her cause.

As reported by yesterday's Washington Post, one of those young people was a young man by the name of Toe Lwin. This young man, and many others in NLD like him, dedicated every once of his being to the cause. Bringing change to Burma and protecting Aung San Suu Kyi were the things for which he was willing to die.

This young man died trying to protect her. I am told that she sees all of these dedicated, inspiring young people as her children. I am sure that it breaks her heart to know that blood has been spilt in this effort.

We cannot seek a better tribute to this young man's life than by aiding the cause of democracy by passing this bill.

The SPDC seems like a bunch of bush-league autocrats. But what I want my colleagues to know is that this group of thugs is not just some common banana republic or petty dictatorship.

In 1988, the then-called State Law and Order Restoration Council, SLORC, took power and began its repression of pro-democracy demonstrations. After National Assembly elections in 1990, which were poised to overwhelmingly bring to power Aung San Suu Kyi and the NLD, SLORC annulled the elections, began jailing thousands of democracy activists, suppressed all political liberties, and periodically placed Aung San Suu Kyi under house arrest.

And this is just the opening line of the story. These thugs conscript thousands of their citizens, including children, into the military to serve as porters and to work on state development projects. In addition, narcotics is a big business for the ruling Burmese generals; however, there are some who will claim that we are getting full cooperation in combatting Burma's trade in heroin and amphetamines.

The most recent International Narcotics Control Strategy Report published by the Department of State reads, ''Burma is the world's second largest producer of illicit opium.'' It continues stating ''. . . no Burma Army Officer over the rank of full Colonel has ever been prosecuted for drug offenses in Burma. This fact, the prominent role in Burma of the family of notorious narcotics traffickers, and the continuance of large-scale narcotics trafficking over the years of intrusive military rule have given rise to speculation that some senior military leaders protect or are otherwise involved with narcotics traffickers.''

Yet I understand there was an active effort by some embedded bureaucrats to give the junta a free pass on drug certification. We are not dealing with the boy scouts of Southeast Asia.

I think that is the wrong approach to dealing with the problem of the SPDC's

brutal rule. If today's paper is accurate, then it looks as if our government is beginning to take the correct steps to respond to the situation. We have put eleven countries on notice, notably Thailand and China, for their support of Burma.

This may be the mortal blow that weakens the regime. That is why next Wednesday I have planned hearings to discuss the support for the SPDC coming from key players in the region. Some of these countries need to give us some private assurances about their willingness to forgo continued support of the regime. Others need to be put on notice for the degree and nature of support for the SPDC junta.

Singapore, North Korea, Russia, and Malaysia have all been in cooperation or given assistance in the political, economic or military spheres. I will be inviting members of the administration and the NGO community to give their knowledge of on-the-ground support for the SPDC.

This week, the Prime Minister Thaksin Shinawatra of Thailand is in town for an important visit with President Bush. It was reported that the President has already weighed in with the Prime Minister. I hope to do the same when I attend a luncheon today for the Prime Minister hosted by Senator BOND.

Because the can predict the perils of dealing with a thieving, murderous dictatorship, many companies, especially here in the U.S., are avoiding doing business with these guys altogether. Department stores, clothing manufacturers, footwear and apparel companies are all telling the junta to take a hike.

Maybe the Senate should consider telling them the same.

I note my personal experience. I was on the Thai-Burma border in late 2000. This was on a trip where we were working on the issue of trafficking in persons, sex trafficking. We found at that point in time in 2000, and it continues today, one of the highest trafficked areas in the world was between Burma and Thailand. What was taking place was the people of Burma were fleeing this totalitarian dictatorship that brutalized its own people. The people of Burma were fleeing into Thailand. On that border, then, they were fresh meat for the people who traffic in persons, primarily for sex exploration, primarily of young girls. We saw girls 11, 12, 13 years of age, even younger, being taken—abducted in some cases—and in some cases sold because the family was so poor, sold into what they thought was a condition they would serve someone in a home or work in a restaurant. Instead, they were put in a brothel in Bangkok or someplace else in Thailand to a horrific environment at this very young age, with most of them contracting AIDS, tuberculosis, and dying at a young age. This was one of the key traffic areas of the world. It was being caused by this government in Burma that cared nothing about its people.

These were the most wonderful people in the world. They were trying to eke out some mere existence. This was a government that cared absolutely nothing at all about them.

Now they have gone and arrested the Nobel Prize-winning activist, democracy activist who has done this in a peaceful way in Burma to try to bring her country forward. They have taken the next step down the road on this anarchy of horrific treatment of their own people, a complete movement against the way the rest of the world is moving.

I support this resolution. It is very timely. I applaud Senator MCCONNELL for his work. It is important we send this message that this regime is treating its own people so badly that these sorts of conditions arise. We need to be on record. The rest of the world needs to be on record to press this regime to stop persecuting its own people in such terrible ways.

I hope this will send a message to the regime in Burma and to people around the rest of the world that we will continue to bring economic and diplomatic pressure in a quick fashion against this regime in Burma. This should not wait for years to develop.

Furthermore, there are big questions many times about whether these sanctions work. Against a big economy there are legitimate questions. Against a small economy, against a situation in a country such as Burma, where it is located, I think these work very well and it sends an extraordinary message to Burma. It also sends a big message to Thailand, which is a key country for us, to get their attention that they should not repatriate the Burmese back into Burma and we should recognize the refugee status for the Burmese in Thailand, a country that wants to work closely and carefully with us.

I yield the floor.

Mr. MCCONNELL. Mr. President, I thank the Senator from Kansas for his contribution. I am not aware of any more speakers on this side.

Mr. LEAHY. Nor on this side. I am willing to yield back the remainder of the time.

Mr. MCCONNELL. Therefore, I ask unanimous consent all time be yielded back.

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY) and the Senator from New York (Mr. SCHUMER) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ''yea''.

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

The result was announced—yeas 97, nays 1, as follows:

[Rollcall Vote No. 220 Leg.]

YEAS—97

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

NAYS—1

Enzi

NOT VOTING—2

Kerry Schumer

The bill (S. 1215), as amended, was passed, as follows:

S. 1215

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 ''Burmese Freedom and Democracy Act of 2003''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The State Peace and Development Council (SPDC) has failed to transfer power to the National League for Democracy (NLD) whose parliamentarians won an overwhelming victory in the 1990 elections in Burma.

(2) The SPDC has failed to enter into meaningful, political dialogue with the NLD and ethnic minorities and has dismissed the efforts of United Nations Special Envoy Razali bin Ismail to further such dialogue.

(3) According to the State Department's ''Report to the Congress Regarding Conditions in Burma and U.S. Policy Toward Burma'' dated March 28, 2003, the SPDC has become ''more confrontational'' in its exchanges with the NLD.

(4) On May 30, 2003, the SPDC, threatened by continued support for the NLD throughout Burma, brutally attacked NLD supporters, killed and injured scores of civilians, and arrested democracy advocate Aung San Suu Kyi and other activists.

(5) The SPDC continues egregious human rights violations against Burmese citizens, uses rape as a weapon of intimidation and torture against women, and forcibly conscripts child-soldiers for the use in fighting indigenous ethnic groups.

(6) The SPDC has demonstrably failed to cooperate with the United States in stopping the flood of heroin and methamphetamines being grown, refined, manufactured, and transported in areas under the control of the SPDC serving to flood the region and much of the world with these illicit drugs.

(7) The SPDC provides safety, security, and engages in business dealings with narcotics traffickers under indictment by United States authorities, and other producers and traffickers of narcotics.

(8) The International Labor Organization (ILO), for the first time in its 82-year history, adopted in 2000, a resolution recommending that governments, employers, and workers organizations take appropriate measures to ensure that their relations with the SPDC do not abet the government-sponsored system of forced, compulsory, or slave labor in Burma, and that other international bodies reconsider any cooperation they may be engaged in with Burma and, if appropriate, cease as soon as possible any activity that could abet the practice of forced, compulsory, or slave labor.

(9) The SPDC has integrated the Burmese military and its surrogates into all facets of the economy effectively destroying any free enterprise system.

(10) Investment in Burmese companies and purchases from them serve to provide the SPDC with currency that is used to finance its instruments of terror and repression against the Burmese people.

(11) On April 15, 2003, the American Apparel and Footwear Association expressed its ''strong support for a full and immediate ban on U.S. textiles, apparel and footwear imports from Burma'' and called upon the United States Government to ''impose an outright ban on U.S. imports'' of these items until Burma demonstrates respect for basic human and labor rights of its citizens.

(12) The policy of the United States, as articulated by the President on April 24, 2003, is to officially recognize the NLD as the legitimate representative of the Burmese people as determined by the 1990 election.

SEC. 3. BAN AGAINST TRADE THAT SUPPORTS THE MILITARY REGIME OF BURMA.

(a) GENERAL BAN.—

(1) IN GENERAL.—Notwithstanding any other provision of law and except as provided in section 9, until such time as the President determines and certifies to Congress that Burma has met the conditions described in paragraph (3), no article may be imported into the United States that is produced, mined, manufactured, grown, or assembled in Burma.

(2) BAN ON IMPORTS FROM CERTAIN COMPANIES.—The import restrictions contained in paragraph (1) shall apply to, among other entities—

(A) the SPDC, any ministry of the SPDC, a member of the SPDC or an immediate family member of such member;

(B) known narcotics traffickers from Burma or an immediate family member of such narcotics trafficker;

(C) the Union of Myanmar Economics Holdings Incorporated (UMEHI) or any company in which the UMEHI has a fiduciary interest;

(D) the Myanmar Economic Corporation (MEC) or any company in which the MEC has a fiduciary interest;

(E) the Union Solidarity and Development Association (USDA); and

(F) any successor entity for the SPDC, UMEHI, MEC, or USDA.

(3) CONDITIONS DESCRIBED.—The conditions described in this paragraph are the following:

(A) The SPDC has made substantial and measurable progress to end violations of internationally recognized human rights including rape, and the Secretary of State, after consultation with the ILO Secretary General and relevant nongovernmental organizations, reports to the appropriate congressional committees that the SPDC no longer systematically violates workers rights, including the use of forced and child labor, and conscription of child-soldiers.

(B) The SPDC has made measurable and substantial progress toward implementing a democratic government including—

(i) releasing all political prisoners;

(ii) allowing freedom of speech and the press;

(iii) allowing freedom of association;

(iv) permitting the peaceful exercise of religion; and

(v) bringing to a conclusion an agreement between the SPDC and the democratic forces led by the NLD and Burma's ethnic nationalities on the transfer of power to a civilian government accountable to the Burmese people through democratic elections under the rule of law.

(C) Pursuant to the terms of section 706 of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228), Burma has not failed demonstrably to make substantial efforts to adhere to its obligations under international counternarcotics agreements and to take other effective counternarcotics measures, including the arrest and extradition of all individuals under indictment in the United States for narcotics trafficking, and concrete and measurable actions to stem the flow of illicit drug money into Burma's banking system and economic enterprises and to stop the manufacture and export of methamphetamines.

(4) APPROPRIATE CONGRESSIONAL COMMITTEES.—In this Act, the term ''appropriate congressional committees'' means the Committee on Foreign Relations, the Committee on Finance, and the Committee on Appropriations of the Senate and the Committee on International Relations, the Committee on Ways and Means, and the Committee on Appropriations of the House of Representatives.

(b) WAIVER AUTHORITIES.—

(1) IN GENERAL.—The President may waive the prohibitions described in this section for any or all products imported from Burma to the United States if the President determines and notifies the appropriate congressional committees that to do so is in the vital national security interest of the United States.

(2) INTERNATIONAL OBLIGATIONS.—The President may waive any provision of this Act found to be in violation of any international obligations of the United States pursuant to any final ruling relating to Burma under the dispute settlement procedures of the World Trade Organization.

SEC. 4. FREEZING ASSETS OF THE BURMESE REGIME IN THE UNITED STATES.

Not later than 60 days after the date of enactment of this Act, the Secretary of the Treasury shall direct, and promulgate regulations to the same, that any United States financial institution holding funds belonging to the SPDC or the assets of those individuals who hold senior positions in the SPDC or its political arm, the Union Solidarity Development Association, shall promptly report those assets to the Office of Foreign Assets Control. The Secretary of the Treasury may take such action as may be necessary to secure such assets or funds.

SEC. 5. LOANS AT INTERNATIONAL FINANCIAL INSTITUTIONS.

The Secretary of the Treasury shall instruct the United States executive director to each appropriate international financial institution in which the United States participates, to oppose, and vote against the extension by such institution of any loan or financial or technical assistance to Burma until such time as the conditions described in section 3(a)(3) are met.

SEC. 6. EXPANSION OF VISA BAN.

(a) IN GENERAL.—

(1) VISA BAN.—The President is authorized to deny visas and entry to the former and present leadership of the SPDC or the Union Solidarity Development Association.

(2) UPDATES.—The Secretary of State shall coordinate on a biannual basis with representatives of the European Union to ensure that an individual who is banned from obtaining a visa by the European Union for the reasons described in paragraph (1) is also banned from receiving a visa from the United States.

(b) PUBLICATION.—The Secretary of State shall post on the Department of State's website the names of individuals whose entry into the United States is banned under subsection (a).

SEC. 7. CONDEMNATION OF THE REGIME AND DISSEMINATION OF INFORMATION.

(a) IN GENERAL.—Congress encourages the Secretary of State to highlight the abysmal record of the SPDC to the international community and use all appropriate fora, including the Association of Southeast Asian Nations Regional Forum and Asian Nations Regional Forum, to encourage other states to restrict financial resources to the SPDC and Burmese companies while offering political recognition and support to Burma's democratic movement including the National League for Democracy and Burma's ethnic groups.

(b) UNITED STATES EMBASSY.—The United States embassy in Rangoon shall take all steps necessary to provide access of information and United States policy decisions to media organs not under the control of the ruling military regime.

SEC. 8. SUPPORT DEMOCRACY ACTIVISTS IN BURMA.

(a) IN GENERAL.—The President is authorized to use all available resources to assist Burmese democracy activists dedicated to nonviolent opposition to the regime in their efforts to promote freedom, democracy, and human rights in Burma, including a listing of constraints on such programming.

(b) REPORTS.—

(1) FIRST REPORT.—Not later than 3 months after the date of enactment of this Act, the Secretary of State shall provide the appropriate congressional committees a comprehensive report on its short- and long-term programs and activities to support democracy activists in Burma, including a list of constraints on such programming.

(2) REPORT ON RESOURCES.—Not later than 6 months after the date of enactment of this Act, the Secretary of State shall provide the appropriate congressional committees a report identifying resources that will be necessary for the reconstruction of Burma, after the SPDC is removed from power, including—

(A) the formation of democratic institutions;

(B) establishing the rule of law;

(C) establishing freedom of the press;

(D) providing for the successful reintegration of military officers and personnel into Burmese society; and

(E) providing health, educational, and economic development.

(3) REPORT ON TRADE SANCTIONS.—Not later than 90 days before the date that the import restrictions contained in section 3(a)(1) are to expire, the Secretary of State, in consultation with the United States Trade Representative and other appropriate agencies, shall submit to the appropriate congressional committees, a report on—

(A) conditions in Burma, including human rights violations, arrest and detention of democracy activists, forced and child labor, and the status of dialogue between the SPDC and the NLD and ethnic minorities;

(B) bilateral and multilateral measures undertaken by the United States Government and other governments to promote human rights and democracy in Burma; and

(C) the impact and effectiveness of the provisions of this Act in furthering the policy objectives of the United States toward Burma.

SEC. 9. DURATION OF SANCTIONS.

(a) TERMINATION BY REQUEST FROM DEMOCRATIC BURMA.—The President may terminate any provision in this Act upon the request of a democratically elected government in Burma, provided that all the conditions in section 3(a)(3) have been met.

(b) CONTINUATION OF IMPORT SANCTIONS.—

(1) EXPIRATION.—The import restrictions contained in section 3(a)(1) shall expire 1 year from the date of enactment of this Act unless renewed under paragraph (2) of this section.

(2) RESOLUTION BY CONGRESS.—The import restrictions contained in section 3(a)(1) may be renewed annually for a 1-year period if, prior to the anniversary of the date of enactment of this Act, and each year thereafter, a renewal resolution is enacted into law in accordance with subsection (c).

(c) RENEWAL RESOLUTIONS.—

(1) IN GENERAL.—For purposes of this section, the term ''renewal resolution'' means a joint resolution of the 2 Houses of Congress, the sole matter after the resolving clause of which is as follows: ''That Congress approves the renewal of the import restrictions contained in section 3(a)(1) of the Burmese Freedom and Democracy Act of 2003.''

(2) PROCEDURES.—

(A) IN GENERAL.—A renewal resolution—

(i) may be introduced in either House of Congress by any member of such House at any time within the 90-day period before the expiration of the import restrictions contained in section 3(a)(1); and

(ii) the provisions of subparagraph (B) shall apply.

(B) EXPEDITED CONSIDERATION.—The provisions of section 152 (b), (c), (d), (e), and (f) of the Trade Act of 1974 (19 U.S.C. 2192 (b), (c), (d), (e), and (f)) apply to a renewal resolution under this Act as if such resolution were a resolution described in section 152(a) of the Trade Act of 1974.

Mr. SANTORUM. 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.

ENERGY POLICY ACT OF 2003—Continued

Mr. REID. Mr. President, in speaking to the managers of the bill and the interested parties in this matter, the thought is—and this is not in the way of a unanimous consent request but just to inform Members what we are doing—the Senator from Florida will offer his amendment. He will speak on it tonight. Perhaps the other Senator from Florida, Mr. NELSON, will speak on his amendment. There are a number of Senators who have requested time in the morning.

The manager of the bill has suggested—and we think it would be OK on our side—that tomorrow we would have an hour on our side and the majority would have 30 minutes on their side, and then the two leaders can decide if we vote at that time or sometime later in the day. Staff is putting that in the form of a unanimous consent request, and perhaps we can enter into that sometime later tonight.

Mr. DOMENICI. We are looking for a unanimous consent request that says in the morning 1 additional hour on that side, a half hour on our side on the Graham amendment, and afterwards there will be a vote. That is being prepared. In the meantime, the Graham amendment is going to be offered for discussion this evening.

The PRESIDING OFFICER. The Senator from Florida.

AMENDMENT NO. 884

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

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM], for himself, Mrs. FEINSTEIN, Ms. CANTWELL, Mr. WYDEN, Mr. NELSON of Florida, Mrs. BOXER, Mr. LAUTENBERG, Mr. EDWARDS, Mr. KERRY, Mrs. MURRAY, Mr. LIEBERMAN, Mr. AKAKA, Mr. LEAHY, Ms. SNOWE, Mr. DODD, Mr. CHAFEE, Mrs. DOLE, Mr. KENNEDY, Mr. CORZINE, and Ms. COLLINS, proposes an amendment numbered 884.

Mr. GRAHAM of Florida. 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:

(Purpose: To strike the provision requiring the Secretary of the Interior to conduct an inventory and analysis of oil and natural gas resources beneath all of the waters of the outer Continental Shelf)

Beginning on page 23, strike line 20 and all that follows through page 25, line 8.

Mr. GRAHAM of Florida. Mr. President, the amendment I have just offered will strike section 105 from the legislation we are currently considering.

This amendment is cosponsored by a long and diverse list of Senators: Senators FEINSTEIN, DOLE, CANTWELL, WYDEN, NELSON of Florida, BOXER, LAUTENBERG, EDWARDS, KERRY, MURRAY, LIEBERMAN, AKAKA, LEAHY, SNOWE, DODD, CHAFEE, KENNEDY, CORZINE, and COLLINS.

In this legislation, section 105 appears to be benign. It calls for an inventory of Outer Continental Shelf oil and gas resources that may be in the ownership of the Federal Government. However, there are some insidious objectives and means to achieve those objectives in this legislation.

In my judgment, section 105 is nothing more than a prelude to a direct attack on the moratorium which currently exists in the Gulf of Mexico, off New England, the Pacific Northwest, and California, and to do so in a way that will avoid a full and public debate.

The OCS inventory, which is suggested in section 105, is neither benign nor innocuous. It will provide for a totally duplicative survey to one that is already conducted by the same office that would be directed to do the study under section 105, which is the U.S. Department of the Interior Minerals Management Service. This is the front page of the latest of the 5-year reports, which the Mineral Management Service does on U.S. resources and reserves in the Outer Continental Shelf. As you will see, this latest assessment was done in the year 2000. So it has been only 3 years since we had a comprehensive analysis.

In light of that, why would we oppose this new study? We would oppose the new study because we think it is duplicative and redundant. We oppose it because it would allow certain techniques, which have previously not been used but which have been shown to be detrimental to the resources of the Outer Continental Shelf, including the fish resources, to be utilized. But, in my judgment, the most insidious aspect is a provision in section 105 which states that after the inventory is completed it should be used as the purpose of analysis of the Outer Continental Shelf. Let me read to you subparagraph 5 under section 105:

The inventory and analysis shall identify and explain how legislative, regulatory, and administrative programs or processes restrict or impede the development of identified resources and the extent that they may affect domestic supply, such as moratoria, lease terms and conditions, operational stipulations and requirements, approval delays by the Federal Government and coastal States, and local zoning restrictions on onshore processing facilities, and pipeline landings.

I think that language is clearly intended to take the results of this newly mandated inventory and use them as the basis, focusing exclusively on the issue of affecting domestic supply, to build the case that the moratoria, which California and other coastal States have had now for 20 years, would be undermined.

That moratoria has been voted on by Congress on many occasions in recognition of the fact that, first, there are other interests involved beyond maximizing the exploitation of our Continental Shelf oil and gas resources. There are issues of the environment and there are issues of the economy, which are dependent upon the environment—particularly, the purity of the water and the security of the coastal areas.

Second is the fact that it does not take into consideration the question of we want to have a domestic supply of oil and gas, but for what time period? If we were to initiate a policy that says we will drain America first, we can rest assured that our grandchildren, if not

our children, will live in an America that will be totally dependent upon foreign petroleum sources.

The estimate is that, as of today, we have known reserves of petroleum which, at current levels of utilization, will last approximately 50 years. We have much longer reserves of natural gas, stretching into the 200-year-plus estimate.

I think it is eminently wise public policy to say we will try to husband our domestic resources as long as possible to delay the date when we will be fully dependent upon foreign resources. This practice of providing moratoria on certain of our resources plays a significant positive role in that policy of attempting to stretch our domestic resources.

As the list of cosponsors indicates, this is by no means a partisan issue. The moratoria have broad bipartisan support, and have had it for over 20 years. This is also not an issue that is bicameral. The House of Representatives has already adopted an Energy bill, stripping out language that was virtually verbatim to that which is in 105 of the Senate bill.

Our desire is to have the Senate take the same position that our House colleagues have already taken, so when this issue is taken up in conference, the issue of an inventory that has as its objective undermining the moratoria will not be a conferenceable item.

I believe our colleagues in the House have shown wisdom in the course of action they have taken, and I ask my Senate colleagues to show the same wisdom by eliminating section 105. I urge my colleagues to vote in favor of this amendment, which will adopt or reinforce a policy where we look at multiple issues in the management of our coastal areas, including the issue of exploitation of the resources but also the potential effect of that exploitation on other economic and environmental considerations; that we also recognize the valid function of those adjacent State and local communities and how this issue would be resolved, and the legitimacy of the Federal Government's Coastal Zone Management Act as the means by which those interests would be expressed. For all those reasons, I urge my colleagues to adopt this amendment and strike section 105 from this bill, and then with the joy that we will know that we have taken a step to protect some of our most critical ocean resources, move on to the consideration of other provisions in this legislation.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I understand Senator DOLE desires to speak on the same side. I don't intend to speak but for a moment. I will do my speaking and other members of the committee will be welcome to do so in the morning. I will take a couple of minutes and then yield to them for the evening.

As you well know, as you are a member of the energy committee, not too long ago the Senate of the United States said to this committee of Senators: Give us an energy policy for America's future, prepare a blueprint, a program, a policy, a set of activities that tells us what we ought to be doing for America's economic future, for our jobs, for our prosperity, as it relates to energy. We thought that if we did nothing else, perhaps that little mission meant we ought to find out what we have. What does America own?

We thought about it for a while and we said that is pretty simple. That is exactly what they would like us to do. They would like us to find out—even if we don't know what to do about it—what we have. What do we own? So a simple proposition was put in here, using the most modern techniques, disturbing nothing, to go out and find out how much oil and gas is in the Outer Continental Shelf of the United States—the property marked by my good friend from Florida in green on his chart—that we have already, as a nation, said based on today's circumstances we don't want to touch.

Does that mean we should not know what is there? The distinguished Senator from Florida says: We do know what is there. No, we do not know what is there because the most modern techniques are clearly changing what we know about what we own and what is underground. We do not have one of those most modern evaluations that has been put over that property that is within our control that could be used for America if we ever needed it and, I would even say, in a crisis.

As an ultimate reserve, should we not know what is there? That is the issue. It is, do we want to adopt an ostrich policy or do we want to adopt a policy of being on the surface, above board with our eyes open and know precisely what we are looking at? That is it. You can read the language. We will read it very precisely.

It matters not too much to this Senator from New Mexico what this Senate decides to do about this issue. It matters a lot to me as chairman of the Committee on Energy that I do what I was asked to do, and I thought I was asked to ask the committee members: Would you like to spend some American tax dollars to find out what we own so that it will be there in the inventory on the rack, so to speak, in the event something happened to America?

I thought the answer to that question was yes. We wrote it up, and we put the issue to the members. One member is sitting here, the new Senator from Tennessee. There was a rather large bipartisan vote on a simple proposition. Of course we want to know. Why would we want to stick our head in the sand and say we know there is oil there, we know there is gas there, but we do not want to use the most modern techniques to tell America what is there? As is going to happen tonight and tomorrow, there will be all this fear aroused that we are going to harm the sea line, the coastal shore, the beauty of America that is alongside these shores.

This says nothing about doing that, and everybody knows that we are not saying do anything whatsoever to these shorelines. What we are saying is, is it not, one, the responsibility of the committee to suggest to the Congress that we find out? I think the answer to that is unequivocal. Yes, we sure should.

Second, since you should have and you did, should the Senate now turn around and say you should have, you did, but we want to take it out, we want to throw it away, and we do not want to do it? That is the issue.

I sense that there is going to be enough fear established that people are going to be voting as if we are destroying something. Quite the contrary, I think we are doing something positive. I do not think we are destroying a thing. We are saying to folks: We have a lot of oil and gas out there. If the situation really gets bad—and what that might be, I do not know; none of us in this room knows—but if things got bad enough, there it is, and we know it is there, and it has been measured with the most modern-day techniques which are, indeed, not only marvels but they are marvelous in terms of what they will tell us about the capacity for the future.

Unless my friend from Tennessee wants to say a few words, I do not intend to spend any more time tonight. We will split our half hour tomorrow among three or four Senators from the committee in further response to the amendment that our distinguished friend from Florida has brought to the floor in a bipartisan manner with a lot of Senators.

I yield the floor.

The PRESIDING OFFICER (Mr. COLEMAN). The Senator from North Carolina.

Mrs. DOLE. Mr. President, I rise in favor of the Graham amendment to S. 14, the omnibus Energy bill. My State like so many others, is going through a painful economic transition. We have lost tens of thousands of jobs in textiles and the furniture industry, family farms are going out of business, and many of these traditional manufacturing jobs have been in rural areas, where there are fewer jobs and residents are already struggling to make ends meet.

In 1999, North Carolina had the 12th lowest unemployment rate in the United States. By December 2001, the State had fallen to 46th—from 12th to 46th. That same year, according to the Rural Center, North Carolina companies announced 63,222 layoffs. Our State lost more manufacturing jobs between 1997 and the year 2000 than any State except New York. Entire communities have been uprooted by this crisis. According to the Employment Security Commission of North Carolina, the jobless rate rose from 6 percent in March to 6.4 percent just one month later.

So you can see, Mr. President, North Carolina is hurting. But one area that remains strong is tourism—one of the State's largest industries. Each year, travelers venture into our State to enjoy the mountains of Asheville, the Southern-city charm of Charlotte, the beaches of the Outer Banks, and many other State treasures.

Last year, there were 44.4 million visitors to North Carolina, ranking it the sixth most popular destination behind California, Florida, Texas, Pennsylvania and New York. In fact, last year domestic travelers spend nearly $12 billion across the State, generating $2.2 billion in tax receipts.

The industry remains strong, despite the war, and the Nation's economic concerns. In fact, while the tourism volume nationwide increased by less than 1 percent last year, North Carolina saw a 3 percent increase in visitors.

Put simply, tourism plays a vital role in North Carolina's economy, but offshore drilling could drastically impact these numbers.

Communities along the Outer Banks have spoken out time and again against offshore drilling because of the impact it cold have on the economy and the environment—and I agree with them.

I thank my good friend, Chairman DOMENICI, for his hard work and dedication to produce a comprehensive energy bill, one that will help our country end its dependency on foreign oil. While I fully support Senator DOMENICI's efforts, I must disagree with regard to section 105.

Section 105 in the Senate bill has been presented as a study of the oil and gas reserves in the Outer Continental Shelf, but the effect of this section would be to open up scientific *exploration*. The final bill that passed the House of Representatives, as we have heard, rejects language that would open up scientific exploration of the Outer Continental Shelf.

The waters off the coasts of North Carolina have been placed off limits to further leasing under the current moratoria. President Bush extended the moratorium and Secretary Norton has been very clear about the administration's intention to uphold it. Congress and the Administration in the past have agreed with States in the moratoria areas that drilling would pose too many risks to their economies and shores.

Why then, in these tough economic times, should States such as North Carolina be asked to bear the risk of exploration for resources that are under moratoria and not even accessible for development? Section 105 hints to a backsliding from that protection by allowing intrusive activities into moratoria areas, through a study that is not needed.

The Minerals Management Service already compiles estimates of Outer Continental Shelf oil and gas resources every 5 years. In fact, the last one was completed in the year 2000, and includes estimates of undiscovered conventionally and economically recoverable oil and natural gas. We already know, for instance, that 80 percent of the Nation's undiscovered, economically recoverable Outer Continental Shelf gas is located in the Central and Western part of the Gulf of Mexico, which is currently not subject to the moratorium.

So it would appear that section 105 of this energy bill is duplicative and unnecessary.

In fact, the only logical explanation for new data under section 105 would be for future exploration activity like drilling, which is inconsistent with the current moratorium. We have a national crisis. Now, more than ever, we must work to end our dependence on foreign oil sources. It is vital that this Nation boost its domestic oil production, but we cannot do so by ignoring the wishes of coastal communities in North Carolina and other States that oppose drilling.

Our local people, not the Federal Government, should decide what is best for their areas. The Federal Government should not take action that will further hurt our already struggling State economies. That is why I urge support for the Graham amendment, which would continue to protect those areas under moratorium. We owe it to our States. We owe it to our local communities.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I ask unanimous consent that when the Senate resumes consideration of the bill tomorrow morning at 9:30, there then be 90 minutes of debate remaining prior to the vote in relation to the pending Graham amendment; provided further that Senator GRAHAM or his designee be in control of 60 minutes and the chairman in control of the remaining 30 minutes. Further, I ask consent that following the use of that time, the Senate proceed to a vote in relation to the amendment, with no amendments in order to the amendment prior to the vote.

The PRESIDING OFFICER. Is there objection? The Senator from Florida.

Mr. GRAHAM of Florida. The Senator from New Mexico said ''in relation to.'' That would not preclude the possibility of an up-or-down vote as opposed to a tabling motion?

Mr. DOMENICI. Either/or.

The PRESIDING OFFICER. That is correct. It would be either/or.

Without objection, it is so ordered.

The Senator from Washington.

Mrs. MURRAY. Mr. President, I rise this evening to support the amendment offered by the Senator from Florida and commend him on his leadership on this issue. The amendment that is before us tonight will prevent exploration in offshore areas that are currently protected under law. The truth is, we should not need a special amendment to protect sensitive offshore areas that are currently off limits to energy drilling and exploration, but today we find this amendment is needed because the underlying Energy Bill would essentially roll back a longstanding ban on exploration that protects our coastal areas.

This Energy Bill calls for the Department of Interior to inventory oil and gas resources. It does not rule out exploration or drilling in any part of the Outer Continental Shelf and it does not prevent exploration or drilling in areas that are currently protected.

Some may say they just want to allow an inventory of oil and gas off our coasts, but taking an inventory of what lies beneath the sea floor is not like taking an inventory of what is in the kitchen pantry. Looking for oil and gas off our coasts is an invasive process. It carries risks. It harms marine life and it can create serious environmental damage.

If it was just taking an inventory, it would be one set of environmental concerns, but I think we all know what is really going on and it is much more than inventory. This is not just about seeing what is out there. It is really about preparing to drill for oil and gas in areas that have been protected for years, for decades actually, by law.

Let's be clear. Oil companies are not going to spend millions of dollars to inventory our coasts just for the fun of it. They want to begin drilling in areas that are protected, and this Energy Bill would give them the start they want.

I am reminded of that analogy about how if a camel gets its nose under the tent, pretty soon the whole camel will follow. Well, if we do not want the camel in our tent, stop it when it tries to poke its nose in.

Once those oil companies get their equipment down there, they will be steps away from setting up oil rigs and creating a host of dangers on our shores. If we do not want oil companies drilling off our shores, then we cannot let them get started with these so-called inventory projects.

There are good reasons why over the years Congress and past Presidents have agreed to protect parts of our Outer Continental Shelf. In fact, that moratorium that today protects the coast of my State of Washington was passed by Congress in 1990 and protected by an executive order by the first President Bush. Today, the current Bush administration wants to repeal that protection and pave the way for drilling off our coasts.

Those who want to explore for energy off our coasts would like us to believe it is harmless, but it is not. When we consider offshore oil and gas development, we have to be concerned about oil spills and the release of other toxic materials. There are other environmental effects that pose dangers to marine mammal populations, fish populations, and air quality. Seismic testing techniques used by the offshore oil and gas industry can kill marine animals. This is not harmless.

If this administration had a better record on the environment, I might be inclined to give them more leeway, but this administration has shown an eagerness to roll back environmental protections on so many issues that they do not have much credibility when they say they want to just look for oil off our coasts.

Last month, the Bush administration took another disturbing step to undermine our environmental protection related to oil and gas drilling. In fact, on May 26, 2003, the New York Times reported that the administration proposed to defer for 2 years requirements for permits under the Clean Water Act for certain activities of oil and gas producers to prevent contaminated runoff. This is a bad precedent and a step in the wrong direction for protecting our environment. There is no good reason for oil and gas developers to be exempt from requirements that are imposed on other developers to prevent contaminated runoff.

So not only do they want to let the big oil and gas companies start looking for oil in areas that have been protected for decades, this Bush administration is going to free those oil and gas companies from the rules everyone else has to follow to protect contaminated runoff. Not on my watch. We know there is a better way. Congress should be seeking long-term solutions that make sense for energy development and that balance environmental protection and economic growth. The proposal to drill in areas of the OCS that are currently under moratoria falls far short of the balanced approach we need. I urge my colleagues to support this amendment to stop an attack on decades of protection for our sensitive coastal areas.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, I rise to support the Graham amendment. I am a cosponsor. BOB GRAHAM and I have been battling on the question of oil and gas drilling off the coast of Florida, and it is very clear to us, as we have waged this battle over the course of the last 25 years in public office, that the people of Florida do not want it for environmental reasons but also for business reasons; that Florida's $50 billion tourism industry in large part is because we have beautiful, unspoiled beaches.

I know what the people in my State of Florida want. They do not want oil drilling off their shore. I ask the Senator from Washington what is the thinking of her people in her State of Washington?

Mrs. MURRAY. Mr. President, I say to my colleague from Florida, I have listened to his battles for many years as he has fought to protect the beautiful shores of Florida. I have seen the shores of Florida, and they are gorgeous. He is right, tourism is a critical part of the economy of his State of Florida, as it is to mine. People come to Washington State to see our beautiful mountains, our beautiful forests, and to fish. The last thing they want to see is oil drilling off our coasts.

This underlying bill that allows an inventory is simply a step for the oil companies to then get in and drill. My State would be absolutely appalled to see that happen.

Mr. NELSON of Florida. What do you think about the rest of the Pacific coast States, Oregon and California? What would the people think?

Mrs. MURRAY. As the Senator from Florida knows well, for all who live on coastal States, our economies are struggling today; the high-tech industry is struggling; Boeing has lost thousands of jobs.

There is still the beautiful environment that people come to visit. The last thing anyone wants in our rain forests, whether in Oregon or Washington, or the beaches of California, the last thing they want to see is an oil rig or, worse, an oilspill in the areas we care so much about.

Mr. NELSON of Florida. I talked at length with the senior Senator from North Carolina earlier today. Senator EDWARDS is quite concerned about the oil drilling off of the Outer Banks.

The people directly affected are crying out. There are States that do not mind drilling off the coast—the State of Louisiana, the State of Texas. There are about 2,000 wells in the Gulf of Mexico and they are primarily off of Texas and Louisiana, some off of Alabama, some off of Mississippi, all of those States whose Senators do not seem to mind because it must reflect their people's feeling that there be oil drilling. In the Gulf of Mexico, the geology shows that is where the oil and gas is, in the western gulf, in the central gulf, but not in the eastern gulf.

The people of Florida simply do not think it is worth the tradeoff of spoiling the environment and spoiling a $50 billion tourism industry to take the risk where the geology shows there is very little likelihood of oil, to take the risk that a well will be hit, that an oilspill will occur.

There is another reason. We have tremendous military facilities in the State of Washington. What we are finding is with so many of the military facilities on the gulf coast now that the naval facility on Vieques Island in Puerto Rico is being closed down, some of that training for the U.S. Navy is being shifted to the gulf coast of Florida, not necessarily on the land.

Because of computers and virtual training, they can now image what would be the target zone, and it can be out in the middle of the Gulf of Mexico. That helps in preparation of our Navy for its proper training, but will that Navy be able to train if there are oil rigs in the eastern Gulf of Mexico? The answer is no.

I ask the Senator from Washington, is there any similar military activity in the Senator's State? I certainly know there is in California where they are launching from Vandenberg Air Force Base. Is there such a facility?

Mrs. MURRAY. The Senator from Florida makes an excellent point. Our military needs to be ready for whatever conflicts come to them on the war on terror. They need to be out there training. Certainly at Makah Air Force Base and the other bases we have, they need to know they have a place they can train and not be interfered with.

I add, as the Senator from Florida knows, there are other economies that we count on as well. Fishing is a tremendous economy and part of our economy base in the State of Washington. They would not be excited about having oil rigs out there where people are fishing, as well as tourism, but certainly the military is an important part of my State. We want to make sure they have the space they need for training. The Senator makes an excellent point.

Mr. NELSON of Florida. I have to tell a little story to the Senator from Washington before she leaves. In the middle of the 1980s I was the junior Congressman from the east coast of the State of Florida. There was a Secretary of the Interior named James Watt who was absolutely intent on drilling. They offered for lease off the east coast of the United States leases for sale all the way from North Carolina south to Fort Pierce, FL.

Perhaps I was green enough—I didn't know any better—to take him on. I took him on, as a junior Congressman. I was getting absolutely nowhere. We beat it back one year. They left it alone the next year and came back with a new Secretary of the Interior the third year and they were intent they were going to ram through those leases. The only way I was able to beat it was I finally got the Department of Defense and NASA to own up to the fact and to press that on the administration back in the mid-1980s that you cannot be dropping the solid rocket boosters off of the space shuttle with oil rigs down there and you cannot be dropping off the first stage, after it is spent, on the expendable launch vehicles coming out of Cape Canaveral with oil rigs out there. That is the only way we beat it back in the mid-1980s.

I thought they were going to leave us alone. Two years ago, when an important appointment was up in the Department of the Interior, I went to the Secretary of the Interior, Secretary Norton, and she assured me that in the eastern Gulf of Mexico there would be no attempt at oil drilling for the next 5 years. That was a commitment made to me with regard to an appointment and the Senate's consideration. What is in this bill does not break her commitment, but it clearly starts to imply that what is being done is the intention of drilling.

I hope we are going to be able to muster the votes with Senators who do not have coasts, with help from Senators such as the distinguished Senator in the chair, listening to this debate.

With their help, we may just have the votes.

When Senator GRAHAM and I tried 2 years ago just with regard to the Gulf of Mexico off the State of Florida to keep the moratorium there, we did not get but 35 votes for our amendment, so the amendment did not pass. It was later that I got that commitment from Secretary of the Interior Gale Norton.

But this is portending something else. We are going to fight. I hope we have the votes.

Mrs. MURRAY. Mr. President, I say to my colleague from Florida, thank you on behalf of all who care about this issue for your longtime battle and diligence. Every time you are right, they keep coming back at you, but you keep winning.

I agree, there are a number of Senators on this floor who are not from coastal States but they should be joining because certainly they all come to our States to see the beautiful coastlines, whether it is Florida, Washington State, California, or Maine. They want to preserve that, too. They want to take their grandchildren and great-grandchildren, some day, to your State. I certainly hope they want to come to ours, too. If we devastate the environment, the tourism will not be there.

I thank my colleague for working on this issue.

Mr. NELSON of Florida. I am not a junior Congressman anymore but I am a junior Senator. Although there have been some birthdays between the time I was a junior Senator and a junior Congressman, I still have a lot of fight in me.

I think we have a decent shot of winning this amendment and this vote will take place tomorrow.

There is no need repeating a number of the things that have been said. Let me summarize, on first glance, section 105 of this bill seems reasonable. Do we know what the resources are so we can prepare an assessment? Upon further reflection, upon reading the language, it becomes unnecessary and unreasonable when you recognize the Secretary of the Interior has conducted an inventory just 2 years ago. On the plan there is going to be an inventory that is going to be conducted in 2005, just 2 years from now. Why should the U.S. Congress and the Secretary of the Interior go about duplicating the efforts that had just been done and were going to be done? We know most of the Outer Continental Shelf is under a moratorium. Almost all of those areas, under this plan, of section 105 of the bill would be required to be reassessed under the moratorium. So I am just not sure. I kind of smell something fishy here.

Why does the Congress want to waste taxpayer money on a duplicative inventory of areas off limits to oil and gas exploration?

The House of Representatives has already realized the importance of this amendment. They passed it with a voice vote in an overwhelming show of bipartisan support. So if we can pass this amendment of Senator GRAHAM, this issue is over and done with because of an identical provision in the bill that has passed the House.

We already know that many coastal States exercise their rights under the Coastal Zone Management Act because oil and gas exploration plans that have been proposed would threaten those States. In their own efforts to control the destiny of their own shores and their own environment, they have exercised their rights under the Coastal Zone Management Act not to have oil drilling.

Those who oppose this amendment, when we hear the final debate tomorrow, are going to argue that it is the only section in the Energy bill that addresses the volatility of natural gas prices. But how does it do that? We already know where natural gas is from. We know where it is from the 2000 assessment. We already know the President and the Congress have acted to prevent leasing of oil and gas drilling, so what is the true purpose? What I smell is a kind of fishy smell: what is the true purpose? You have to come to the conclusion it is to roll back the moratorium on oil and gas drilling in the Outer Continental Shelf. What is the true purpose? It is to weaken the States' rights under the Coastal Zone Management Act.

For those reasons, I urge my colleagues to support this Graham amendment and strike this unnecessary language from the Energy bill.

Mr. President, I yield the floor.

Mr. LAUTENBERG. Mr. President, I rise to speak on behalf of Senator GRAHAM's amendment.

This amendment, which I cosponsor, would strike language in the Energy Policy Act that would authorize an inventory of the oil and gas resources on the Outer Continental Shelf.

This amendment mirrors a bill that Senator CORZINE and I introduced last month. It would protect the sensitive marine areas off the coast of New Jersey and of other coastal States.

For over 20 years both Democratic and Republican administrations have respected the moratorium on leasing and preleasing activities on Outer Continental Shelf.

In his 2004 budget request, President Bush also honored the wishes of the coastal States.

His request included the traditional moratorium language—and so should the Energy bill before us.

The people of New Jersey, and the residents of all coastal States, do not want oil and gas rigs marring their treasured beaches and fishing grounds.

Such drilling poses serious threats to our environment and to our economy, and so do the technologies used to gather data.

The seismic surveys authorized in the Energy bill produce explosive pulses which have produced documented organ damage in marine species and have been associated with fatal whale strandings.

Dart core sampling, also authorized in the bill, is known to cause the destruction of fish habitat on the sea floor and to smother seabed marine life with silt.

Is all of this damage and destruction justified—just to gather data? I don't think it is.

Additionally, in New Jersey our economy depends heavily on shoreline tourism.

Tourism in my State is a 10-billion-dollar-a-year industry and provides employment for thousands of people.

We simply cannot afford damage to our shorelines, nor to the marine life which inhabits our coastal waters.

What the Energy bill proposes is a step in the wrong direction. What purpose would be served by performing an inventory of oil and natural gas resources along the Outer Continental Shelf, if there is no intention of drilling in these regions?

This provision completely undercuts the language which Congress has approved for years—and it clearly undercuts the stated wishes of the coastal States that would incur the greatest damage.

Our country needs new sources of energy. And there are many energy sources vastly underutilized in America.

We have barely scratched the surface of our country's potential for developing renewable energy.

The enormous energy conservation and efficiency savings that are possible are largely untapped. Too often these measures are voluntary rather than a part of the way we do business.

If we better utilize these untapped sources of domestic energy, perhaps Congress won't be tempted to sweep aside the will of the people of New Jersey and the will of the citizens of other coastal States.

We must continue, as we historically have, to recognize the right of States to govern their own shorelines.

I urge my colleagues to vote for Senator GRAHAM's amendment.

Mr. KYL. Mr. President, what kind of energy policy does this country need? There is little argument about the need for affordable, reliable energy from diverse sources. The bill before us seeks to achieve that laudable goal in the worst possible manner: on the back of the American taxpayer. This bill subsidizes two types of energy. That which few consumers would be willing to pay for and that which companies would produce and consumers would pay for in the absence of subsidies. I ask my colleagues if this makes any sense?

Let's let the competitive market determine our energy future. Let's let the market, with millions of individual consumers pursuing their individual energy needs, based on their own unique situations, steer this country's energy economy. Let us not dictate to consumers and taxpayers how they should spend their energy dollars.

Recently this body voted on a tax bill that allows taxpayers to keep more of their hard-earned money in an attempt to jump-start this economy. The tax cut was passed on the premise that consumers and businesses are better suited than government to make sound economic decisions that translate into economic growth. That same premise applies to energy. Yet the Energy bill under debate tosses that premise out the window. Suddenly the consumers and businesses of this country, which we are trusting to make sound economic decisions to put the whole economy back on track, cannot be trusted to make sound energy decisions. Instead, we are dictating their energy choices for them. No body of persons, not even a panel of 100 of the world's most brilliant economists, let alone the Senate of the United States, has the knowledge, wisdom or foresight to make such decisions rationally for millions of American citizens.

Let's take a look at what this bill would do. It mandates greater use of ethanol, a fuel that is already heavily subsidized. Without subsidies and mandates, ethanol would virtually cease to exist as a motor fuel. It subsidizes renewable energies such as wind power, which again would not survive in the competitive marketplace due to the high cost and low value of the electricity produced. It subsidizes coal, already the most plentiful and affordable energy source in this country. Coal power will continue to thrive in this country whether subsidized or not, as long as we don't regulate it out of existence, yet we are providing subsidies for coal power. This bill subsidizes nuclear power, which would probably be competitive were it not for the onerous regulatory restrictions that needlessly burden that industry. The list goes on.

Let me suggest that the greatest obstacle to affordable and reliable energy in this country is the U.S. Government. Before this body looks outward for solutions to our energy problems, it should look inward. It should identify those laws, regulations, and other Government impediments that prevents this country's citizens and businesses from making sound energy decisions. We encumber the U.S. energy economy with all sorts of onerous and often unneeded and outmoded rules that raise the cost of energy and distort energy markets. Instead of fixing this state of affairs, this bill compounds these errors by further raising the cost of energy to American taxpayers and further distorting energy markets through subsidies.

Mr. KERRY. Mr. President, I rise today to speak to an amendment to fix a funding gap that exists for meritorious Women's Business Centers that are graduating from the first stage of the program and entering the sustainability portion.

I would like to first thank Senator SNOWE, Chair of the Committee on Small Business and Entrepreneurship, for working very closely with me on this issue. Her leadership and support has been invaluable. I would also like to thank Senator BINGAMAN for his support on this issue. As a long-time ally of the Women's Business Centers and all SBA programs, his assistance on this amendment has been very helpful. Last, I want to express my gratitude to Senators HARKIN, EDWARDS, CANTWELL, ENZI and DOMENICI, as well as Congressman MCINTYRE, for their backing and for their hard work to resolve this issue.

As I have said on more than one occasion, women business owners do not get the recognition they deserve for their contribution to our economy: Eighteen million Americans would be without jobs today if it weren't for these entrepreneurs who had the courage and the vision to strike out on their own. For 18 years, as a member of the Senate Committee on Small Business and Entrepreneurship, I have worked to increase the opportunities for these enterprising women in a variety of ways, leading to greater earning power, financial independence, and asset accumulation. These are more than words. For these women, it means having a bank account, buying a home, sending their children to college, calling the shots.

And helping them at every step are the Women's Business Centers. In 2002 alone, these centers helped 85,000 women with the business counseling and assistance they likely could not find anywhere else. Cutting funding for any centers would be harmful to the centers, to the women they serve, to their States, and to the national economy.

The funding gap for Women's Business Centers in sustainability exists because the Small Business Administration has chosen to short-change existing, proven centers in order to open new, unproven ones. By incorrectly interpreting the funding formula set up in the Women's Business Centers program, the SBA has made way for new centers at the expense of those that are already established. This is both bad policy and contrary to congressional intent.

As the author of the Women's Business Centers Sustainability Act of 1999, I can tell you that when the Women's Business Centers Sustainability Act of 1999 was signed into law, it was Congress's intent to protect the established and successful infrastructure of worthy, performing centers. The law was designed to allow all graduating Women's Business Centers that meet certain SBA standards to receive continued funding under sustainability grants, while still allowing for new centers—but not by penalizing those that have already demonstrated their worth.

Currently there are 81 Women's Business Centers in 48 States. Forty-six of these are in the initial program, 29 are already in sustainability, and 6 more are graduating or have graduated from the initial program and are now applying for sustainability grants. Because of these potentially 6 new sustainability centers—from Georgia, Iowa, Illinois, North Carolina, Texas, and Washington State—and because the SBA is incorrectly interpreting the funding formula for sustainability grants in order to open new centers, the amount of funds reserved for Women's Business Centers in sustainability must be increased from 30.2 percent to 36 percent.

This amendment does just that. It directs the SBA to reserve 36 percent of the appropriated funds for the sustainability portion of the Women's Business Centers program—even though the SBA already has the authority on its own to increase the reserve—thereby protecting the established Women's Business Centers form almost certain grant funding cuts and still providing enough funds to open six or more new centers across the country.

I want to again express my sincere and steadfast support for the growing community of women entrepreneurs across the Nation and for the invaluable programs through which the SBA provides women business owners with the tools they need to succeed. As a long-time advocate for women entrepreneurs and SBA's programs, my record in support of the SBA's women's programs and for women business owners speaks for itself. I have continually fought for increased funding for the women's programs at the SBA, for sustaining and expanding the women's business centers, and for giving women entrepreneurs their deserved representation within the Federal procurement process, to name a few. With respect to laws assisting women-owned businesses, I have been proud to either introduce the underlying legislation or strongly advocate to ensure their passage and adequate funding.

This amendment is necessary to continue the good work of SBA's Women's Business Center network, and I urge all of my colleagues to support it.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that we proceed to a period of morning business.

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

EULOGY OF DAVE DEBUSSCHERE

Mr. REID. Mr. President, I read in a number of national publications brief excerpts of the eulogy that former Senator Bill Bradley gave at the funeral of Dave Debusschere. The paragraphs I saw were really moving.

I was able to obtain a copy of the full eulogy that Senator Bradley gave on May 19 at St. Joseph's Church in Garden City, NY. It is really, truly, a moving eulogy. It outlines the context and the relationship of Dave Debusschere and Bill Bradley and other members of the New York Knicks team, but especially those two who were roommates

during many years of their travels around the country playing championship basketball. It explains their personal relationship, as Bill Bradley can do. He explains also what a team is all about. We, both in the majority and minority, are always working with our team. I recommend this as reading for everyone.

I ask unanimous consent that the full text of the speech given by Bill Bradley at the funeral of Dave Debusschere be printed in the RECORD.

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

EULOGY OF DAVE DEBUSSCHERE

Geri, Michelle, Peter, Dennis, DeBusschere sisters and family.

Today, Willis asked me to speak for him, for Clyde, Earl and all the Knicks who loved Dave. The moment I heard the news last Wednesday, it was as if a lightning bolt hit my heart. It was so shocking, so unexpected, so final.

When I saw the newspaper stories after Dave's death, one photo caught my eye. It was of Dave driving to the basket, the ball in his left hand, legs sturdy, shoulders strong, shock of dark hair matted with sweat, and a face full of his unique determination. As I looked at it, I was reminded of a time when we were all younger, and there was a magic about life. A magic about life—there is no other way to describe those years on our Knick teams. How it felt to hear the roar of the Garden crowd, to know the satisfaction of a play well-executed, to feel the chills of winning a championship, to share the camaraderie, even brotherhood, of working in an environment of mutual trust, with people you respected, each of whom had the courage to take the last second shot.

Dave's strength, his dedication, his unselfishness, his fierce desire to win, and, above all, his commitment to the team, were all at the core of that success. He seemed to say, ''What's the point of achieving anything in basketball if you can't share it?'' That's the beauty of having teammates. They know what it takes to get through a long season, to recover from a loss, to pull out a win when you're hurt or tired. Dave believed that once good players have put on their uniforms, everything else about them—race, ethnicity, personal history, off-court style—fades into the background. It's time to play—together. And we did.

Dave DeBusschere left all of himself on the court every game. He held nothing back. I can remember those nights on the road in late February. Dave, his face drawn from the long season; and Willis, with his brow furrowed, and heating packs on each knee. They would look at each other in the locker room of the fourth town in five nights, and their glances alone seemed to say, ''I'm tired to my bones. I don't want to go out there, but if you do it, I will too.'' And they always did. Together they set the character tone for the team in a kind of shared leadership that rarely needed words.

If I had $100 for every night Dave played hurt, I could buy a nice car. One night, Dave caught an elbow in the face that broke his nose. The pain was obvious. I didn't see how he was going to play the next night. But, there he was, ready to go, when the buzzer sounded—with a strip of plastic over his nose, held in place by white adhesive tape forming an ''H'' above and below his eyes.

I think the fans loved Dave because they sensed what his teammates already knew: he was the real thing. No pretense. He hated phonies. No guile. He told you exactly how he felt. No greediness. I never heard him talk about points. No excuses. He always took responsibility for his mistakes.

Dave was a man of action, not words. He was above the petty things in life, and he wasn't impressed easily. Power, fame, money, were not the currencies he traded in. Friendship, loyalty, hard work, were what he placed the greatest value in. If Bush or Madonna or Rockefeller walked into a bar, I bet he'd barely look up from the beer he was sharing with a friend.

There was a time when I'd slept in a room with Dave DeBusschere more than I had with my wife. We were roommates on the road for six years. That's about 250 games, 250 cities, 250 hotels.

If the truth be told (as Geri knows), on many occasions Dave woke me up with his snoring. I'd say, ''Dave.'' To no avail. I'd shout, ''Dave!'' Still no success. Finally I'd get out of bed, put my hands on his back and push him over on his side. he still wouldn't wake up, but the snoring would stop. And I'd get a few hours of sleep . . . until the next time.

You get to know someone when you're with him that much. You hear about his life; you meet his friends and family; you know what he likes to eat, what he likes to do in his downtime, what forms his daily habits; you learn what he admires in people and what he can't stand.

You can learn a lot of from your roommate, too, especially if he's an experienced pro and you are not. It was my second year in the NBA. I had just made the Knicks starting team as a forward, and we had lost a close one in Philadelphia on a bad pass I made when the Sixers were applying full court pressure. After the game I was dejected. Back at the hotel. Dave, who had joined the team from Detroit two months earlier, saw how I felt and put me straight. ''You can't go through a season like this,'' he said. ''There are too many games, Sure, you blew it tonight, but when it's over, it's over. Let it go. Otherwise you won't be ready to play tomorrow night.'' It was NBA lesson #1; Don't make today's loss the enemy of tomorrow's victory.

On occasion, Dave, Willis and I would go to dinner on the road, and Willis would begin telling hunting stories—what weapons he used, where he used them and what the weather was, how be tracked the animals, what his gear consisted of, the angle at which he shot with his gun, or his bow and arrow, and so forth. Dave and I were not hunters, but once Willis got started, it took him more than a little while to finish. After one such evening when we got back to our room, Dave said, ''You know, I think Willis likes to hunt!''

Dave also was not above practical jokes. Once after a championship season, the DeBusscheres, Kladis's and Bradleys chartered a boat to tour the Greek islands. One day we pulled up off an island beach, and Dave and I dove off the boat to swim ashore. As we were coming out of the water, we found a lone man, laying on a towel. An American. He watched us emerge from the sea, and shouted, ''DeBusschere—Dave DeBusschere. Bradley. Oh my God! Wait til my family sees this!'' and he took off. Dave looked at me; I looked at him, and with a grin he said, ''Let's go.'' We swam back to the boat, hid behind towels and watched as the man, his wife and kids behind him, ran back onto the beach. ''Honest they were here!'' We could hear him shout. ''I saw them! Really! They were here I swear it.''

It's been a long time since the Knicks were champions and I roomed with Dave. But time has only deepened our friendship. I always looked forward to our one-on-one lunches, our dinners with Ernestine and the irrepressible Geri, our family visits to Long Island, and on occasion a game like the one last spring when Willis, Dave, Earl and I went to New Jersey for a Lakers/Nets playoff game with loyalties split between Willis's Nets and Phil's Lakers.

Over the years I commiserated with Dave about the way the Garden treated him when he was G.M. I spoke at Peter's college graduation. I shared the pride that he and Geri felt as Michelle, Peter and Dennis grew into spectacular young adults.

And, I will never forget when he told me how proud he was to be sitting in the gallery the day I was sworn into the Senate. Over the years he made campaign appearances in New Jersey on my behalf, attended fundraisers to add star power, and sloughed through the snows of Iowa and New Hampshire in 2000. Whenever I asked him to do something, he was there; and every place he went, he made people feel good.

Until last Wednesday, one of the most enjoyable things in life was talking basketball with Dave DeBusschere. The players and the teams, the rules and style of play have all changed, but the sharpness of his insights never diminished. What he said was always so clear and simple that I'd ask myself afterwards, ''Why didn't I think of that?''

Championship teams share a moment that few other people know. The overwhelming emotion derives from more than pride. Your devotion to your teammates, the depth of your sense of belonging, is something like blood kinship, but without the complications. Rarely can words express it. In the nonverbal world of basketball, it's like grace and beauty and ease, and it spills into all areas of your life.

So I say to my big brother: Be proud. You brought all these things to the many lives you touched. Goodbye, we'll miss you, #22. May God grant you a peaceful journey.

ORDER OF PROCEDURE—S. 14

Mr. REID. Mr. President, I ask unanimous consent, with respect to the Graham amendment No. 884, to which we are going to proceed in the morning, and the hour of time we have, that Senator FEINSTEIN, Senator BOXER, and Senator CANTWELL each control 15 minutes of the 60 minutes.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FITZGERALD. 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 CRISIS IN THE MIDDLE EAST

Mr. WARNER. Mr President, I rise today to express my concern about the horrific violence which has erupted over the past few days in the Middle East. The world is distressed to see the images on T.V. of today's suicide bombing in Jerusalem and the attacks in Gaza. Condolences are extended to all of those who continue to pay the price of this intolerable seemingly uncontrollable cycle of violence in the Middle East.

This human suffering must be brought to an end. Once again I take the floor of the Senate to call on both sides both Israel and the Palestinians to take the initiative to invite NATO forces to undertake a peacekeeping role and to help provide a measure of stability needed to allow the ''road map'' process to maintain a momentum forward.

President Bush is to be commended for his personal commitment to bring the Israelis and the Palestinians together on a path toward peace. Last week, President Bush, joining with world leaders, gave new impetus to the Middle East peace process. He met with the Israeli and Palestinian prime ministers at Aqaba, Jordan, where these two leaders agreed to begin to implement the early steps of the ''road map'' to peace.

In Aqaba, both sides agreed to a step-by-step process whereby each takes positive steps and makes some concessions to achieve the stated goal of an Israeli and a Palestinian state, living side-by-side in peace.

Unfortunately, there are third parties, such as Hamas and other radical groups, that are making every effort to continue the violence and disrupt the path to peace. These groups must not be permitted to hijack the peace process.

How can others help the Palestinian leadership gain control of the security situation on its side?

The Israeli and Palestinian leaders should be urged first to fulfill their commitments to establish and help to enforce a cease-fire; and, second, to ask the North Atlantic Council to consider sending a peacekeeping contingent as soon as practical.

I have spoken before on this subject here on the Senate floor, and have written to President Bush, about my idea concerning how NATO might play a useful role in the quest for Middle East peace. I ask that my letter to President Bush and his reply be printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, March 14, 2003.

President GEORGE W. BUSH,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: I would like to commend you on the step you took today to give new impetus to the Middle East peace process by announcing that it was time to share with Israel and the Palestinians the road map to peace that the United States has developed with its ''Quartet'' partners. This is a welcome and timely initiative, given the complex way in which the Middle East conflict, Iraq and the global war against terrorism are intertwined.

The festering hostilities in the Middle East are an enormous human tragedy. Along with you, and many others, I refuse to accept that this is a conflict without end. You have articulated a vision of an Israeli and a Palestinian state living side by side in peace and security. That is a bold initiative that deserves strong international support. With the Israeli elections concluded, and the imminent confirmation of a Palestinian Prime Minster, you are right to refocus international attention on the Middle East peace process.

Mr. President, in August 2002, I wrote to you to propose an idea concerning the possibility of offering NATO peacekeepers to help implement a cease-fire in the Middle East. I have spoken of this idea numerous times on the Senate Floor. I am now even more convinced that the United States and its NATO partners should consider an additional element for the ''road map'' concept: NATO should offer, and I stress the word ''offer,'' to provide a peacekeeping force, once a cease-fire has been established by the Israeli Government and the Palestinian Authority. This NATO force would serve in support of the cease-fire mechanisms agreed to by Israel and the Palestinian Authority. The NATO offer would have to be willingly accepted by both governments, and it in no way should be viewed as a challenge to either side's sovereignty. The acceptance of this offer would have to be coupled with a commitment by Israel and the Palestianian Authority to cooperate in every way possible to permit the peacekeeping mission to succeed.

I fully recognize that this would not be a risk-free operation for the participating NATO forces. But I nonetheless believe that the offer of peacekeepers from NATO would have many benefits. First, it would demonstrate a strong international commitment to peace in the Middle East. Second, it would offer the prospect of a peacekeeping force that is ready today. It is highly capable, rapidly deployable, and has a proven record of success in the Balkans. A NATO peacekeeping force is likely to be acceptable to both parties, given the traditional European sympathy for the Palestinian cause and the traditional United States support of Israel.

Third, this would be a worthy post-Cold War mission for NATO in a region where NATO member countries have legitimate national security interests. It could even be an area of possible collaboration with Russia through the NATO-Russia Council. A NATO peacekeeping mission in the Middle East would be wholly consistent with the Alliance's new Strategic Concept. Approved at the NATO Summit in Washington in April 1999, the new Strategic Concept envisioned so called ''out-of-area'' operations for NATO.

Given the fractious debate in NATO over Iraq and the defense of Turkey, it would be important to show that NATO can work together to make a positive contribution to solving one of the most challenging security issues of our day.

There will be many detractors to the idea of sending NATO peacekeepers to the Middle East to help implement a cease-fire. But I think there is broad agreement on the imperative to giving new hope to the peace process and redoubling diplomatic efforts to keep Israel and the Palestinians moving on the road to peace. Peacekeepers coming from many NATO nations could give new hope and confidence to the peoples of Israel and Palestine that there could soon be an end to the violence that overhangs their daily lives.

Mr. President, I hope that you will receive this idea in the constructive spirit in which it is offered.

With kind regards, I am
Respectfully,

JOHN WARNER,
Chairman.

THE WHITE HOUSE,
Washington, April 29, 2003.

Hon. JOHN W. WARNER,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter about the proposed roadmap to Middle East peace, and your suggestion concerning a NATO peacekeeping force. I understand your view that such an offer could be a further inducement to the parties to reach agreement.

As you know, the issues dividing Israelis and Palestinians are deep, complex, and hotly contested. The security arrangements of any settlement are one important element among many. Ultimately, our goal is for two states living side by side in peace. Over the long term, such an arrangement must be sustainable without the presence of outside peacekeeping forces. As we engage the parties in our effort to forge a peace agreement, I will keep your proposal under consideration.

I also agree with your comments about the importance of NATO's role as we face the security challenges of the 21st Century. As you know, at the NATO Prague Summit, Allied leaders joined me in launching an ambitious agenda for modernizing NATO, including the creation of a NATO Response Force, reforming the command structure, and bringing in new members who are committed to democracy and collective defense. I appreciate your strong support for this important effort.

We have begun steps to increase NATO's role in Afghanistan, and have asked NATO to consider assistance it could provide in post-war Iraq. I welcome your support on these matters as well.

Sincerely,

GEORGE W. BUSH.

Mr. WARNER. Mr. President, I spoke today with the press about the idea that NATO, if requested, might provide a peacekeeping force to support a cease-fire previously agreed to by the Israeli Government and the Palestinian Authority. NATO peacekeepers would have to be invited by both governments, and in no way should be viewed as a challenge to either side's sovereignty. The acceptance of this offer would have to be coupled with a commitment by Israel and the Palestinian Authority to cooperate in every way possible to permit the peacekeeping mission to succeed.

I fully recognize that this would not be a risk-free operation for the participating NATO forces, some of which could be American. But I nonetheless believe that the offer of peacekeepers from NATO would have many benefits.

First, it would demonstrate a strong international commitment to peace in the Middle East. By their presence, NATO peacekeepers might give hope to people on both sides that violence will be curtailed.

Second, it would offer the prospect of a peacekeeping force that is ready to go, today. It is highly capable, rapidly deployable, and has a proven record of success with peacekeeping in the Balkans.

Third, a NATO peacekeeping force is likely to be acceptable to both parties, given the traditional European associations with the Palestinian people and the traditional United States associations with the people of Israel.

Fourth, it would be a worthy post-Cold War mission for NATO in a region where NATO member countries have legitimate national security interests. In 1999, NATO adopted a new Strategic

Concept that envisioned NATO operations, including peacekeeping operations, taking place outside of Europe.

There will be many detractors to the idea of sending NATO peacekeepers to the Middle East to help implement a cease-fire. There is, I acknowledge, a historical record of outside forces being unsuccessful in security mission in this area. But I invite the debate, first and foremost among the NATO members themselves.

I think we can all agree on the imperative of redoubling our efforts to keep Israel and the Palestinians moving on the road to peace, and of offering an alternative that may break the tragic cycle of violence. This is the responsibility not only of the United States, but indeed, of the entire international community.

Progress on Middle East peace would help us to continue the gains we have made in Iraq to spread peace in the Middle East and to address the underlying causes that have given rise to terrorist groups like al-Qaeda.

Mr. LAUTENBERG. Mr. President, I rise to talk about something that is unrelated to any of the subjects we have been discussing today. I rise to talk about the news we just heard about an explosion in Israel and the killing of 13 to 15 people—and it is going to be more because, in addition to that, there are over 50 who have been seriously injured. We have witnessed an attack like this on innocent civilians by mad men who encourage a son, a daughter, a brother, or a sister to blow themselves to smithereens, and their mission is to simply kill innocents.

For a few moments, let's review a scenario that perhaps would be better understood in our country. Think about a shopping mall or a busy street in New York, Detroit, Minneapolis, Los Angeles, or Louisiana, and think about people who might be on the bus, youngsters going to school, people going to the doctor, people going to work, people carrying on commerce, and imagine that someone came along with a bomb in one of those cities, Washington, DC, and created an explosion that killed 700 people at one shot. That is the equivalent, if we take the size of Israel, about 6 million people—we have 280 million—it is about 45 to 1, so just do the multiplication. We are talking about 700 people who would die in this senseless attack. What would our response be in America? We would call out the Army, the Navy, the Marines, the FBI, the police, every agency that could retaliate, either to capture or gun down the leader of an organization that would seduce a young person to sacrifice their life for such a heinous purpose.

Purportedly this was a response to a tragic accident that took place as the Israelis were pursuing the leader of Hamas, the organization that took credit today for killing those innocent people and that takes credit for lots of attacks on innocent people in Israel. So there was a pursuit by the Israelis of the leader of Hamas because Hamas was an organization that helped take five soldiers' lives in Israel on Sunday night. Unfortunately, the hunt went awry and some innocent people were tragically killed.

When an attack such as that takes place, it is in response, it is in retaliation, to the violence that was visited upon the citizens in Israel. When these attacks take place, there is only one mission. They are not hunting criminals. They are not trying to capture somebody. What they are doing is killing innocent people—young people, old people, it does not matter.

Today's horrible attack on Jerusalem is another illustration of why Hamas has no place in any peace process. Hamas is a terror organization, has always been a terror organization, and desires to continue as a terror organization. I think it is time for the world to recognize that Hamas is in the same league as al-Qaida, and we know what we did when our people were attacked. We did the right thing. We sent our troops out. We were looking to capture the leader of that organization.

We would not stand by 5 minutes and accept it. And Israel should not stand by 5 minutes and accept it. We cannot look at the equal violence on both sides of the issue in Israel and with the Palestinians. They are not the same. Israel's attacks are always in retaliation for violence that was put upon Israelis. The other side delights in recording the fact that a suicide bomber took 8, 10, 12 lives, their count—600 people, or whatever the number is, in equivalence in America.

It is time to understand what is going on there. I strongly believe the peace process has to continue, but it should continue with Palestinian leaders who have demonstrated that they are interested in peace, as is now-Prime Minister Mr. Abbas. I commend the administration for deciding to reengage in the Mideast conflict by introducing and promoting a roadmap, a design, for Middle East peace.

President Bush's recent visit to the region was an important first step in renewing U.S. commitment to this endeavor, and the administration has to remain committed to peace in the area. President Bush must forcefully deliver a message to the Palestinians about their need to reconstitute and consolidate their security agencies in order to fulfill their stated goal to deter and punish terrorists such as Hamas, and he has to tell the Israelis that they have the right to defend themselves. They have made very important overtures, especially when it comes to talk about dismantling some of the settlements.

Mr. Abbas' clear statement that the violence of the intifada was a betrayal of the Palestinian cause is the most important reason that there is hope for progress in the Middle East. I am also encouraged that as a goodwill gesture Israel has opened its borders to Palestinian workers, released about 100 Palestinian prisoners, and has begun to dismantle some outposts. They are important first steps.

Israel and the settlers have to come to terms with the inevitability of dismantling some settlements in order to allow for the eventual creation of a contiguous Palestinian state. I was gratified to hear five Arab leaders—President Hosni Mubarak of Egypt, Crown Prince Abdullah of Saudi Arabia, King Abdullah of Jordan, King Hamada of Bahrain, and the new Palestinian Prime Minister, Mahmoud Abbas—release a statement last Tuesday, June 3, clearly asserting that they oppose terrorism and will not finance or arm extremist Palestinian groups.

This statement was long overdue. Right now the Arab leaders must translate this statement into action through one central task, and that is strengthening the hand of the new Palestinian Prime Minister, Mahmoud Abbas.

This means conferring on Mr. Abbas the authority they once gave Yasser Arafat and condemning violent groups such as Hamas and their rejectionist agendas. Only a united international front critical of terrorists and supportive of Mr. Abbas' plan for the Palestinians' future can facilitate the implementation of the roadmap.

The United States should continue exerting pressure on Syria to shut down its support for Palestinian terrorists, Hezbollah, and other organizations, the organizations that have no function except to disrupt the prospect for peace. They should encourage the withdrawal of the Syrians from occupied Lebanon and stem any production or research on weapons of mass destruction.

Sometimes it is hard to understand why an embattled country like Israel will be so effective, so hard, in its response. It is only hard to understand if you have not been there. This is a country that seeks peace more than any other place on Earth that we can imagine. They have lost thousands of people, perhaps hundreds of thousands in the equivalent American counts. There is a history of the people there that says they are always the subject of some cruelty, some attacks, some injury, some dead, from outsiders.

The last century saw the killing of millions of Jewish people. That sets a tone. That tone says, make peace, make life satisfactory. Do the things you have to to create a society, a country. Do what we can do about fighting disease, research what can be done about turning arid lands into farm lands, do what can be done to make life more livable. Yet, these criminal organizations continue to press their attack on Israel.

I make this suggestion. If the people in Paris or London or Berlin or other capital cities around the world had an attack such as this, we would have a response from the U.N. and everybody else. But when it comes to attacks on Israel, there is a notable silence, except for the only friend that Israel has

in the world, and that is the United States and the American people.

We look with horror and grief at what took place this day. Unfortunately, this is not an unusual occurrence as far as Israel is concerned. We have to say that we in the United States of America will not tolerate this kind of violence, that we are going to let Israel fight back as hard as she has to, to defend herself and force the communities in the Middle East to understand that there will be no peace for anybody. That is very dangerous. That conflict could escalate into a major confrontation in other parts of the world.

We send our sadness and condolences to the people of Israel. We wish them well in the future and hope peace will soon be the only confrontation that takes place, and that would be across the table.

I yield the floor.

HONORING UWE E. TIMPKE

Mr. GREGG. Mr. President, I ask unanimous consent that the following resolution from the HELP Committee be printed in the RECORD.

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

RESOLUTION OF THE COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS, U.S. SENATE, JUNE 11, 2003, IN RECOGNITION OF UWE E. TIMPKE

Whereas, Uwe E. Timpke has faithfully served the Committee on Health, Education, Labor, and Pensions since September, 1972 as a Detailee, Assistant Editor, and Editor, working under six chairman of both parties; and

Whereas, he has worked conscientiously on behalf of the 74 members of the Senate who have served on the committee during his tenure; and

Whereas, he has upheld the highest standards of the Senate and of the committee in his professionalism, unfailing courtesy, and unflagging dedication to his work; and

Whereas, his knowledge of all aspects of printing and editing committee documents has earned him the respect and admiration of all those with whom he worked on the committee and throughout the Senate; and

Whereas, his willingness to make time in a busy schedule to meet the special needs of the individual members of the committee, as well as his fellow staff members: Now, therefore, be it

Resolved, That the Committee on Health, Education, Labor, and Pensions expresses its deep gratitude to Uwe E. Timpke for his over thirty years of tireless service to the committee and to the United States Senate; and be it further

Resolved, That the members of the Committee on Health, Education, Labor, and Pensions of the United States Senate express their sincerest wishes that Uwe E. Timpke will enjoy a happy and well-deserved retirement.

AMERICA'S WORSENING FISCAL SITUATION

Mr. LEAHY. Mr. President, the new Congressional Budget Office, CBO, budget deficit numbers announced Monday should trouble us all.

Only 1 month ago CBO, estimated that the Federal deficit would be $300 billion—an alarming number considering that when President Bush took office the Federal Government was running a surplus. Now, CBO has notified Congress that the deficit will be a record $400 billion.

CBO now projects that the federal government is likely to end fiscal year 2003 with a deficit of more than $400 billion, or close to 4 percent of gross domestic product. The deterioration in the short-term budget outlook stems from continued weakness in revenue collections and from enactment of the Jobs and Growth Tax Relief Reconciliation Act of 2003, which will add an estimated $61 billion to this year's deficit in the form of tax cuts, refundable credits, and aid to states. The recent extension of unemployment benefits will boost outlays by another $3 billion this year. For the first eight months of 2003, the government ran a deficit of $291 billion, CBO estimates, about twice the shortfall it incurred in the same period last year.

When President Bush entered the White House in January 2001, the Nation was enjoying a record budget surplus that was built with hard choices and determination over the previous 8 years. With breathtaking speed, this administration's fiscal irresponsibility has quickly turned those record surpluses into record deficits. In 3 short years, these policies have driven us further into debt, transferred a greater share of tax receipts to the pockets of the Nation's most privileged, and turned millions of hard-working Americans out of their jobs.

In fact, the Labor Department recently reported that the Nation's unemployment rate rose to 6.1 percent last month, the highest level in 9 years. Since the economy began slumping in early 2001, nearly 2.5 million jobs have disappeared.

In 2001, I voted against the President's first tax plan because it was too skewed toward the wealthiest Americans and it was too fiscally irresponsible. Since then, we have gone from record surpluses to red ink, and the economy is still adrift.

Yet Congress passed a budget this year—including another ill-advised tax plan of $350 billion—that will only further deepen our deficits and pump up the national debt. I voted against the tax bill again this year because it is so clearly harmful to the economic health of our country, especially with the cost of the war in Iraq and the ever-increasing peacekeeping expenses.

The budget plans this administration has sent to Congress each year have been full of misguided priorities and squandered opportunities. The President's plans have severely underfunded essential health, employment training and education efforts. They have contained enormous Government giveaways to wealthy corporations and the wealthiest individuals instead of providing relief for hard-working Americans and their families. And they have been wholly inadequate to meet the domestic security needs of the first-responder agencies that we are counting on to defend against and prepare for future acts of terrorism.

The President's economic plan is not about growing the economy or creating jobs. It is a fiscally irresponsible plan that threatens to economically divide our country. Cutting taxes is a popular thing to do, and I am delighted to vote for tax cuts when they make good fiscal sense. But it is not always the right thing to do for the country and for the security and economic well-being of the American people.

The 1993 budget bill set the framework to eliminate the Federal deficit and passed by the narrowest of margins. It was a tough vote for everyone who voted for that plan and many Senators and Congressmen lost their seats in the subsequent election before the benefits of the plan could be fully realized. That momentous vote set this country on a course of surpluses, budget discipline and fiscal responsibility unmatched in American history. Unfortunately, the current administration—with its lack of fiscal responsibility—has blown all of the progress that many worked so hard to achieve. And the proof is in the latest CBO deficit figures.

Earlier this year, the President said we should not pass on our fiscal problems to future Presidents, Congresses, and generations. On that point, I agree with him. Regrettably, year after year his budgets have driven us deeper into debt, and his policies will do exactly what the President says we should avoid: They will burden our children.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred on November 10, 2001. In San Antonio, TX, two people in ski masks robbed and beat the female owner of a small Persian restaurant, leaving behind racial slurs on the walls. The attackers forced open a back door. One of them bound the victim's hands and legs with duct tape and beat her to the ground. The second attacker sprayed hate messages on the walls.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

DR. SAMUEL B. HAND, UNIVERSITY OF VERMONT PROFESSOR OF HISTORY EMERITUS

Mr. LEAHY. Mr. President, I come to the floor today to talk about an extraordinary Vermonter, Dr. Samuel B. Hand. Many people argue about what makes you a true Vermonter. Some say it is if you were born there; some say it is if you plan to die there. Until the debate is concluded, the person who could settle the matter is Dr. Hand.

While originally from Long Island, in 1961, Dr. Hand became a professor of European history at the University of Vermont, UVM. As a scholar with a passion for history, Dr. Hand quickly became one who added to Vermont's achievements and glories. He emphasized to his students the importance and the excitement of the history of Vermont, resulting in a number of his former students becoming teachers and archivists in Vermont.

Last month, the University of Vermont's Center for Research on Vermont honored Dr. Hand as the recipient of a lifetime achievement award for his expertise in Vermont history and his generous mentoring skills.

In addition to being the ''heart'' of the history department, as his colleagues called him, Dr. Hand coauthored a number of books, including ''Vermont Voices, A Documentary History of the Green Mountain State'' and ''A Vermont Encyclopedia'', and directed a National Endowment for the Humanities-funded series, ''Lake Champlain: Reflections on Our Past.'' He was also one of the founding members of the University of Vermont's Center for Research on Vermont and served as president of the Vermont Historical Society and as president of the Oral History Society. Today's editorial in the Burlington Free Press praises Dr. hand for ''extend[ing] his base beyond the walls of UVM and reinforced the important collaboration between the state's flagship university and Vermont.''

Both the University of Vermont and the State of Vermont are truly fortunate to have benefited from the dedication and intelligence of Dr. Hand. Vermonters likes him make me proud to represent such a great State. Mr. President, I would ask that this statement and the Burlington Free Press editorial be placed in the CONGRESSIONAL RECORD.

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

[From the Burlington Free Press, June 11, 2003]

A VERMONT SCHOLAR

Samuel B. Hand still has a trace of Long Island in his voice, but the retired University of Vermont history professor knows more about Vermont than many of the state's residents.

Hand was recognized for his contributions to the study of his adopted state last month when he received a lifetime achievement award from the University of Vermont's Center for Research on Vermont, of which he was a founding member.

Although he started out teaching European history when he arrived at UVM in 1961, Hand quickly saw the merit of specializing in Vermont history.

His graduate students had a greater opportunity to have their work published than if they had chosen a broader and more heavily researched topic, and many of the students had a personal connection to the state's history.

''I might have a student from California who was a sixth-generation UVMer with a grandfather who was once a state senator,'' Hand said in an interview. ''Vermont history is very personal.''

Beyond his mentoring of students—for which he was named UVM graduate faculty teacher of the year in 1994, the year he retired—Hand has been a prolific researcher and writer.

The professor of history emeritus has written many articles about Vermont, and co-authored ''Vermont Voices, A Documentary History of the Green Mountain State'' in 1998 and ''A Vermont Encyclopedia,'' which will be out in August.

His book, ''The Star That Set, The Vermont Republican Party, 1854–1974,'' was published last year.

Hand, 72, has brought together organizations and university disciplines that share a common interest in Vermont. As a former president of the Vermont Historical Society and last year's recipient of the Founders Circle Award from the Ethan Allen Homestead, Hand has extended his base beyond the walls of UVM and reinforced the important collaboration between the state's flagship university and Vermont.

Along the way, he has influenced students and aspiring historians to see Vermont history—not as dry and distant—but as alive and brimming with dramatic stories and interesting characters, such as Ethan Allen, Samuel de Champlain and former Gov. George Aiken, described by Hand as ''the quintessential Vermonter against whom other Vermonters measured themselves.''

Hand has played a major role in bringing Vermont stories to life and encouraging people to know their roots and appreciate their home. It is work well worth a lifetime achievement award.

AN OKLAHOMA LOSS IN OPERATION IRAQI FREEDOM

Mr. NICKLES. Mr. President, over the past few months we have seen the fall of Saddam Hussein's brutal regime coupled with the dawning of a new day for the Iraqi people.

With major military combat operations in Iraq over and the security of our homeland bolstered, America and her allies are turning our efforts toward helping the Iraqi people build a free society.

Like many Americans, I was thrilled and heartened by the dramatic images of U.S. troops helping Iraqi citizens tear down statues and paintings of Saddam Hussein. The Iraqi people needed our help, our tanks, our troops, and our commitment to topple Saddam Hussein.

For the first time in their lives, many Iraqis are tasting freedom, and like people everywhere, they think it is wonderful. I am proud of our military and America's commitment to make the people of the Middle East more free and secure.

Our military men and women surely face more difficult days in Iraq, and the Iraqi people will be tested by the responsibilities that come with freedom. The thugs who propped up the previous regime and outside forces with goals of their own will seek to cause problems, stir up trouble, and initiate violence. Freedom is messy—nowhere more so than in a country that has just shaken off a brutal dictatorship.

But the journey toward a democratic Iraq has now begun. Like so many nations before it, Iraq now endures the growing pains common to a fledgling democracy. The uncertainty in today's Iraq will soon give way to the promise of a better future for the Iraqi people. As we move closer to this goal, we must remember those who sacrificed for this noble cause.

Today, I rise to honor a man who made the ultimate sacrifice one can make for his country and the cause of freedom. Petty Officer 3rd Class Doyle Wayne Bolinger, Jr., 21, of Poteau, died last week in Iraq when an unexploded ordnance accidently detonated in the area where he was working. Bolinger, who joined the Navy shortly after high school, was assigned to the Naval Mobile Construction Battalion 133 based in Gulfport, MS, whose members are commonly known as Seabees. His unit has been in the Middle East since January providing construction support to our Armed Forces during military operations.

Everybody liked Bolinger. He was known to always have a smile on his face. People in Poteau, who he often helped out with various jobs, will miss him especially.

His family recently issued a statement saying, ''Wayne is a very special young man and is proud to be a Navy Seabee. He died defending his country. He is without a doubt one of America's finest.''

I could not possibly agree more. This young man represents the very best this Nation has to offer. Petty Officer Bolinger did not die in vain. He died so many others could live in security and freedom. For that sacrifice we are forever indebted. Our thoughts and prayers are with him and his family today and with the troops who are putting their lives on the line in Iraq.

REMEMBERING THE MIAS OF SULTAN YAQUB ON THE 21ST ANNIVERSARY OF THEIR CAPTURE

Mr. SCHUMER. Mr. President, I rise today to ask my colleagues to join me in remembering the Israeli soldiers captured by the Syrians during the 1982 Israeli war with Lebanon. It is with great sadness that we mark today 21 long years of anguish for their families, who continue to desperately seek information about their sons.

On June 11, 1982, an Israeli unit battled with a Syrian armored unit in the Bekaa Valley in northeastern Lebanon. Sergeant Zachary Baumel, First Sergeant Zvi Feldman, and Corporal Yehudah Katz were captured by the

Syrians that day. They were identified as an Israeli tank crew, and reported missing in Damascus. the Israeli tank, flying the Syrian and Palestinian flag, was greeted with cheers from bystanders.

Since that terrible day in 1982, the governments of Israel and the United States have been doing their utmost by working with the office of the International Committee of the Red Cross, the United Nations, and other international bodies to obtain any possible information about the fate of the missing soldiers. According to the Geneva Convention, Syria is responsible for the fates of the Israeli soldiers because the area in Lebanon where the soldiers disappeared was continually controlled by Syria. To this day, despite promises made by the government of Syria and by the Palestinians, very little information has been released about the condition of Zachary Baumel, Zvi Feldman, and Yehudah Katz.

Today marks the anniversary of the day that these soldier were reported missing in action. Twenty-one pain-filled years have passed since their families have seen their sons, and still Syria has not revealed their whereabouts nor provided any information as to their condition.

One of these missing soldiers, Zachary Baumel, is an American citizen from my home of Brooklyn, NY. An ardent basketball fan, Zachary began his studies at the Hebrew School in Boro Park. In 1979, he moved to Israel with other family members and continued his education at Yeshivat Hesder, where religious studies are integrated with army service. When the war with Lebanon began, Zachary was completing his military service and was looking forward to attending Hebrew University, where he had been accepted to study psychology. but fate decreed otherwise and on June 11, 1982, he disappeared with Zvi Feldman and Yehudah Katz.

During the 106th Congress, I cosponsored and helped to pass Public Law 106–89, which specifies that the State Department must raise the plight of these missing soldiers in all relevant discussions and report findings to Congress regarding the development in the Middle East. We need to know that every avenue has been pursued in order to help bring about the speedy return of these young men. Therefore, I strongly feel that we must be sure to continue the full implementation of Public Law 106–89, so that information about these men can be brought to light.

Zachary's parents Yonah and Miriam Baumel have been relentless in their pursuit of information about Zachary and his compatriots. I have worked closely with the Baumels, as well as the Union of Orthodox Jewish Congregations of America, and the American Coalition of Missing Israeli Soldiers, and the MIA Task Force of the Conference of Presidents of Major American Jewish Organizations. These groups have been at the forefront of this pursuit of justice. I want to recognize their good work and ask my colleagues to join me in supporting their efforts. For two decades these families have been without their children. Answers are long overdue.

The agony of the families of these kidnapped Israeli soldiers is extreme. They have not heard a word regarding the fate of their sons. I believe that we must pledge to do our utmost to obtain information about these soldiers and to bring them home, for the sake of peace, decency and humanity.

THE COAL ACT

Mr. SMITH. Mr. President, on June 10, Senator GRASSLEY, chairman of the Senate Committee on Finance, issued a statement concerning the Coal Act, included in the 1992 Energy bill, and very specifically the intolerable situation regarding reachback and superreachback coal companies.

The tax levied on these companies in that act is unfair. It never should have been enacted to begin with. It even applies to companies that are no longer in the coal mining business. The Coal Act created the combined benefit fund, CBF, in an attempt to solve many of the pension problems of retired coal miners. There were never any hearings. There was no serious debate on the Senate floor.

The combined benefit fund is approaching insolvency. There are accountants who today would say it is already insolvent. It has been saved from terminable illness only by annual appropriations in recent Appropriations bills. These appropriations do not permanently solve the problem.

I, for a number of years, have attempted to pass legislation to solve this issue. It is my hope that the House of Representatives would at last send to the Senate a bill rectifying this problem so we might also enact it and at least put an end to this inequity.

DEDICATION OF THE BATTLE CREEK FEDERAL CENTER

Mrs. DOLE. Mr. President, on Saturday, May 31, I had the honor of being present at the renaming of the Battle Creek, MI Federal Center for three American heroes, the late Senator Phil Hart, my husband Bob Dole, and my Senate colleague DAN INOUYE.

This recognition would not have happened without the efforts of my friend and colleague, CARL LEVIN. At the dedication Senator LEVIN spoke eloquently and his message about honor, duty, country captured the attention and respect of all those present at this important event. I thank him again and ask unanimous consent that his remarks be included in the RECORD.

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

"What an overwhelming moment this is for all of us just to be with these heroes and their families. For Barb and me it's a treasured moment to join with Bob Dole, Danny Inouye, and two sons of Phil Hart, Jim and Walter Hart; to be with my colleague Libby Dole. You know, I used to say that the U.S. Senate was the world's most exclusive club. They used to say that. But now, Barb, my wife, and Bob will testify to this, are members of the truly most exclusive club in the world which is the Senate's spouse club, because now that Libby Dole is in the Senate, Bob Dole knows what it's like to be a Senate spouse.

Thanks are due to so many people for making this day possible. We are very grateful to the General Services Administration for their prompt response to the idea; Administrator Perry, thank you. To the people of Battle creek, first and foremost, for again accepting three American soldiers into your heart as you did tens of thousands of American soldiers many years ago. By renaming this building and accepting these three names, you have again said what this community truly is all about and what you, in Battle Creek, and what the workers in this federal center are all about. Thank you for taking them back into your hearts and embracing them by accepting these three names.

For thousands of young soldiers, this was the place they came home, the place where a grateful America cared for the injuries they received defending our nation. And today, by renaming this building we are paying tribute to three soldiers who became close friends during their convalesces at Percy Jones Army Hospital, and went on to serve together in the United States Senate. Renaming the federal center after these three heroes recognizes their unique achievements while honoring all those who received care here and who provided care here. As a new generation of valiant soldiers emerges from the conflict in the Persian Gulf, and we greeted many of them just a few weeks ago here in Battle Creek, it is more appropriate than ever we remember past heroes who were wounded in service to their country. By honoring these three men we will inspire a new generation to follow their example.

Phil Hart, a native son of Michigan, was wounded during the D-Day assault. He spent more than three months at the Army hospital here in Battle Creek. According to Bob Dole, Phil hart would tirelessly spend from morning 'til night running errands for the rest of us. He was, in Bob Dole's words, and I know Danny Inouye shared this very deeply, 'he was without a doubt one of the finest men I ever knew'. Phil hart became the conscious of the Senate, whose decency was legendary and whose integrity was so deep that he would without flinching take on an unpopular cause, or a powerful constituency, for the good of the nation.

Bob Dole arrived at Percy Jones in a plaster body cast. His recovery program overall took three years, which underscores his courage and his determination. When told by doctors his disability would be career dooming, he refused to accept their diagnosis and he fought successfully to prove them wrong. In his first speech in the Senate, in 1969, which was 25-years to the day after his serious wounds were received in Italy, leading his squad of the 10th Mountain Division in the Italian Alps, Bob Dole, in that first speech, called for the creation of a commission to seek ways to assist people with disabilities. Two decades later, the Americans With Disabilities Act crowned that effort and in Bob Dole's last speech in the United States Senate, he spoke of his meeting and his friendship, his lifelong friendship that was created here with Phil Hart and Danny Inouye.

As a seventeen-year-old, Danny Inouye joined the Army. He joined the 443nd Regimental Combat Team, the 'go for broke' regiment comprised of Japanese American soldiers. Their courage, in the face of often-insurmountable odds make them the most decorated unit in Europe. His extraordinary display of valor led to him receiving the Congressional Medal of Honor.

I want to read just a few words from that particular Medal of Honor award to Danny Inouye. 'He directed his platoon through a hail of automatic weapon and small arms fire. In a swift and developing movement that resulted in the capture of an artillery and mortar post, he brought his men within 40-yards of the hostile force. Emplaced in bunkers and rock formations, the enemy halted the advance with crossfire from three machine guns. With complete disregard for his personal safety, Second Lieutenant Daniel Inouye crawled up the treacherous slope to within five yards of the nearest machine gun and hurled two grenades, destroying the emplacement. Before the enemy could retaliate, he stood up and neutralized a second machine gun. Although wounded by a sniper's bullet, he continued to engage other hostile positions at close range until an exploding grenade shattered his right arm. Despite the intense pain, he refused evacuation and continued to direct his platoon until enemy resistance was broken, and his men were again deployed in defensive positions'.

Now, I read that, not to single out Danny, but to remind us all, that all the while that he, and so many other Americans of Japanese descent like Danny, where fighting for us. Their families were in internment camps, where they had been placed because of their ancestry during World War II, having been torn from their homes at the beginning of the war. In combat, these men learned a valuable lesson that shaped their work in the Senate. In the foxhole, there are no Democrats and Republicans, liberals or conservatives. There are only Americans. Having fought to defeat those who would steal our nation's freedom, each of them, in their Senate careers, sought to ensure that all Americans would continue to realize the promise of justice and liberty, a promise in our Constitution.

Tom Brokaw's name has been mentioned and I just wanted to read for you a short excerpt for an interview that Tom Brokaw had with Larry King:

Tom Brokaw: ''Difficult conditions are a test for great people. About whether they can measure up to it or not. And a lot of these veterans that I have written about'', referring to his book, ''said that it made a man out of me, or a young woman would say I went from being a giddy teenager to being a mature woman overnight.''

And then Brokaw went on, ''I'll just tell you one quick story. I've been talking about the renewed need for public service and having a sense that you do owe your country something. In one hospital ward in Michigan, there was a young man from Kansas who had had his arm shattered in combat in Italy, and in the next bed was a young man from Honolulu who was a Japanese American, who had lost his arm in the 442nd, and in the third bed was a young man from a family in Michigan who was also wounded. And he was able to get out of the hospital, to get theatre tickets and other things. Bob Dole was one. Danny Inouye was the other one. And Phil Hart, for whom the largest Senate office building is now named, was the third one. And they talked about their future lives, and they all decided it would be public service. They had just given up their youth in combat, but they came back and said they wanted to get involved running for public office. And they all ended up in the Senate.''

Larry King said, ''Who could write that? That's fiction.'' And Tom Brokaw said, ''I know, it's amazing.''

This building has helped define our nation for one hundred years, and how truly fitting it is that three of our nations heroes, in war and in peace, whose lives were first intertwined so closely here, whose friendships were forged here, who had a seminal life experience here, who were later united in the Senate, are reunited again in the naming, and renaming, of this federal building. They gained strength here, and then they gave again of that strength to brighten the future of the nation that they loved. The renaming of this building after them is icing on the 100th birthday cake of this wonderful, historic building.

Thank you.

TRIBUTE TO AMBASSADOR JACQUES PAUL KLEIN

Mr. WARNER. Mr. President, I rise today to honor a friend and an outstanding citizen of the Commonwealth of Virginia, Ambassador Jacques Paul Klein, on the occasion of his retirement from the U.S. Foreign Service.

Ambassador Klein was born in Selestat in the Alsace region of France in 1939 and spent the first 5 years of his life living in a war zone. When World War II ended, Ambassador Klein and his mother came to the United States in search of a better life and a brighter future. They settled in Chicago, where Mr. Klein worked his way through school and eventually joined the U.S. Air Force, volunteering to serve his new country in Vietnam. In so doing, he realized a dream that started as a young boy when he watched victorious allied fighter planes flying over France.

In 1971 Mr. Klein joined the Foreign Service. His initial tour of duty was in the Center of the Executive Secretariat, Office of the Secretary of State. He was posted abroad to serve as Consular Officer at the American Consulate General in Bremen, Germany. In 1979 he was selected to attend the National War College and upon graduation served as a Senior Advisor for International Affairs to the Secretary of the Air Force. In 1990 he once again answered the call of his country returning to Europe to serve as Senior Political Advisor to the Commander and Chief of the United States European Command in Stuttgart, Germany.

In 1996 United Nations Secretary General Boutros Boutros Ghali selected him to serve as Transitional Administrator for Eastern Slavonia and Baranya with the rank of Under Secretary-General. After directing another successful international mission, Ambassador Klein once again answered the call of his country—accepting the nomination of the U.S. Government as the Principal Deputy High Representative in Bosnia and Herzegovina.

In 1999 after more then 2 years of dedicated work to rebuild the war-torn Bosnia and Herzegovina, Mr. Klein was named by United Nations Secretary General Kofi Annan as Under Secretary General to the United Nations Mission in Bosnia and Herzegovina. Under the direction of Ambassador Klein, the UN Mission in Bosnia and Herzegovina completed the most extensive police reform and restructuring mission ever undertaken at the United Nations.

Ambassador Klein's distinguished career in the U.S. Foreign Service and U.S. Air Force and Air Force Reserve demonstrates his continued willingness to valiantly serve his country. In addition to retiring as Major General of the U.S. Air Force, Ambassador Klein has been awarded the Secretary of Defense Outstanding Public Service award, the Air Force Distinguished Service Medal, and a Bronze Star.

I am particularly proud of Ambassador Klein for his service to the United States and to the international community. His hard work and commitment to further the cause of international peace, to alleviate suffering, and to help those affected by international conflict have made him a respected member of the U.S. Foreign Service. His central goal in life has been to give something back, through his military and government service, to the country that took him in after World War II and provided him with so many opportunities. To that end, he has been a success that all Virginians and all Americans can be proud of.

I wish to extend my sincerest congratulations to Ambassador Jacques Paul Klein and his family on the occasion of his retirement. I am honored to recognize his many accomplishments and applaud his distinguished service to our great Nation.

IN REMEMBRANCE OF JANINE LOUISE JOHNSON

● Mr. LEAHY. Mr. President, I am here to remember the life of Janine Johnson—formerly with the Senate's Office of Legislative Counsel—who sadly passed away last month while still in the prime of her young life of 37 years.

Janine served in the Senate for 13 years. Some of her major responsibilities included drafting child nutrition and agriculture legislation for me, and for many other Senators.

After beginning her work for the Senate, she had a hand in crafting every major child nutrition law while I was chairman of the Agriculture, Nutrition, and Forestry Committee, when Senator LUGAR took over as chairman after me, and for Chairman TOM HARKIN.

She will be sorely missed as the Senate prepares to complete the child nutrition reauthorization this year.

She was a careful, creative, and precise drafter of some of America's most important nutrition laws, which stand now in silent testament to her life.

She was as cheerful and careful at 2:00 p.m. working out complicated drafts, as she was at 2:00 a.m. working on even more complicated drafts. My senior nutrition counsel for many years, Ed Barron, drove her home more than once after the metro closed at midnight.

I know how hard this tragic loss weighs on her friends and colleagues at the Senate Legislative Counsel's Office.

She was admired by her peers, her friends, and her Senate clients.

It was clear from an early age that Janine would be a star. She graduated first in her class from Winchester High School in Massachusetts.

In 1986, she graduated with high honors from Harvard Law School. She clerked for the Honorable Cecil Poole on the U.S. Court of Appeals for the Ninth Circuit.

Following her clerkship, she came to the Senate Office of Legislative Counsel.

According to Janine's friends here in the Senate, she loved life outside the Senate as much as her work within it. Janine loved theater, music, and swing dancing.

Of Janine it can truly be said, that there has ''passed away a glory from the Earth.''

The poet Wordsworth continues—

''Though nothing can bring back the hour
Of splendor in the grass, of glory in the flower;
We will grieve not, rather find
Strength in what remains behind.''

Janine has touched many of our lives and honored the Senate with her dedicated and outstanding service.●

HONORING OUR ARMED FORCES

Mr. BAYH. Mr. President, I rise today with a heavy heart and deep sense of gratitude to honor the life of a brave young man from Indianapolis, IN. Private Jesse M. Halling, 19 years old, was killed in Tikrit, Iraq on June 7, 2003 when his military police station came under grenade and small-arms fire. Jesse joined the Army with his entire life before him. He chose to risk everything to fight for the values Americans hold close to our hearts, in a land halfway around the world from home.

Jesse was the sixth Hoosier soldier to be killed while serving his country in Operation Iraqi Freedom. Today, I join Jesse's family, his friends, and the entire Indianapolis community in mourning his death. While we struggle to bear our sorrow over his death, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is this courage and strength of character that people will remember when they think of Jesse, a memory that will burn brightly during these continuing days of conflict and grief.

Jesse Halling was a hard-working student, admired by all who knew him for his strong work ethic and remembered by both friends and teachers as a well-liked young man. Friends recall that Jesse always wanted to be a soldier, to follow in the footsteps of his father, who had served for 4 years in the Air Force.

Jesse graduated from Ben Davis High School in 2002, where he was a member of the weighlifting and Spanish clubs. After graduating high school, where he served as part of his school's ROTC unit, Jesse joined the Army in the military police division.

Jesse leaves behind his father, Alma Halling, and his mother, Pamela Halling. As I search for words to do justice in honoring Jesse Halling's sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg: ''We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here.'' This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Jesse Halling's actions will live on far longer than any record of these words.

It is my sad duty to enter the name of Jesse M. Halling in the official record of the Senate for his service to this country and for his profound commitment to freedom, democracy and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families like Jesse's can find comfort in the words of the prophet Isaiah who said, ''He will swallow up death in victory; and the Lord God will wipe away tears form off all faces.''

May God grant strength and peace to those who mourn, and may God bless the United States of America.

ADDITIONAL STATEMENTS

HONORING JESSICA COLLINS

● Mr. BUNNING. Mr. President, I have the privilege and honor of rising today to recognize Miss Jessica Collins of Brandenburg, KY. Jessica was selected as Kentucky's winner of the 2003 Future Farmers of America Award. Jessica was recognized at an awards gala hosted by the Louisville Courier-Journal Newspaper as part of their 2003 Salute to Young Achievers.

Jessica earned this distinguished honor by sharing her commitment to agricultural development through a written essay reviewed and selected by the Kentucky Association of Future Farmers of America and the Kentucky Department of Education. The thoughts conveyed in her essay are not empty words, but instead, hours of hard work show her commitment to excellence.

A graduate of Meade County High School, Jessica's future plans include pursuing a college degree and continuing her passion of ranching. Currently, over 19 Angus cows and numerous farming equipment fall under her ownership and direction. This strong business interest was first sparked in her local 4–H chapter and will aid her as she seeks an economics degree at Western Kentucky University.

I am pleased that Jessica takes such an interest in her community and in agriculture. Her expertise and experience will serve Kentucky well. I want to thank the Senate for allowing me to congratulate Jessica Collins. She is one of Kentucky's finest gems.●

IN HONOR OF NIRMAL K. SINHA OF OHIO

● Mr. VOINOVICH. Mr. President, I rise today to congratulate and pay tribute to Mr. Nirmal K. Sinha of Worthington, OH, as a 2003 Ellis Island Medal of Honor recipient.

The prestigious Ellis Island Medal of Honor award is presented annually to ''remarkable Americans who exemplify outstanding qualities in both their personal and professional lives,'' and ''who have distinguished themselves as citizens of the United States, while continuing to preserve the richness of their particular heritage.''

Nirmal Sinha is such an American. In addition to creating a business in Ohio and being active in numerous civic organizations. Nirmal and his wife Tripta have maintained strong ties to the Asian Indian American community. I have often said, ''show me someone who is proud of their ethnic heritage and I'll show you a great American!''

I am proud to say I have worked with Nirmal Sinha for many years. In 1992, as Governor of Ohio, I appointed him to the Ohio Civil Rights Commission. I reappointed him in 1997, and I am gratified that Mr. Sinha served two 5-year terms, helping to enforce State laws prohibiting discrimination in housing, employment, credit, and higher education. He has worked with the U.S. Department of Housing and Urban Development and the U.S. Equal Employment Opportunity Commission to develop outreach programs, particularly to Hispanic and Asian Americans.

As mayor of Cleveland and as Governor of Ohio, I was close to the Asian Indian American community and knew of Nirmal's distinguished record as a business leader and someone who was active in a variety of civic organizations. Some of those organizations include the Asian Indian American Business Group, AIABG, of Columbus, founding member of the Global Organization of People of Indian Origin, GOPIO, the Asian Indian Alliance of Ohio, and the Asian Indian Forum for Political Education.

Mr. Sinha also has served as a member of the Ameritech Consumer Advisory Board, Columbus International Program, and Main Street Business Association, member of the advisory board to the Ohio State University's Department of Communications, and a director of the Central Ohio March of Dimes and the International Center in Columbus.

Nirmal Sinha is an accomplished professional who always makes time to give to others. Mr. Sinha is active in

both the National Association of Human Rights Workers, NAHRW, and the International Association of Official Human Rights Agencies, IAOHRA.

In 1998, the Columbus Dispatch awarded Mr. Sinha the Outstanding Community Service Award. In 1989, he received the Outstanding Community Service Award from the mayor of Columbus.

Mr. Sinha's record in human rights is exceptional. In 1998, he initiated the first ever ''Asian Roundtable'' discussion on Civil Rights with joint efforts involving the Equal Employment Opportunity Commission and the Ohio Rights Commission. Also in 1998, Mr. Sinha received the Dr. Martin Luther King, Jr. Award for Community Service to the State of Ohio.

In his profession, Mr. Sinha is an accomplished mechanical engineer and has been involved in the design and construction of large electric power plants. He holds a bachelor's degree in mechanical engineering from Jadavapur University in Calcutta, India, and a master's degree from the Polytechnic University of New York. He also studied management at the Ohio State University and computer science at Franklin University. Currently, he is president of Marketing USA Group, a consulting firm he founded which advises clients on energy, telecommunications, technology, and global business.

As a humanitarian, Mr. Sinha is known for his quiet leadership. He has been called ''a humble man with a compassion for human and civil rights.'' Throughout his career, Nirmal Sinha has exemplified the highest American values, including good citizenship, and responsibility to his fellow man.

Nirmal Sinha is very deserving of the Ellis Island Medal of Honor. America is a nation of immigrants, and I believe our cultural and ethnic diversity helps make us strong.

When I was Governor of Ohio, one of the goals that I set for my administration was to celebrate the cultural diversity of our State by seeking out individuals from nontraditional ethnic groups and giving them an opportunity to serve. I am proud that I appointed a number of Asian Indian Americans, such as Nirmal Sinha, to various boards and commissions, particularly in such fields, as medicine, manufacturing, and higher education.

Mr. Sinha is in good company as a recipient of the Ellis Island Medal of Honor. Former recipients include four Presidents, several Senators and Congressmen, and Nobel Prize winners.

As someone who has had the pleasure of knowing and working with Mr. Sinha, I can guarantee that his significant contributions to his community and to the State of Ohio will not stop, but will continue to grow. I also know that he does not seek recognition for his humanitarian service. Instead, he lives in accordance with his strong faith, and his commitment to education, his family, and his community.

Nirmal Sinha is someone all of us would do well to emulate and I am pleased and proud to salute him and his wife Tripti and their two daughters.

I congratulate Nirmal Sinha as a 2003 Ellis Island Medal of Honor winner. He is an outstanding American whose dedicated service to others helps improve the quality of life for his fellow Americans every day.●

MESSAGE FROM THE HOUSE

At 3:30 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 925. An act to redesignate the facility of the United States Postal Service located at 1859 South Ashland Avenue in Chicago, Illinois, as the ''Cesar Chavez Post Office''.

H.R. 1086. An act to encourage the development and promulgation of voluntary consensus standards by providing relief under the antitrust laws to standards development organizations with respect to conduct engaged in for the purpose of developing voluntary consensus standards, and for other purposes.

H.R. 1529. An act to amend title 11 of the United States Code with respect to the dismissal of certain involuntary cases.

H.R. 2030. An act to designate the facility of the United States Postal Service located at 120 Baldwin Avenue in Paia, Maui, Hawaii, as the ''Patsy Takemoto Mink Post Office Building''.

H.R. 2143. An act to prevent the use of certain bank instruments for unlawful Internet gambling, and for other purposes;

The message also announced that pursuant to 22 U.S.C. 6913, and the order of the House of January 8, 2003, the Speaker appoints the following Members of the House of Representatives to the Congressional-Executive Commission on the People's Republic of China: Mr. LEVIN of Michigan; Ms. KAPTUR of Ohio; Mr. BROWN of Ohio.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 925. An act to redesignate the facility of the United States Postal Service located at 1859 South Ashland Avenue in Chicago, Illinois, as the ''Cesar Chavez Post Office''; to the Committee on Governmental Affairs.

H.R. 1086. An act to encourage the development and promulgation of voluntary consensus standards by providing relief under the antitrust laws to standards development organizations with respect to conduct engaged in for the purpose of developing voluntary consensus standards, and for other purposes; to the Committee on the Judiciary.

H.R. 1529. An act to amend title 11 of the United States Code with respect to the dismissal of certain involuntary cases; to the Committee on the Judiciary.

H.R. 2030. An act to designate the facility of the United States Postal Service located at 120 Baldwin Avenue in Paia, Maui, Hawaii, as the ''Patsy Takemoto Mink Post Office Building''; to the Committee on Governmental Affairs.

H.R. 2143. An act to prevent the use of certain bank instruments for unlawful Internet gambling, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, June 11, she had presented to the President of the United States the following enrolled bills:

S. 222. An act to approve the settlement of the water rights claims of the Zuni Indian Tribe in Apache County, Arizona, and for other purposes.

S. 273. An act to provide for the expeditious completion of the acquisition of land owned by the State of Wyoming within the boundaries of Grand Teton National Park, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–2657. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Rock Rapids, IA; Docket No. 03–ACE–28 (2120–AA66) (2003–0097)'' received on June 9, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2658. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace Crete, NE; Docket No. 03–ACE–33 (2120–AA66) (2003–0096)'' received on June 9, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2659. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Saginaw, MI; Docket No. 02–AGL–17 (2120–AA66) (2003–0095)'' received on June 9, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2660. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Berrien Springs, MI; Docket No. 02–AGL–20 (2120–AA66) (2003–0094)'' received on June 9, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2661. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Greenfield; IA; Docket No. 03–ACE–19 (2120–AA66) (2003–0093)'' received on June 9, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2662. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; St. Louis, MO; Docket No. 03–ACE–26 (2120–AA66) (2003–0092)''; to the Committee on Commerce, Science, and Transportation.

EC–2663. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace

Marshalltown, IA; Docket No. 03–ACE–24 (2120–AA66) (2003–0091)''; to the Committee on Commerce, Science, and Transportation.

EC–2664. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas model MD 90–30 Airplanes; Docket No. 2001–NM–173 (2120–AA64) (2003–0215)''; to the Committee on Commerce, Science, and Transportation.

EC–2665. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model MD 90–30 Airplanes; Docket No. 2001–NM–386 (2120–AA64) (2003–0214)''; to the Committee on Commerce, Science, and Transportation.

EC–2666. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 757–200, 200CB, and 200PF Series Airplanes; Docket No. 2001–NM–329 (2120–AA64) (2003–0213)''; to the Committee on Commerce, Science, and Transportation.

EC–2667. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 737–100, 200, 200C, 300, 400, and 500 Series Airplanes; Docket No. 2000–NM–343 (2120–AA64) (2003–0212)''; to the Committee on Commerce, Science, and Transportation.

EC–2668. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Raytheon Aircraft Company Model 1900D Airplanes; Docket No. 2002–CE–26 (2120–AA64) (2003–0211)''; to the Committee on Commerce, Science, and Transportation.

EC–2669. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: General Electric CF34–8C1 Turbofan Engines; Docket No. 2002–NE–23 (2120–AA64) (2003–0210)''; to the Committee on Commerce, Science, and Transportation.

EC–2670. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: New Poper Aircraft, Inc. Models PA 23, 160, 235, 250, and PA–E23–250 Airplanes; Docket No. 2002–CE–44 (2120–AA64) (2003–0209)''; to the Committee on Commerce, Science, and Transportation.

EC–2671. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Raytheon Aircraft Company Beech Models C35, D35, E35, F35, G35, H35, J35, K35, M35, N35, P35, S35, V35, V35A, and V35B Airplanes; Docket No. 93–CE–37 (2120–AA64) (2003–0208)''; to the Committee on Commerce, Science, and Transportation.

EC–2672. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportion, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Rolls Royce plc RB211 Series Turbofan Engines; Docket No. 2003–NE–15 (2120–AA64) (2003–0207)''; to the Committee on Commerce, Science, and Transportation.

EC–2673. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model 717–200 Airplanes; Docket No. 2001–NM–245 (2120–AA64) (2003–0206)''; to the Committee on Commerce, Science, and Transportation.

EC–2674. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model 717–200 Airplanes; Docket No. 309 (2120–AA64) (2003–0205)''; to the Committee on Commerce, Science, and Transportation.

EC–2675. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Raytheon Model Beech 400A and 400T Series Airplanes; Docket No. 2001–NM–335 (2120–AA64) (2003–0204)''; to the Committee on Commerce, Science, and Transportation.

EC–2676. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: MORAVAN a.s. Model Z 242L Airplanes; Docket No. 2003–CE–24 (2120–AA64) (2003–0203)''; to the Committee on Commerce, Science, and Transportation.

EC–2677. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 767–200 and 300 Series Airplanes; Docket No. 2002–N–10 (2120–AA64) (2003–0202)''; to the Committee on Commerce, Science, and Transportation.

EC–2678. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (19); Amdt. No. 3060 (2120–AA65) (2003–0025)''; to the Committee on Commerce, Science, and Transportation.

EC–2679. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bombardier Model CL 600–IA11, CL 600 2A12, and CL600–2B16, Series Airplanes: Docket No. 2002–NM–317 (2120–AA64) (2003–0183)''; to the Committee on Commerce, Science, and Transportation.

EC–2680. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 737–200, 200C, 300, 400, and 500 Series Airplanes; Docket No. 2002–NM–329 (2120–AA64) (2003–0182)''; to the Committee on Commerce, Science, and Transportation.

EC–2681. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Pilatus Aircraft Ltd., Models PC–12 and PC 12/45 Airplanes; Docket No. 2003–CE–02 (2120–AA64) (2003–0181)''; to the Committee on Commerce, Science, and Transportation.

EC–2682. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bell Helicopter Textron Canada Model 222, 22b, 22u, and 230 Helicopters; Docket No. 2003–SW–01 (2120–AA64) (2003–0178)''; to the Committee on Commerce, Science, and Transportation.

EC–2683. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model DC 10–10, 10F, 15, 30, 30, 40, 40F, 10F, 30, MD–11 and MD–11F Airplanes; Docket No. 2003–NM–42 (2120–AA64) (2003–0180)''; to the Committee on Commerce, Science, and Transportation.

EC–2684. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model MD 11 and 11F S Airplanes; Docket No. 2001–NM–62 (2120–AA64) (2003–0198)''; to the Committee on Commerce, Science, and Transportation.

EC–2685. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Aerospatiale Model ATR 42 500 Airplanes; and Model ATR72–102, 202, 212, and 212A Series Airplanes; Docket No. 2002–NM–73 (2120–AA64) (2003–0197)'' received on June 3, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2686. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model DC 10–10F, 15, 30, 30F (KC10A and KDC 10), 40, 40F, MD 10 10F and 10 30F Airplanes; Docket No. 2001–NM–99 (2120–AA64) (2003–0196)'' received on June 3, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2687. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Pilatus Aircraft Ltd. Models PC 12 and PC 12/45 Airplanes; Docket No. 2003–CE–06 (2120–AA64) (2003–0195)'' received on June 3, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2688. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 767–200, 300 and 300F Series Airplanes; Docket No. 2002–NM–158 (2120–AA64) (2003–0194)'' received on June 3, 2003; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GREGG, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 686. A bill to provide assistance for poison prevention and to stabilize the funding of regional poison control centers (Rept. No. 108–68).

EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted:

By Mr. GREGG for the Committee on Health, Education, Labor, and Pensions.

*Anne Rader, of Virginia, to be a Member of the National Council on Disability for a term expiring September 17, 2004.

*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. FRIST (for himself, Mr. GRASSLEY, and Mr. BAUCUS):

S. 1. A bill to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; to the Committee on Finance.

By Mr. ALLARD:

S. 1230. A bill to provide for additional responsibilities for the Chief Information Officer of the Department of Homeland Security relating to geospatial information; to the Committee on Governmental Affairs.

By Mr. SCHUMER:

S. 1231. A bill to eliminate the burdens and costs associated with electronic mail spam by prohibiting the transmission of all unsolicited commercial electronic mail to persons who place their electronic mail addresses on a national No-Spam Registry, and to prevent fraud and deception in commercial electronic mail by imposing requirements on the content of all commercial electronic mail messages; to the Committee on Commerce, Science, and Transportation.

By Mr. HATCH:

S. 1232. A bill to designate the newly-constructed annex to the E. Barrett Prettyman Courthouse located at 333 Constitution Ave., N.W. in Washington D.C., as the ''James L. Buckley Annex to the E. Barrett Prettyman United States Courthouse''; to the Committee on Environment and Public Works.

By Ms. MIKULSKI (for herself, Mr. HATCH, Mr. SARBANES, Mr. EDWARDS, Mr. LAUTENBERG, Mrs. CLINTON, and Mr. CORZINE):

S. 1233. A bill to authorize assistance for the National Great Blacks in Wax Museum and Justice Learning Center; to the Committee on the Judiciary.

By Mr. MCCAIN (for himself and Mr. SMITH):

S. 1234. A bill to reauthorize the Federal Trade Commission, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. EDWARDS (for himself, Mr. REED, and Mr. ROBERTS):

S. 1235. A bill to increase the capabilities of the United States to provide reconstruction assistance to countries or regions impacted by armed conflict, and for other purposes; to the Committee on Foreign Relations.

By Mr. CAMPBELL (for himself and Mr. ALLARD):

S. 1236. A bill to direct the Secretary of the Interior to establish a program to control or eradicate tamarisk in the western States, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BENNETT (for himself, Mr. HATCH, Mr. CRAPO, Mr. CRAIG, and Mr. DORGAN):

S. 1237. A bill to amend the Rehabilitation Act of 1973 to provide for more equitable allotment of funds to States for centers for independent living; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. LINCOLN (for herself, Mrs. MURRAY, Ms. LANDRIEU, and Ms. CANTWELL):

S. 1238. A bill to amend titles XVIII, XIX, and XXI of the Social Security Act to improve women's health, and for other purposes; to the Committee on Finance.

By Mr. CRAIG:

S. 1239. A bill to amend title 38, United States Code, to provide special compensation for former prisoners of war, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. LUGAR:

S. 1240. A bill to establish the Millennium Challenge Corporation, and for other purposes; to the Committee on Foreign Relations.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 1241. A bill to establish the Kate Mullany National Historic Site in the State of New York, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DODD:

S. 1242. A bill to designate the Department of Veterans Affairs outpatient clinic in New London, Connecticut, as the ''John J. McGuirk Department of Veterans Affairs Outpatient Clinic''; to the Committee on Veterans' Affairs.

By Mr. SCHUMER (for himself and Mr. DURBIN):

S. 1243. A bill to amend section 924, title 18, United States Code, to increase the maximum term of imprisonment for interstate firearms trafficking and to include interstate firearms trafficking in the definition of racketeering activity, and for other purposes; to the Committee on the Judiciary.

By Mr. MCCAIN (for himself, Mr. HOLLINGS, and Mrs. HUTCHISON):

S. 1244. A bill to authorize appropriations for the Federal Maritime Commission for fiscal years 2004 and 2005; 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. CORNYN:

S. Res. 166. A resolution recognizing the United States Air Force's Air Force News Agency on the occasion of its 25th anniversary and honoring the Air Force personnel who have served the Nation while assigned to that agency; to the Committee on the Judiciary.

By Mr. LEVIN (for himself and Ms. STABENOW):

S. Con. Res. 53. A concurrent resolution honoring and congratulating chambers of commerce for their efforts that contribute to the improvement of communities and the strengthening of local and regional economies; to the Committee on the Judiciary.

By Mr. COCHRAN (for himself and Mr. LOTT):

S. Con. Res. 54. A concurrent resolution commending Medgar Wiley Evers and his widow, Myrlie Evers-Williams for their lives and accomplishments, designating a Medgar Evers National Week of Remembrance, and for other purposes; considered and agreed to.

ADDITIONAL COSPONSORS

S. 56

At the request of Mr. JOHNSON, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 56, a bill to restore health care coverage to retired members of the uniformed services.

S. 68

At the request of Mr. INOUYE, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 68, a bill to amend title 38, United States Code, to improve benefits for Filipino veterans of World War II, and for other purposes.

S. 98

At the request of Mr. ALLARD, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 98, 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. 136

At the request of Mrs. LINCOLN, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 136, a bill to amend the Tariff Act of 1930 to provide for an expedited antidumping investigation when imports increase materially from new suppliers after an antidumping order has been issued, and to amend the provision relating to adjustments to export price and constructed export price.

S. 340

At the request of Mr. BUNNING, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 340, a bill to authorize the Secretary of Health and Human Services to make grants to nonprofit tax-exempt organizations for the purchase of ultrasound equipment to provide free examinations to pregnant women needing such services, and for other purposes.

S. 448

At the request of Mr. DODD, the names of the Senator from California (Mrs. BOXER) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. 448, a bill to leave no child behind.

S. 481

At the request of Mr. ALLEN, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 481, a bill to amend chapter 84 of title 5, United States Code, to provide that certain Federal annuity computations are adjusted by 1 percentage point relating to periods of receiving disability payments, and for other purposes.

S. 493

At the request of Mrs. LINCOLN, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 493, a bill to amend title XVIII of the Social Security Act to authorize physical therapists to evaluate and treat medicare beneficiaries without a requirement for a physician referral, and for other purposes.

S. 517

At the request of Mrs. MURRAY, the name of the Senator from Maryland

(Ms. MIKULSKI) was added as a cosponsor of S. 517, a bill to amend title 38, United States Code, to provide improved benefits for veterans who are former prisoners of war.

S. 518

At the request of Ms. COLLINS, the names of the Senator from South Carolina (Mr. GRAHAM), the Senator from New Jersey (Mr. CORZINE) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 518, a bill to increase the supply of pancreatic islet cells for research, to provide better coordination of Federal efforts and information on islet cell transplantation, and to collect the data necessary to move islet cell transplantation from an experimental procedure to a standard therapy.

S. 620

At the request of Mr. EDWARDS, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 620 , a bill to amend title VII of the Higher Education Act of 1965 to provide for fire sprinkler systems, or other fire suppression or prevention technologies, in public and private college and university housing and dormitories, including fraternity and sorority housing and dormitories.

S. 640

At the request of Mr. LEAHY, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 640, a bill to amend subchapter III of chapter 83 and chapter 84 of title 5, United States Code, to include Federal prosecutors within the definition of a law enforcement officer, and for other purposes.

S. 678

At the request of Mr. AKAKA, the names of the Senator from Montana (Mr. BURNS) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 678, a bill to amend chapter 10 of title 39, United States Code, to include postmasters and postmasters organizations in the process for the development and planning of certain policies, schedules, and programs, and for other purposes.

S. 684

At the request of Mr. SMITH, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 684, a bill to create an office within the Department of Justice to undertake certain specific steps to ensure that all American citizens harmed by terrorism overseas receive equal treatment by the United States Government regardless of the terrorists' country of origin or residence, and to ensure that all terrorists involved in such attacks are pursued, prosecuted, and punished with equal vigor, regardless of the terrorists' country of origin or residence.

S. 700

At the request of Mr. CAMPBELL, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 700, a bill to provide for the promotion of democracy, human rights, and rule of law in the Republic of Belarus and for the consolidation and strengthening of Belarus sovereignty and independence.

S. 736

At the request of Mr. ENSIGN, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 736, a bill to amend the Animal Welfare Act to strengthen enforcement of provisions relating to animal fighting, and for other purposes.

S. 854

At the request of Mr. DAYTON, the names of the Senator from Oregon (Mr. SMITH) and the Senator from Washington (Mrs . MURRAY) were added as cosponsors of S. 854, a bill to authorize a comprehensive program of support for victims of torture, and for other purposes.

S. 854

At the request of Mr. COLEMAN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 854, supra.

S. 884

At the request of Ms. LANDRIEU, the names of the Senator from Nebraska (Mr. HAGEL) and the Senator from Mississippi (Mr. LOTT) were added as cosponsors of S. 884, a bill to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes.

S. 902

At the request of Ms. LANDRIEU, the names of the Senator from Virginia (Mr. ALLEN) and the Senator from Mississippi (Mr. LOTT) were added as cosponsors of S. 902, a bill to declare, under the authority of Congress under Article I, section 8, of the Constitution to ''provide and maintain a Navy'', a national policy for the naval force structure required in order to ''provide for the common defense'' of the United States throughout the 21st century.

S. 982

At the request of Mrs. BOXER, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 982, 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 hold Syria accountable for its role in the Middle East, and for other purposes.

S. 990

At the request of Ms. LANDRIEU, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 990, a bill to amend title 32, United States Code, to increase the maximum Federal share of the costs of State programs under the National Guard Challenge Program, and for other purposes.

S. 1091

At the request of Mr. DURBIN, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 1091, a bill to provide funding for student loan repayment for public attorneys.

S. 1121

At the request of Mr. BAUCUS, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 1121, a bill to extend certain trade benefits to countries of the greater Middle East.

S. 1138

At the request of Mr. COLEMAN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1138, a bill to amend the Employee Retirement Income Security Act of 1974, Public Health Service Act, and the Internal Revenue Code of 1986 to provide parity with respect to substance abuse treatment benefits under group health plans and health insurance coverage.

S. 1146

At the request of Mr. CONRAD, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 1146, a bill to implement the recommendations of the Garrison Unit Tribal Advisory Committee by providing authorization for the construction of a rural health care facility on the Fort Berthold Indian Reservation, North Dakota.

S. 1155

At the request of Mr. GRASSLEY, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. 1155, a bill to repeal section 801 of the Revenue Act of 1916.

S. 1182

At the request of Mrs. FEINSTEIN, the names of the Senator from Michigan (Mr. LEVIN), the Senator from New York (Mrs. CLINTON) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 1182, a bill to sanction the ruling Burmese military junta, to strengthen Burma's democratic forces and support and recognize the National League of Democracy as the legitimate representative of the Burmese people, and for other purposes.

S. 1215

At the request of Mr. MCCONNELL, the names of the Senator from Connecticut (Mr. DODD), the Senator from Colorado (Mr. CAMPBELL) and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S. 1215, a bill to sanction the ruling Burmese military junta, to strengthen Burma's democratic forces and support and recognize the National League of Democracy as the legitimate representative of the Burmese people, and for other purposes.

S. 1215

At the request of Mr. KERRY, his name was added as a cosponsor of S. 1215, supra.

S. 1215

At the request of Mr. NICKLES, his name was added as a cosponsor of S. 1215, supra.

S. CON. RES. 40

At the request of Mrs. CLINTON, the name of the Senator from Maryland

(Ms. MIKULSKI) was added as a cosponsor of S. Con. Res. 40, a concurrent resolution designating August 7, 2003, as ''National Purple Heart Recognition Day''.

S. RES. 164

At the request of Mr. ENSIGN, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from Nevada (Mr. REID) were added as cosponsors of S. Res. 164, a resolution reaffirming support of the Convention on the Prevention and Punishment of the Crime of Genocide and anticipating the commemoration of the 15th anniversary of the enactment of the Genocide Convention Implementation Act of 1987 (the Proxmire Act) on November 4, 2003.

AMENDMENT NO. 876

At the request of Mrs. FEINSTEIN, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of amendment No. 876 proposed to S. 14, a bill to enhance the energy security of the United States, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FRIST (for himself, Mr. GRASSLEY, and Mr. BAUCUS):

S. 1. A bill to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; to the Committee on Finance.

S. 1

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

SECTION 1. SHORT TITLE; SENSE OF THE CONGRESS.

(a) SHORT TITLE.—This Act may be cited as the ''Prescription Drug and Medicare Improvement Act of 2003''.

(b) SENSE OF THE CONGRESS.—It is the Sense of the Congress that the Congress should enact, and the President should sign, legislation to amend title XVIII of the Social Security Act to make improvements in the medicare program and to provide prescription drug coverage under the medicare program.

By Mr. HATCH:

S. 1232. A bill to designate the newly-constructed annex to the E. Barrett Prettyman Courthouse located at 333 Constitution Ave., NW., in Washington, DC., as the ''James L. Buckley Annex to the E. Barrett Prettyman United States Courthouse''; to the Committee on Environment and Public Works.

Mr. HATCH. Mr. President, I rise today to introduce a bill to designate the newly-constructed annex to the E. Barrett Prettyman United States Courthouse as the ''James L. Buckley Annex.'' As members of this body well know, Judge Buckley served in this Senate from 1971–77, as a trusted colleague from the State of New York. During his tenure here, Judge Buckley was greatly admired for his dedication, integrity, and professionalism.

Judge Buckley's lengthy public service career is one of great distinction. In addition to the time he spent here in the Senate, Judge Buckley served in the United States Navy during World War II, as Undersecretary of State for Security Assistance, and as President of Radio Free Europe. Most recently, he served for more than a decade as a Circuit Judge on the United States Court of Appeals for the District of Columbia Circuit, in the E. Barrett Prettyman courthouse.

Earlier this Congress, we honored Judge Buckley, on the celebration of his 80th birthday, by passing unanimously a resolution, S. Res. 88, acknowledging his distinguished career in the executive, legislative, and judicial branches of the United States.

Naming the new annex to the E. Barrett Prettyman courthouse after Judge Buckley would be a fitting tribute to our former colleague and prominent jurist. I am honored to offer this legislation, and I urge my colleagues to support this well-deserved commendation.

By Ms. MIKULSKI (for herself, Mr. HATCH, Mr. SARBANES, Mr. EDWARDS, Mr. LAUTENBERG, Mrs. CLINTON, and Mr. CORZINE):

S. 1233. A bill to authorize assistance for the National Great Blacks in Wax Museum and Justice Learning Center; to the Committee on the Judiciary.

Ms. MIKULSKI. Mr. President, I rise to introduce the National Great Black Americans Commemoration Act. I am proud to sponsor this legislation. Black Americans have a rich history that must be cherished and remembered. This bill will honor African American leaders from across the country—some who are well known, and others who are almost forgotten—by helping to preserve their names, faces, and stories for generations to come.

This legislation will provide Federal assistance to expand exhibits and educational programs at the National Great Blacks in Wax Museum and Justice Learning Center in Baltimore, Maryland. The museum showcases the lives of great Black Americans who have proudly served the United States—from civil servants like Mary McLeod Bethune, to military heroes like Colin Powell, to Congressional leaders like Senator Edward Brooke, R-MA, and civil rights leaders like Rosa Parks. Some are household names, like Frederick Douglass and Dr. Martin Luther King, Jr. Yet many more are unfamiliar, like the 22 African Americans who served in Congress in the 1800s. It's time we give these pioneers the recognition they deserve.

Maryland is proud to be home to so many important figures in black history. From the dark days of slavery through the civil rights movement, Marylanders have led the way. The brilliant Frederick Douglass was the voice of the voiceless in the struggle against slavery. The courageous Harriet Tubman delivered 300 slaves to freedom on the Underground Railroad. The great Thurgood Marshall argued the Brown v. Board of Education Case before the Supreme Court, and later became a Supreme Court Justice himself.

Maryland is home to contemporary leaders, too. The dynamic Kweisi Mfume, president of the NAACP, who, like me, came out of the Baltimore City Council. The passionate ELIJAH CUMMINGS, Chair of the Congressional Black Caucus. Clarence Mitchell who was called by many the 101st Senator. Parren Mitchell and AL WYNN, fighting for their constituents. And all the members of the NAACP, which calls Baltimore home.

It is fitting that the national Great Blacks in Wax Museum and Justice Learning Center also calls Baltimore home. The museum and learning center is a popular and respected black history museum. Approximately 300,000 people a year from around the country and the world visit the museum. Many are school children, who can see historical figures come to life in the museum's exhibits. Expansion will allow the museum to teach even more visitors about the important contributions of Black Americans. It will also help revitalize a poor neighborhood in East Baltimore. There will be new jobs. There will be more tourists. There will be new small businesses. And most important, there will be new inspiration for our young people.

The State of Maryland and City of Baltimore have already contributed over $5 million toward this expansion project. Private donors are contributing too. Now it's time for the Federal Government to do its part. Let's help make this museum a treasure for the entire Nation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1233

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 ''National Great Black Americans Commemoration Act of 2003''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Black Americans have served honorably in Congress, in senior executive branch positions, in the law, the judiciary, and other fields, yet their record of service is not well known by the public, is not included in school history lessons, and is not adequately presented in the Nation's museums.

(2) The Great Blacks in Wax Museum, Inc. in Baltimore, Maryland, a nonprofit organization, is the Nation's first wax museum presenting the history of great Black Americans, including those who have served in Congress, in senior executive branch positions, in the law, the judiciary, and other fields, as well as others who have made significant contributions to benefit the Nation.

(3) The Great Blacks in Wax Museum, Inc. plans to expand its existing facilities to establish the National Great Blacks in Wax

Museum and Justice Learning Center, which is intended to serve as a national museum and center for presentation of wax figures and related interactive educational exhibits portraying the history of great Black Americans.

(4) The wax medium has long been recognized as a unique and artistic means to record human history through preservation of the faces and personages of people of prominence, and historically, wax exhibits were used to commemorate noted figures in ancient Egypt, Babylon, Greece, and Rome, in medieval Europe, and in the art of the Italian renaissance.

(5) The Great Blacks in Wax Museum, Inc. was founded in 1983 by Drs. Elmer and Joanne Martin, 2 Baltimore educators who used their personal savings to purchase wax figures, which they displayed in schools, churches, shopping malls, and festivals in the mid-Atlantic region.

(6) The goal of the Martins was to test public reaction to the idea of a Black history wax museum and so positive was the response over time that the museum has been heralded by the public and the media as a national treasure.

(7) The museum has been the subject of feature stories by CNN, the Wall Street Journal, the Baltimore Sun, the Washington Post, the New York Times, the Chicago Sun Times, the Dallas Morning News, the Los Angeles Times, USA Today, the Afro American Newspaper, Crisis, Essence Magazine, and others.

(8) More than 300,000 people from across the Nation visit the museum annually.

(9) The new museum will carry on the time honored artistic tradition of the wax medium; in particular, it will recognize the significant value of this medium to commemorate and appreciate great Black Americans whose faces and personages are not widely recognized.

(10) The museum will employ the most skilled artisans in the wax medium, use state-of-the-art interactive exhibition technologies, and consult with museum professionals throughout the Nation, and its exhibits will feature the following:

(A) Blacks who have served in the Senate and House of Representatives of the United States, including those who represented constituencies in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Virginia during the 19th century.

(B) Blacks who have served in the judiciary, in the Department of Justice, as prominent attorneys, in law enforcement, and in the struggle for equal rights under the law.

(C) Black veterans of various military engagements, including the Buffalo Soldiers and Tuskegee Airmen, and the role of Blacks in the settlement of the western United States.

(D) Blacks who have served in senior executive branch positions, including members of Presidents' Cabinets, Assistant Secretaries and Deputy Secretaries of Federal agencies, and Presidential advisers.

(E) Other Blacks whose accomplishments and contributions to human history during the last millennium and to the Nation through more than 400 years are exemplary, including Black educators, authors, scientists, inventors, athletes, clergy, and civil rights leaders.

(11) The museum plans to develop collaborative programs with other museums, serve as a clearinghouse for training, technical assistance, and other resources involving use of the wax medium, and sponsor traveling exhibits to provide enriching museum experiences for communities throughout the Nation.

(12) The museum has been recognized by the State of Maryland and the city of Baltimore as a preeminent facility for presenting and interpreting Black history, using the wax medium in its highest artistic form.

(13) The museum is located in the heart of an area designated as an empowerment zone, and is considered to be a catalyst for economic and cultural improvements in this economically disadvantaged area.

SEC. 3. ASSISTANCE FOR NATIONAL GREAT BLACKS IN WAX MUSEUM AND JUSTICE LEARNING CENTER.

(a) ASSISTANCE FOR MUSEUM.—Subject to subsection (b), the Attorney General, acting through the Office of Justice Programs of the Department of Justice, shall, from amounts made available under subsection (c), make a grant to the Great Blacks in Wax Museum, Inc. in Baltimore, Maryland, to pay the Federal share of the costs of expanding and creating the National Great Blacks in Wax Museum and Justice Learning Center, including the cost of its design, planning, furnishing, and equipping.

(b) GRANT REQUIREMENTS.—

(1) IN GENERAL.—To receive a grant under subsection (a), the Great Blacks in Wax Museum, Inc. shall submit to the Attorney General a proposal for the use of the grant, which shall include detailed plans for the design, construction, furnishing, and equipping of the National Great Blacks in Wax Museum and Justice Learning Center.

(2) FEDERAL SHARE.—The Federal share of the costs described in subsection (a) shall not exceed 25 percent.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $15,000,000, to remain available until expended.

Mr. HATCH. Mr. President, I am proud to join Senator MIKULSKI as cosponsor of the ''National Great Black Americans Commemoration Act of 2003.'' This legislation will help offer a more complete portrayal of our Nation's proud history—one that includes an increased awareness of the contributions made by many great black Americans of various fields and accomplishments.

This legislation seeks to recognize the contributions of African Americans who have served in Congress or other government capacities, in the military, or in other important roles as educators, authors, scientists, inventors, athletes, clergy and civil rights leaders. Clearly, there are few, if any, areas of American culture and history that have not been touched and improved upon by the impact of black individuals. As we recognize this, it is important that we also recognize those whose goal is to make available the history of these outstanding people.

One such institution is The Great Blacks in Wax Museum, a nonprofit organization in Baltimore, MD, whose mission is to present the history of black Americans and to highlight their contributions to our nation. I believe that this institution's work thus far and its goals for the future make it worthy of our support. This legislation not only commends the efforts made by this museum to date, but authorizes the appropriation of funds that will help the museum to improve and expand. Appropriate Federal assistance, coupled with other funding raised by the museum, will allow the current institution to become the National Great Blacks in Wax Museum and Justice Learning Center, which will be better equipped to serve its purposes. This improved museum will be a bright example for projects with similar goals and will provide an excellent source of historical education for all who visit.

I am a strong believer that our history should be presented in a complete and accurate manner. Where we have understated in the past, we should make amends. The development of the National Great Blacks in Wax Museum and Justice Learning Center will be a valuable statement recognizing the contributions of so many great African Americans. I hope that my colleagues will see the merit in this endeavor and will lend their support to the National Great Black Americans Commemoration Act.

By Mr. MCCAIN (for himself and Mr. SMITH):

S. 1234. A bill to reauthorize the Federal Trade Commission, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. MCCAIN. Mr. President, today I am joined by the Chairman of the Senate Commerce Committee's Competition, Foreign Commerce, and Infrastructure Subcommittee, Senator SMITH, in introducing the Federal Trade Commission Reauthorization Act of 2003. This legislation is designed to reauthorize the Federal Trade Commission, FTC or Commission, in furtherance of its mission to enhance the efficient operation of the marketplace by both eliminating acts or practices that are unfair or deceptive and preventing anti-competitive conduct. This vital consumer protection agency has not been reauthorized since 1996.

Title I of the bill is nearly identical to legislation that was reported by the Commerce Committee last year. It would authorize funding for Fiscal Years 2004 through 2006. In addition, this portion of the bill would authorize the FTC to provide investigative and other services to a requesting law enforcement agency and receive from that agency, if offered, reimbursement for the FTC's involvement. This part of the bill also would grant the Commission the authority it has requested to receive gifts or items that would be useful to the Commission as long as a conflict of interest is not created by such receipt.

The second title of the bill is designed to mitigate the challenges that the FTC currently faces in combating cross-border fraud. The FTC's responsibility to protect consumers is essential, particularly in today's global climate of high-speed information and marketing, which knows no international borders. This title would improve the Commission's ability to: share information involving cross-border fraud with foreign consumer protection agencies; secure confidential

information from those foreign agencies; take legal action in foreign jurisdictions; seek redress on behalf of foreign consumers victimized by U.S.-based wrongdoers; make criminal referrals for cross-border criminal activity; and strengthen its relationship with foreign consumer protection agencies. The Competition Subcommittee will hold a hearing later today on the FTC's reauthorization and will consider a number of issues including the Commission's cross-border fraud proposal.

Not included in the bill is language that was reported by the Commerce Committee last Fall that would repeal the ''common carrier'' exemption in the FTC's organizing statute that currently precludes the Commission from exercising authority over certain activities of telecommunications common carriers. The Federal Communications Commission, FCC, currently has jurisdiction over these common carriers.

While I fully support any effort to combat entities that perpetrate fraud on consumers, and I respect the expertise and ability of the FTC and FCC to seek redress for victims of such fraud, I made it clear during the Commerce Committee's executive session last Fall that a discussion was necessary between the two agencies to resolve any overlap in jurisdiction that may exist. It is our understanding that the FTC and FCC are in the process of negotiating an agreement that would satisfy the objectives of both agencies to further their respective consumer protection missions. Thus, for now, we will reserve judgment as to whether such a repeal is necessary.

Meanwhile, I look forward to working on this important consumer protection legislation and I hope that my colleagues will agree to join us in expeditiously moving this reauthorization through the legislative process. Reauthorizing the FTC is important if the agency is to continue to successfully carry out its many responsibilities.

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. 1234

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 ''Federal Trade Commission Reauthorization Act of 2003''.

TITLE I—REAUTHORIZATION

SEC. 101. REAUTHORIZATION.

The text of section 25 of the Federal Trade Commission Act (15 U.S.C. 57c) is amended to read as follows:

''There are authorized to be appropriated to carry out the functions, powers, and duties of the Commission not to exceed $194,742,000 for fiscal year 2004, $224,695,000 for fiscal year 2005, and $235,457,000 for fiscal year 2006.''.

SEC. 102. AUTHORITY TO ACCEPT REIMBURSEMENTS, GIFTS, AND VOLUNTARY AND UNCOMPENSATED SERVICES.

The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended—

(1) by redesignating section 26 as section 28; and

(2) by inserting after section 25 the following:

''SEC. 26. REIMBURSEMENT OF EXPENSES.

''The Commission may accept payment or reimbursement, in cash or in kind, from a domestic or foreign law enforcement authority, or payment or reimbursement made on behalf of such authority, for expenses incurred by the Commission, its members, or employees in carrying out any activity pursuant to a statute administered by the Commission without regard to any other provision of law. Any such payments or reimbursements shall be considered a reimbursement to the appropriated funds of the Commission.

''SEC. 27. GIFTS AND VOLUNTARY AND UNCOMPENSATED SERVICES.

''(a) IN GENERAL.—In furtherance of its functions the Commission may accept, hold, administer, and use unconditional gifts, donations, and bequests of real, personal, and other property and, notwithstanding section 1342 of title 31, United States Code, accept voluntary and uncompensated services.

''(b) LIMITATIONS.—

''(1) CONFLICTS OF INTEREST.—Notwithstanding subsection (a), the Commission may not accept, hold, administer, or use a gift, donation, or bequest if the acceptance, holding, administration, or use would create a conflict of interest or the appearance of a conflict of interest.

''(2) VOLUNTARY SERVICES.—A person who provides voluntary and uncompensated service under subsection (a) shall not be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, (relating to compensation for injury) and section 2671 through 2680 of title 28, United States Code, (relating to tort claims).''.

TITLE II—INTERNATIONAL CONSUMER PROTECTION

SEC. 201. FINDINGS.

The Congress finds the following:

(1) The Federal Trade Commission protects consumers from fraud and deception. Cross-border fraud and deception are growing international problems that affect American consumers and businesses.

(2) The development of the Internet and improvements in telecommunications technologies have brought significant benefits to consumers. At the same time, they have also provided unprecedented opportunities for those engaged in fraud and deception to establish operations in one country and victimize a large number of consumers in other countries.

(3) An increasing number of consumer complaints collected in the Consumer Sentinel database maintained by the Commission, and an increasing number of cases brought by the Commission, involve foreign consumers, foreign businesses or individuals, or assets or evidence located outside the United States.

(4) The Commission has legal authority to remedy law violations involving domestic and foreign wrongdoers, pursuant to the Federal Trade Commission Act. The Commission's ability to obtain effective relief using this authority, however, may face practical impediments when wrongdoers, victims, other witnesses, documents, money and third parties involved in the transaction are widely dispersed in many different jurisdictions. Such circumstances make it difficult for the Commission to gather all the information necessary to detect injurious practices, to recover offshore assets for consumer redress, and to reach conduct occurring outside the United States that affects United States consumers.

(5) Improving the ability of the Commission and its foreign counterparts to share information about cross-border fraud and deception, to conduct joint and parallel investigations, and to assist each other is critical to achieve more timely and effective enforcement in cross- border cases.

(6) Consequently, Congress should enact legislation to provide the Commission with more tools to protect consumers across borders.

SEC. 202. FOREIGN LAW ENFORCEMENT AGENCY DEFINED.

Section 4 of the Federal Trade Commission Act (15 U.S.C. 44) is amended by adding at the end the following:

'' 'Foreign law enforcement agency' means—

''(1) any agency or judicial authority of a foreign government, including a foreign state, a political subdivision of a foreign state, or a multinational organization constituted by and comprised of foreign states, that is vested with law enforcement or investigative authority in civil, criminal, or administrative matters;

''(2) any multinational organization, to the extent that it is acting on behalf of an entity described in paragraph (1); or

''(3) any organization that is vested with authority, as a principal mission, to enforce laws against fraudulent, deceptive, misleading, or unfair commercial practices affecting consumers, in accordance with criteria laid down by law, by a foreign state or a political subdivision of a foreign state.''.

SEC. 203. SHARING INFORMATION WITH FOREIGN LAW ENFORCEMENT AGENCIES.

(a) IN GENERAL.—Section 21(b)(6) of the Federal Trade Commission Act (15 U.S.C. 57b–2(b)(6)) is amended by adding at the end ''The custodian may make such material available to any foreign law enforcement agency upon the prior certification of any officer of any such foreign law enforcement agency that such material will be maintained in confidence and will be used only for official law enforcement purposes, provided that the foreign law enforcement agency has set forth a legal basis for its authority to maintain the material in confidence. Nothing in the preceding sentence authorizes disclosure of material obtained in connection with the administration of Federal antitrust laws or foreign antitrust laws (within the meaning of section 12 of the International Antitrust Enforcement Assistance Act of 1994 (15 U.S.C. 6211)) to any officer or employee of a foreign law enforcement agency.''.

(b) PUBLICATION OF INFORMATION; REPORTS.—Section 6(f) of the Federal Trade Commission Act (15 U.S.C. 46(f)) is amended—

(1) by striking ''agencies or to any officer or employee of any State law enforcement agency'' and inserting ''agencies, to any officer or employee of any State law enforcement agency, or to any officer or employee of any foreign law enforcement agency'';

(2) by striking ''Federal or State law enforcement agency'' and inserting ''Federal, State, or foreign law enforcement agency''; and

(3) by adding at the end ''Such information shall be disclosed to an officer or employee of a foreign law enforcement agency only if the foreign law enforcement agency has set forth a legal basis for its authority to maintain the information in confidence. Nothing in the preceding sentence authorizes the disclosure of material obtained in connection with the administration of Federal antitrust

laws or foreign antitrust laws (within the meaning of section 12 of the International Antitrust Enforcement Assistance Act of 1994 (15 U.S.C. 6211)) to any officer or employee of a foreign law enforcement agency.''.

SEC. 204. OBTAINING INFORMATION FOR FOREIGN LAW ENFORCEMENT AGENCIES.

Section 6 of the Federal Trade Commission Act (15 U.S.C. 46) is amended by adding at the end the following:

''(j)(1) Upon request from a foreign law enforcement agency, to provide assistance in accordance with this subsection if the requesting agency states that it is investigating, or engaging in enforcement proceedings against, possible violations of laws prohibiting fraudulent, deceptive, misleading, or unfair commercial conduct, or other conduct that may be similar to conduct prohibited by any provision of the laws administered by the Commission, other than Federal antitrust laws (within the meaning of section 12 of the International Antitrust Enforcement Assistance Act of 1994 (15 U.S.C. 6211)), the Commission may, in its discretion—

''(A) conduct such investigation as the Commission deems necessary to collect information and evidence pertinent to the request for assistance, using all investigative powers authorized by this Act; and

''(B) seek and accept appointment by a United States district court of Commission attorneys to provide assistance to foreign and international tribunals and to litigants before such tribunals on behalf of a foreign law enforcement agency pursuant to section 1782 of title 28, United States Code.

''(2) The Commission may provide assistance under paragraph (1) without regard to whether the conduct identified in the request would also constitute a violation of the laws of the United States.

''(3) In deciding whether to provide such assistance, the Commission shall consider—

''(A) whether the requesting agency has agreed to provide or will provide reciprocal assistance to the Commission; and

''(B) whether compliance with the request would prejudice the public interest of the United States.

''(4) If a foreign law enforcement agency has set forth a legal basis for requiring execution of an international agreement as a condition for reciprocal assistance, or as a condition for disclosure of materials or information to the Commission, the Commission, after consultation with the Secretary of State, may negotiate and conclude an international agreement, in the name of either the United States or the Commission and with the final approval of the agreement by the Secretary of State, for the purpose of obtaining such assistance or disclosure. The Commission may undertake in such an international agreement—

''(A) to provide assistance using the powers set forth in this subsection;

''(B) to disclose materials and information in accordance with subsection (f) of this section and section 21(b)(6) of this Act; and

''(C) to engage in further cooperation, and protect materials and information received from disclosure, as authorized by this Act.

''(5) The authority in this subsection is in addition to, and not in lieu of, any other authority vested in the Commission or any other officer of the United States.''.

SEC. 205. INFORMATION SUPPLIED BY AND ABOUT FOREIGN SOURCES.

Section 21(f) of the Federal Trade Commission Act (15 U.S.C. 57b-2(f)) is amended—

(1) by inserting ''(1) before ''Any''; and adding at the end the following:

''(2)(A) Except as provided in subparagraph (C) of this paragraph, the Commission shall not be compelled to disclose—

''(i) material obtained from a foreign law enforcement agency or other foreign government agency, if the foreign law enforcement agency or other foreign government agency has requested confidential treatment as a condition of disclosing the material;

''(ii) material reflecting consumer complaints obtained from any other foreign source, if that foreign source supplying the material has requested confidential treatment as a condition of disclosing the material; or

''(iii) material reflecting a consumer complaint submitted to a Commission reporting mechanism sponsored in part by foreign law enforcement agencies or other foreign government agencies.

''(B) For purposes of section 552 of title 5, this paragraph shall be considered a statute described in subsection (b)(3)(B) of such section 552.

''(C) Nothing in this paragraph shall authorize the Commission to withhold information from the Congress or prevent the Commission from complying with an order of a court of the United States in an action commenced by the United States or the Commission.''.

SEC. 206. CONFIDENTIALITY AND DELAYED NOTICE OF PROCESS.

(a) The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended by inserting after section 21 (15 U.S.C. 57b-2) the following:

''SEC. 21A. CONFIDENTIALITY AND DELAYED NOTICE OF COMPULSORY PROCESS FOR CERTAIN THIRD PARTIES.

''(a) CONFIDENTIALITY OF COMPULSORY PROCESS ISSUED BY THE COMMISSION.—

''(1) This subsection shall apply only in connection with compulsory process issued by the Commission where the recipient of such process is not a subject of the investigation or proceeding at the time such process is issued.

''(2) Notwithstanding any law or regulation of the United States, any constitution, law or regulation of any State or political subdivision of any State or any Territory or the District of Columbia, or any contract or other legally enforceable agreement, the Commission may seek an order requiring the recipient of compulsory process described in paragraph (1) to keep such process confidential, upon an ex parte showing to an appropriate United States district court that there is a reason to believe that disclosure may—

''(A) result in the transfer of assets or records outside the territorial limits of the United States;

''(B) impede the ability of the Commission to identify or trace funds;

''(C) endanger the life or physical safety of an individual;

''(D) result in flight from prosecution;

''(E) result in destruction of or tampering with evidence;

''(F) result in intimidation of potential witnesses;

''(G) result in the dissipation or concealment of assets; or

''(H) otherwise seriously jeopardize an investigation or unduly delay a trial.

''(3) Upon a showing described in paragraph (2), the presiding judge or magistrate judge shall enter an ex parte order prohibiting the recipient of process from disclosing that information has been submitted or that a request for information has been made, for such period as the court deems appropriate.

''(b) MATERIALS SUBJECT TO GOVERNMENT NOTIFICATION UNDER THE RIGHT TO FINANCIAL PRIVACY ACT.—

''(1) When section 1105 or 1107 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3405 or 3407) would otherwise require notice, notwithstanding such requirements, the Commission may obtain from a financial institution access to or copies of financial records of a customer, as these terms are defined in section 1101 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401), through compulsory process described in subsection (a)(1) or through a judicial subpoena, without prior notice to the customer, upon an ex parte showing to an appropriate United States district court that there is reason to believe that the required notice may cause an adverse result described in subsection (a)(2).

''(2) Upon such showing, the presiding judge or magistrate judge shall enter an ex parte order granting a delay of notice for a period not to exceed 90 days and an order prohibiting the financial institution from disclosing that records have been submitted or that a request for records has been made.

''(3) The court may grant extensions of the period of delay of notice provided in paragraph (2) of up to 90 days, upon a showing that the requirements for delayed notice under subsection (a)(2) continue to apply.

''(4) Upon expiration of the periods of delay of notice ordered under paragraphs (2) and (3), the Commission shall serve upon, or deliver by registered or first-class mail, or as otherwise authorized by the court to, the customer a copy of the process together with notice that states with reasonable specificity the nature of the law enforcement inquiry, informs the customer or subscriber when the process was served, and states that notification of the process was delayed under this subsection.

''(c) MATERIALS SUBJECT TO GOVERNMENT NOTIFICATION UNDER THE ELECTRONIC COMMUNICATIONS PRIVACY ACT.—

''(1) When section 2703(b)(1)(B) of title 18 would otherwise require notice, notwithstanding such requirements, the Commission may obtain, through compulsory process described in subsection (a)(1) or through judicial subpoena,

''(A) from a provider of remote computing services, access to or copies of the contents of a wire or electronic communication described in section 2703(b)(1) of title 18, and as those terms are defined in section 2510 of title 18, or

''(B) from a provider of electronic communications services, access to or copies of the contents of a wire or electronic communication that has been in electronic storage in an electronic communications system for more than 180 days, as those terms are defined in section 2510 of title 18,

without prior notice to the customer or subscriber, upon an ex parte showing to an appropriate United States district court by a Commission official that there is reason to believe that notification of the existence of the process may cause an adverse result described in subsection (a)(2). Upon such a showing, the presiding judge or magistrate judge shall issue an exparte order granting a delay of notice for a period not to exceed 90 days. A court may grant extensions of the period of delay of notice of up to 90 days, upon application by the Commission and a showing that the requirements for delayed notice under subsection (b)(2) continue to apply.

''(2) The Commission may apply to a court for an order prohibiting a provider of electronic communications service or remote computing service to whom process has been issued under this subsection, for such period as the court deems appropriate, from disclosing that information has been submitted or that a request for information has been made. The court shall enter such an order if it has reason to believe that such disclosure may cause an adverse result described in subsection (b)(2).

''(3) Upon expiration of the periods of delay of notice ordered under subparagraph (1), the Commission shall serve upon, or deliver by registered or first-class mail, or as otherwise authorized by the court to, the customer or subscriber a copy of the process together with notice that states with reasonable specificity the nature of the law enforcement inquiry, informs the customer or subscriber when the process was served, and states that notification of the process was delayed under this subsection.

''(4) Nothing in the Electronic Communications Privacy Act shall prohibit a provider of electronic communications services or remote computing services from disclosing complaints received by it from a customer or subscriber or information reflecting such complaints to the Commission.

''(d) LIABILITY LIMITATION.—The recipient of compulsory process under subsections (a), (b), or (c) shall not be liable to any person under any law or regulation of the United States, any constitution, law, or regulation of any State or political subdivision of any State or any Territory or the District of Columbia, or under any contract or other legally enforceable agreement, for failure to provide notice that such process has been issued or that the recipient has provided information in response to such process. The preceding sentence does not provide any exemption from liability for the underlying conduct reported.

''(e) IN-CAMERA PROCEEDINGS.—Upon application by the Commission, all judicial proceedings pursuant to this section shall be held in camera and the records thereof sealed until expiration of the period of delay or such other date as the presiding judge or magistrate judge may permit.

''(f) PROCEDURE INAPPLICABLE TO CERTAIN PROCEEDINGS.—This section shall not apply to compulsory process issued in an investigation or proceeding related to the administration of Federal antitrust laws or foreign antitrust laws (within the meaning of section 12 of the International Antitrust Enforcement Assistance Act of 1994 (15 U.S.C. 6211)).''.

(b) Section 16(a)(2) of the Federal Trade Commission Act (15 U.S.C. 56(a)(2)) is amended—

(1) by striking ''or'' after the semicolon in subparagraph (C);

(2) by striking ''Act;'' in subparagraph (D) and inserting ''Act; or''; and

(3) by inserting after subparagraph (D) the following:

''(E) under section 21a of this Act;''.

SEC. 207. PROTECTION FOR VOLUNTARY PROVISION OF INFORMATION.

The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended by inserting after section 21a, as added by section 206 of this title, the following:

''SEC. 21B. PROTECTION FOR VOLUNTARY PROVISION OF INFORMATION.

''(a) IN GENERAL.—An entity described in subsection (d)(1) that voluntarily provides material to the Commission that it reasonably believes is relevant to—

''(1) a possible unfair or deceptive act or practice, as defined in section 5(a) of this Act, or

''(2) assets subject to recovery by the Commission, including assets located in foreign jurisdictions,

shall not be liable to any person under any law or regulation of the United States, or any constitution, law, or regulation of any State or political subdivision of any State or any Territory or the District of Columbia, for such disclosure or for any failure to provide notice of such disclosure. The preceding sentence does not provide any exemption from liability for the underlying conduct reported.

''(b) LIABILITY LIMITATION.—An entity described in subsection (d)(2) that makes a voluntary disclosure to the Commission regarding the subjects described in subsection (a)(1) and (2) shall be exempt from liability in accordance with the provisions of section 5318(g)(3) of title 31, United States Code.

''(c) FOIA EXEMPTION.—Material submitted pursuant to this section with a request for confidential treatment shall be exempt from disclosure under section 552 of title 5, United States Code.

''(d) ENTITIES TO WHICH SECTION APPLIES.—This section applies to the following entities, whether foreign or domestic:

''(1) A courier service, a commercial mail receiving agency, an industry membership organization, a payment system provider, a consumer reporting agency, a domain name registrar and registry, a provider of remote computing services or electronic communication services, to the limited extent such a provider is disclosing consumer complaints received by it from a customer or subscriber, or information reflecting such complaints; and

''(2) a bank or thrift institution, a commercial bank or trust company, an investment company, a credit card issuer, an operator of a credit card system, and an issuer, redeemer, or cashier of travelers' checks, checks, money orders, or similar instruments.''.

SEC. 208. INFORMATION SHARING WITH FINANCIAL REGULATORS.

Section 1112(e) of the Right to Financial Privacy Act (12 U.S.C. 3412(e)) is amended by inserting ''the Federal Trade Commission,'' after ''the Securities and Exchange Commission,''.

SEC. 209. REPRESENTATION IN FOREIGN LITIGATION.

Section 16 of the Federal Trade Commission Act (15 U.S.C. 56) is amended by adding at the end the following:

''(c)(1) The Commission may designate Commission attorneys to assist the Department of Justice in connection with litigation in foreign courts in which the Commission has an interest, pursuant to the terms of a memorandum of understanding to be negotiated by the Commission and the Department of Justice.

''(2) The Commission is authorized to expend appropriated funds for the retention of foreign counsel for consultation and for litigation in foreign courts, and for expenses related to consultation and to litigation in foreign courts in which the Commission has an interest.''.

SEC. 210. AVAILABILITY OF REMEDIES.

Section 5 of the Federal Trade Commission Act (15 U.S.C. 45) is amended by adding at the end the following:

''(o) UNFAIR OR DECEPTIVE ACTS OR PRACTICES INVOLVING FOREIGN COMMERCE.—

''(1) IN GENERAL.—For purposes of subsection (a), the term'unfair or deceptive acts or practices' includes such acts or practices involving foreign commerce that—

''(A) cause or are likely to cause reasonably foreseeable injury within the United States; or

''(B) involve material conduct occurring within the United States.

''(2) APPLICATION OF REMEDIES TO SUCH ACTS OR PRACTICES.—All remedies available to the Commission with respect to unfair and deceptive acts or practices shall be available for acts and practices described in paragraph (1), including restitution to domestic or foreign victims.''.

SEC. 211. CRIMINAL REFERRALS.

Section 6 of the Federal Trade Commission Act (15 U.S.C. 46), as amended by section 204 of this title, is amended by adding at the end the following:

''(k) REFERRAL OF EVIDENCE FOR CRIMINAL PROCEEDINGS.—Whenever the Commission obtains evidence that any person, partnership or corporation, either domestic or foreign, may have engaged in conduct that could give rise to criminal proceedings, to transmit such evidence to the Attorney General who may, in his discretion, institute criminal proceedings under appropriate statutes. Provided that nothing in this subsection affects any other authority of the Commission to disclose information.''.

SEC. 212. STAFF EXCHANGES.

The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended by inserting after section 25 (15 U.S.C. 57c) the following:

''SEC. 25A. STAFF EXCHANGES.

''(a) IN GENERAL.—The Congress consents to—

''(1) the retention or employment of officers or employees of foreign government agencies on a temporary basis by the Commission under section 3109 of title 5, United States Code, section 202 of title 18, United States Code, or section 2 of this Act (15 U.S.C. 42); and

''(2) the retention or employment of officers or employees of the Commission on a temporary basis by such foreign government agencies.

''(b) FORM OF ARRANGEMENTS.—Staff arrangements under subsection (a) need not be reciprocal. The Commission may accept payment or reimbursement, in cash or in kind, from a foreign government agency to which this section is applicable, or payment or reimbursement made on behalf of such agency, for expenses incurred by the Commission, its members, and employees in carrying out such arrangements.''.

SEC. 213. EXPENDITURES FOR COOPERATIVE ARRANGEMENTS.

(a) IN GENERAL.—Section 6 of the Federal Trade Commission Act (15 U.S.C. 46) as amended by section 211 of this title, is further amended by adding at the end the following:

''(p) To expend appropriated funds for—

''(1) operating expenses and other costs of bilateral and multilateral cooperative law enforcement groups conducting activities of interest to the Commission and in which the Commission participates; and

''(2) expenses for consultations and meetings hosted by the Commission with foreign government agency officials, members of their delegations, appropriate representatives and staff to exchange views concerning developments relating to the Commission's mission, development and implementation of cooperation agreements, and provision of technical assistance for the development of foreign consumer protection or competition regimes, such expenses to include necessary administrative and logistic expenses and the expenses of Commission staff and foreign invitees in attendance at such consultations and meetings including—

''(A) such incidental expenses as meals taken in the course of such attendance;

''(B) any travel and transportation to or from such meetings; and

''(3) any other related lodging or subsistence.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—The Federal Trade Commission is authorized to expend appropriated funds not to exceed $100,000 per fiscal year for purposes of section 6(p) of the Federal Trade Commission Act (15 U.S.C. 46(p)), including operating expenses and other costs of the following bilateral and multilateral cooperative law enforcement groups:

(1) The International Consumer Protection and Enforcement Network.

(2) The International Competition Network.

(3) The Mexico-U.S.-Canada Health Fraud Task Force.

(4) Project Emptor.

(5) The Toronto Strategic Partnership and other regional partnerships with a nexus in a Canadian province.

By Mr. EDWARDS (for himself, Mr. REED, and Mr. ROBERTS):

S. 1235. A bill to increase the capabilities of the United States to provide reconstruction assistance to countries or regions impacted by armed conflict, and for other purposes; to the Committee on Foreign Relations.

Mr. EDWARDS. Mr. President, today I am proud to join with two of my colleagues—Senator REED and Senator ROBERTS—to introduce legislation that will help America meet a critical challenge that, during the past decade, it has faced over and over: helping countries that have suffered from conflict work to rebuild their societies.

Over the past two years, America has proved again that we have the finest military force in the world. In Afghanistan and Iraq, the men and women of America's military performed with great bravery and skill. By defeating the Taliban and removing Saddam Hussein's regime from power, they showed that they are the world's best trained troops using the world's most sophisticated weapons. This is a powerful example of the leadership and commitment both here in the Congress and in successive Administrations—both Democrat and Republican—to ensure that our military remains the best equipped, best trained, most prepared fighting force in the world.

But these decisive military victories have been followed by a peace where success has not been so clear. First in Afghanistan, and now in Iraq, our efforts to help these societies get back on their feet have produced mixed results. To be sure, the challenges in both countries are profound: Afghanistan suffered from nearly a quarter-century of civil war, and Iraq suffered for more than two decades under the thumb of Saddam Hussein and his brutal regime. Both countries have deep internal divisions and little experience with representative government. While it is reasonable to assume post-conflict reconstruction efforts in both nations will take considerable time, these realities cannot be an excuse for the overall shortcoming in our own efforts, especially because we have the resources and capabilities to do better.

This is not the first time we have faced such challenges. Since the end of the Cold War, thousands of American military, diplomatic and humanitarian personnel have also been involved in major post-conflict reconstruction efforts in such places as Bosnia, Kosovo, Somalia, Rwanda, Haiti, and East Timor. Each of these efforts has had varying degrees of success, but on balance, I think we all can agree that we could have done better.

Too often, our response to post-conflict situations has been haphazard and slow to start. And once underway, our efforts often suffer from a cumbersome chain-of-command, lack of resources, and inadequate accountability.

The problem is that our government is still not well organized to deal with such situations. Each time we get involved in a post-conflict reconstruction effort we end up making it up as we go. We waste valuable time reinventing the bureaucratic wheel. And we get in unnecessary arguments about who should do what and who should be in charge.

It is remarkable that even with all the commitments we have made during the past decade, next to nothing has been done to reform the way our government works to enhance our capacity to deal with these situations effectively. Governmental mechanisms developed during the Cold War are outdated and not suited to addressing the complex set of challenges created by failed states.

We must do better. After more than ten years of improvising our responses to these challenges, it is time to change the way we do things. We need to improve our ability to plan, coordinate, and organize U.S. government resources to assist with post-conflict reconstruction. We need to train our people more effectively. We need a better sense of what works and what does not. We need greater accountability. And we need to promote the means for involving other countries in these efforts, including through institutions like NATO.

I believe that the ''Winning the Peace Act'' is an important step toward accomplishing these goals. This legislation is based upon the work of the bipartisan ''Commission on Post-Conflict Reconstruction,'' convened by the Association of the U.S. Army and the Center for Strategic and International Studies, CSIS. This Commission was very ably led by Dr. John Hamre, the former Deputy Secretary of Defense, and General Gordon Sullivan, the former Army Chief of Staff. The Commission was composed of twenty-seven distinguished military, diplomatic and humanitarian experts, including myself and my two Senate co-sponsors.

The legislation includes five key proposals:

First, it calls on the President to appoint a Director of Reconstruction for areas where the U.S. will assist with post-conflict reconstruction. These Directors will provide oversight, help coordinate, and have decision-making authority for all U.S. government reconstruction activities in a particular country. They will also coordinate with the representatives of the country in question, other foreign governments, multilateral organizations, and relevant NGOs.

Second, it establishes a permanent office within the State Department to provide support to Directors of Reconstruction, ensuring that these Directors can hit the ground running and not waste valuable time hiring staff and getting office space.

Third, it establishes within USAID an Office of International Emergency Management. This new office will develop and maintain a database of individuals with expertise in reconstruction, and provide support for mobilizing these experts.

Fourth, it calls on NATO to develop an ''Integrated Security Support Component'' to assist with reconstruction. This NATO-led force will help provide security, including assistance with policing ensuring that America will not be forced to shoulder these burdens alone.

Finally, this bill establishes an interagency training center for post-conflict reconstruction. This will be run by the State Department, and will help train personnel in assessment, strategy development, planning, and coordination related to providing reconstruction services. It will also develop and certify experts in the field, and conduct lesson-learned reviews of operations.

Having these resources in place will enhance America's capacity to assist reconstruction in four critical areas: Security and public safety, such as assisting with disarmament and training of police forces; Justice, such as developing the rule of law, preventing human rights violations, and bringing war criminals to justice; Governance, such as reforming civil administration, restoring basic civil functions, and establishing processes of governance and participation; and Economic and Social Well-being, such as providing humanitarian assistance and developing national economic institutions.

With these changes, we will not only make America's efforts to assist in post-conflict reconstruction more efficient and accountable. We will also make our efforts more effective contributing more to the safety and security of the people we are trying to help, and helping them run their countries on their own.

By ensuring that we maintain the best military in the world, we have made a full commitment to winning wars. It is now time to ensure that we are capable of winning the peace.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

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

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 ''Winning the Peace Act of 2003''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) President George W. Bush has stated that the United States security strategy takes into account the fact that ''America is now threatened less by conquering states than we are by failing ones''.

(2) Failed states can provide safe haven for a diverse array of transnational threats, including terrorist networks, militia and warlords, global organized crime, and narcotics traffickers who threaten the security of the United States and the allies of the United States.

(3) The inability of the authorities in a failed state to provide basic services can create or contribute to humanitarian emergencies.

(4) It is in the interest of the United States and the international community to bring conflict and humanitarian emergencies stemming from failed states to a lasting and sustainable close.

(5) Since the end of the Cold War, United States military, diplomatic, and humanitarian personnel have been engaged in major post-conflict reconstruction efforts in such places as Iraq, Bosnia, Kosovo, Somalia, Haiti, Rwanda, East Timor, and Afghanistan.

(6) Assisting failed states in emerging from violent conflict is a complex and long-term task, as demonstrated by the experience that 50 percent of such states emerging from conditions of violent conflict slip back into violence within 5 years.

(7) In 2003, the bipartisan Commission on Post-Conflict Reconstruction created by the Center for Strategic and International Studies and the Association of the United States Army, released a report explaining that ''United States security and development agencies still reflect their Cold War heritage. The kinds of complex crises and the challenge of failed states encountered in recent years do not line up with these outdated governmental mechanisms. If regional stability is to be maintained, economic development advanced, lives saved, and transnational threats reduced, the United States and the international community must develop a strategy and enhance capacity for pursuing post-conflict reconstruction.''.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the United States Agency for International Development.

(2) DIRECTOR.—The term ''Director'' means a Director of Reconstruction for a country or region designated by the President under section 4.

(3) RECONSTRUCTION SERVICES.—The term ''reconstruction services'' means activities related to rebuilding, reforming, or establishing the infrastructure processes or institutions of a country that has been affected by an armed conflict, including services related to—

(A) security and public safety, including—

(i) disarmament, demobilization, and reintegration of combatants;

(ii) training and equipping civilian police force; and

(iii) training and equipping of national armed forces;

(B) justice, including—

(i) developing rule of law and legal, judicial, and correctional institutions;

(ii) preventing human rights violations;

(iii) bringing war criminals to justice;

(iv) supporting national reconciliation processes; and

(v) clarifying property rights;

(C) governance, including—

(i) reforming or developing civil administration and other government institutions;

(ii) restoring performance of basic civil functions, such as schools, health clinics, and hospitals; and

(iii) establishing processes of governance and participation; and

(D) economic and social well-being, including—

(i) providing humanitarian assistance;

(ii) constructing or repairing infrastructure;

(iii) developing national economic institutions and activities, such as a banking system; and

(iv) encouraging wise stewardship of natural resources for the benefit of the citizens of such country.

SEC. 4. DIRECTOR OF RECONSTRUCTION POSITIONS.

(a) AUTHORIZATION OF POSITIONS.—The President is authorized to designate an individual who is a civilian as the Director of Reconstruction for each country or region in which—

(1) units of the United States Armed Forces have engaged in armed conflict; or

(2) as a result of armed conflict, the country or region will receive reconstruction services from the United States Government.

(b) AUTHORITY TO PROVIDE RECONSTRUCTION SERVICES.—Notwithstanding any provision of law, other than section 553 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 200), the President is authorized to provide reconstruction services for any country or region for which a Director has been designated under subsection (a).

(c) DUTIES.—A Director who is designated for a country or region under subsection (a) shall provide oversight and coordination of, have decision making authority for, and consult with Congress regarding, all activities of the United States Government that are related to providing reconstruction services in such country or region, including implementing complex, multidisciplinary post-conflict reconstruction programs in such country or region.

(d) COORDINATION.—A Director shall coordinate with the representatives of the country or region where the Director is overseeing and coordinating the provision of reconstruction services, and any foreign government, multilateral organization, or nongovernmental organization that is providing services to such country or region—

(1) to avoid providing reconstruction services that duplicate any such services that are being provided by a person or government other than the United States Government;

(2) to capitalize on civil administration systems and capabilities available from such person or government; and

(3) to utilize individuals or entities with expertise in providing reconstruction services that are available through such other person or government.

(e) SUPPORT SERVICES.—The Secretary of State is authorized to establish within the Department of State a permanent office to provide support, including administrative services, to each Director designated under subsection (a).

SEC. 5. INTERNATIONAL EMERGENCY MANAGEMENT OFFICE.

(a) AUTHORIZATION.—The Administrator is authorized to establish within the United States Agency for International Development an Office of International Emergency Management for the purposes described in subsection (b).

(b) PURPOSES.—

(1) IN GENERAL.—The purposes of the Office authorized by subsection (a) shall be—

(A) to develop and maintain a database of individuals or entities that possess expertise in providing reconstruction services; and

(B) to provide support for mobilizing such individuals and entities to provide a country or region with services applying such expertise when requested by the Director for such country or region.

(2) EXPERTS.—The individuals or entities referred to in paragraph (1) may include employees or agencies of the Federal Government, any other government, or any other person, including former Peace Corps volunteers or civilians located in the affected country or region.

SEC. 6. INTEGRATED SECURITY SUPPORT COMPONENT.

(a) SENSE OF CONGRESS REGARDING THE CREATION OF AN INTEGRATED SECURITY SUPPORT COMPONENT OF NATO.—It is the sense of Congress that—

(1) the Secretary of State and the Secretary of Defense should present to the North Atlantic Council a proposal to establish within the North Atlantic Treaty Organization an Integrated Security Support Component to train and equip selected units within the North Atlantic Treaty Organization to assist in providing security in countries or regions that require reconstruction services; and

(2) if such a Component is established, the President should commit United States personnel to participate in such Component, after appropriate consultation with Congress.

(b) AUTHORITY TO PARTICIPATE IN AN INTEGRATED SUPPORT COMPONENT.—

(1) IN GENERAL.—If the North Atlantic Council establishes an Integrated Security Support Component, as described in subsection (a), the President is authorized to commit United States personnel to participate in such Component, after appropriate consultation with Congress.

(2) CAPABILITIES.—The units composed of United States personnel participating in such Component pursuant to the authority in paragraph (1) should be capable of—

(A) providing for security of a civilian population, including serving as a police force; and

(B) providing for the performance of public functions and the execution of security tasks such as control of belligerent groups and crowds, apprehending targeted persons or groups, performing anti-corruption tasks, and supporting police investigations.

SEC. 7. TRAINING CENTER FOR POST-CONFLICT RECONSTRUCTION OPERATIONS.

(a) ESTABLISHMENT.—The Secretary of State shall establish within the Department of State an interagency Training Center for Post-Conflict Reconstruction Operations for the purposes described in subsection (b).

(b) PURPOSES.—The purposes of the Training Center authorized by subsection (a) shall be to—

(1) train interagency personnel in assessment, strategy development, planning, and coordination related to providing reconstruction services;

(2) develop and certify experts in fields related to reconstruction services who could be called to participate in operations in countries or regions that require such services;

(3) provide training to individuals who will provide reconstruction services in a country or region;

(4) develop rapidly deployable training packages for use in countries or regions in need of reconstruction services; and

(5) conduct reviews of operations that provide reconstruction services for the purpose of—

(A) improving subsequent operations to provide such services; and

(B) developing appropriate training and education programs for individuals who will provide such services.

SEC. 8. REPORTS TO CONGRESS.

Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report on the actions planned to be taken to carry out the provisions of this Act.

By Mr. CAMPBELL (for himself and Mr. ALLARD):

S. 1236. A bill to direct the Secretary of the Interior to establish a program to control or eradicate tamarisk in the

western States, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. CAMPBELL. Mr. President, I rise today to introduce the Tamarisk Control & Riparian Restoration Act.

Tamarisk is a noxious weed that is not native to the Americas, but has spread across 11 States, from California to Oklahoma, like a plague. Many westerners consider Tamarisk, also known as Salt Cedar, to be one of the West's most significant natural resources problems for a variety of reasons.

Tamarisk's major threat is that it uses a significant amount of water, far more water than many realize. Yet, folks out West know all too well that we have been and are still experiencing one of the worst droughts in the West's recorded history. People who have been farming and ranching for generations have been forced to sell their homesteads and give up the life they love because there just hasn't been enough water for crops or to maintain livestock. I've personally felt the effects of the drought as my wife and I have had to sell our little cow/calf operation.

I mentioned earlier that Tamarisk uses significant amounts of water, but I want to speak a little bit now about just how much water it uses. Studies have found that Tamarisk uses from 2 to 4½ million acre feet of water each year, water we frankly cannot afford to lose.

To put that in perspective, several other States and the Republic of Mexico are delivered 10 million acre feet from all of Colorado's rivers and streams, including the mighty Colorado River. California is allotted 4½ million acre feet of Colorado water per year. That means that Tamarisk, a noxious, nonnative weed, uses the same amount of water flowing from Colorado to California. We must address the preventable loss of this most valuable resource before it's too late.

My bill seeks to begin get the Tamarisk problem under control in a few innovative ways. First, my bill requires the Secretary of the Interior to assess the extent of Tamarisk invasion, identifying where it is in each affected State, and estimate the costs to restore the land.

Second, my bill establishes a State Tamarisk Assistance Program to provide States the needed funds to control or eradicate Tamarisk. Grant funds will be distributed to states in accordance with the severity of the Tamarisk problem they have.

The Governor of each State will appoint a state lead agency to administer the program in the State, working with Indian Tribes, colleges and universities, nonprofit organizations, soil and water conservancy districts, and Federal partners. This coordinate approach provides sufficient flexibility to deal with Tamarisk's spread and to reduce duplicative efforts.

A watershed or basin can stretch across all kinds of land, including Federal, State, or tribal lands. Noxious weeds don't recognize those ownership boundaries and neither can we.

Since my bill's focus is on getting rid of this water-sucking weed, it requires that 90 percent of the Federal funds must be used for eradiction or rehabilitation.

This legislation authorizes $20 million for 2004 and such sums as necessary thereafter. States must share the burden by ponying up 25 percent of the costs. The Tamarisk problem hurts everyone and the non-Federal share can come from counties, municipalities, special districts, nongovernmental entities, or the States themselves.

Our Nation is in a deficit, and every state is experiencing money shortages. Americans demand to know that their hard earned money is being spent wisely and in the most effient way possible. That is why my bill requires that each participating State must submit a report of the Secretary describing the purpose and results of the project in order to receive funding. In the West, water is more precious and scarce than elsewhere in our great nation. To do nothing about the preventable loss of precious water by the spread of this noxious plant and the loss of native habitat will cost us untold millions more in the future.

Back in my State of Colorado, constituents tell me how the drought has affected them, even devastated their livelihoods. No one can control the weather and bring rain. However, getting a handle on the water-sucking Tamarisk plaguing the West is possible—if we act now.

My bill provides the necessary tools to deal with this problem so that ther will be enough water for all of us, and habitat suitable for native species of plants and animals.

I ask unanimous consent that the next of the bill be printed in the RECORD.

S. 1236

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 ''Tamarisk Control and Riparian Restoration Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the western United States is currently experiencing its worst drought in modern history;

(2) the drought in the western United States has caused—

(A) severe losses in rural, agricultural, and recreational economies;

(B) detrimental effects on wildlife; and

(C) increased risk of wildfires;

(3) it is estimated that throughout the western United States tamarisk, a noxious and non-native plant—

(A) occupies between 1,000,000 and 1,500,000 acres of land; and

(B) is a nonbeneficial user of 2,000,000 to 4,500,000 acre-feet of water per year;

(4) the amount of nonbeneficial use of water by tamarisk—

(A) is greater than the amount that valuable native vegetation would have used; and

(B) represents enough water for—

(i) use by 20,000,000 or more people; or

(ii) the irrigation of over 1,000,000 acres of land;

(5) scientists have established that tamarisk infestations can—

(A) increase soil and water salinity;

(B) increase the risk of flooding through increased sedimentation and decreased channel conveyance;

(C) increase wildfire potential;

(D) diminish human enjoyment of and interaction with the river environment; and

(E) adversely affect—

(i) wildlife habitat for threatened and endangered species; and

(ii) the abundance and biodiversity of other species; and

(6) as drought conditions and legal requirements relating to water supply accelerate water shortages, innovative approaches are needed to address the increasing demand for a diminishing water supply.

SEC. 3. DEFINITIONS.

In this Act:

(1) PROGRAM.—The term ''program'' means the Tamarisk Assistance Program established under section 5.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Commissioner of Reclamation.

(3) STATE.—The term ''State'' means—

(A) each of the States of Arizona, California, Colorado, Idaho, Montana, New Mexico, Nevada, Oklahoma, Texas, Utah, and Wyoming; and

(B) any other State that is affected by tamarisk, as determined by the assessment conducted under section 4.

SEC. 4. TAMARISK ASSESSMENT.

(a) IN GENERAL.—Not later than 180 days after the date on which funds are made available to carry out this section, the Secretary shall complete an assessment of the extent of tamarisk invasion in the western United States.

(b) COMPONENTS.—The assessment under subsection (a) shall—

(1) address past and ongoing research on tested and innovative methods to control tamarisk;

(2) estimate the costs for destruction of tamarisk, biomass removal, and restoration and maintenance of land;

(3) identify the States affected by tamarisk; and

(4) include a gross-scale estimation of infested acreage within the States identified.

SEC. 5. STATE TAMARISK ASSISTANCE PROGRAM.

(a) ESTABLISHMENT.—Based on the findings of the assessment under section 4, the Secretary shall establish the Tamarisk Assistance Program to provide grants to States to carry out projects to control or eradicate tamarisk.

(b) AMOUNT OF GRANT.—The amount of a grant to a State under subsection (a) shall be determined by the Secretary, based on the estimated infested acreage in the State.

(c) DESIGNATION OF LEAD STATE AGENCY.—On receipt of a grant under subsection (a), the Governor of a State shall designate a lead State agency to administer the program in the State.

(d) PRIORITY.—

(1) IN GENERAL.—The lead State agency designated under subsection (c), in consultation with the entities described in paragraph (2), shall establish the priority by which grant funds are distributed to projects to control or eradicate tamarisk in the State.

(2) ENTITIES.—The entities referred to in paragraph (1) are—

(A) the National Invasive Species Council;

(B) the Invasive Species Advisory Committee;

(C) representatives from Indian tribes in the State that have weed management entities or that have particular problems with noxious weeds;

(D) institutions of higher education in the State;

(E) State agencies;

(F) nonprofit organizations in the State; and

(G) soil and water conservation districts in the State that are actively conducting research on or implementing activities to control or eradicate tamarisk.

(e) CONDITIONS.—A lead State agency shall require that, as a condition of receipt of a grant under this Act, a grant recipient provide to the lead State agency any necessary information relating to a project carried out under this Act.

(f) ADMINISTRATIVE EXPENSES.—Not more than 10 percent of the amount of a grant provided under subsection (a) may be used for administrative expenses.

(g) COST SHARING.—

(1) FEDERAL SHARE.—The Federal share of the cost of carrying out a project under this section shall be not more than 75 percent.

(2) NON-FEDERAL SHARE.—The non-Federal share may be paid by a State, county, municipality, special district, or nongovernmental entity.

(h) REPORT.—To be eligible for additional grants under the program, not later than 180 days after the date of completion of a project carried out under this Act, a lead State agency shall submit to the Secretary a report that describes the purposes and results of the project.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act—

(1) $20,000,000 for fiscal year 2004; and

(2) such sums as are necessary for each fiscal year thereafter.

By Mr. BENNETT (for himself, Mr. HATCH, Mr. CRAPO, Mr. CRAIG, and Mr. DORGAN):

S. 1237. A bill to amend the Rehabilitation Act of 1973 to provide for more equitable allotment of funds to States for centers for independent living; to the Committee on Health, Education, Labor, and Pensions.

Mr. BENNETT. Mr. President, today I am introducing The Independent Living Improvement Act of 2003, a bill to provide a more equitable allotment of funds to States for Centers for Independent Living.

Centers for Independent Living, CILs, are non-profit organizations that assist people with significant disabilities who want to live more independently. CILs are primarily staffed by people with disabilities who act as role models, mentors, and counselors to other individuals with disabilities. Each center not only offers fundamental services such as information referral, and independent living skills training, it also tailors its services to the particular needs of its community. The ultimate goal of these centers is to help individuals become more independent and decrease the need for institutional care.

Currently, funds authorized for CILs under Title VII, Part C of the Rehabilitation Act are essentially allocated to States on the basis of their share of the total population. States with small populations are guaranteed the larger of $450,000 or ⅓ of 1 percent of the funds available for the fiscal year in which the allocation is made, with a guaranteed minimum at the fiscal 1992 funding level for each State.

While the Federal appropriation to CILs has increased over the last five years, the growing disparity between funding for small States and larger States is problematic. The proposed formula change would amend the current funding formula for CILs to provide for more equitable distribution of future funds to each state. Fifty percent of any increase in CILs appropriated fund would be allocated according to population, as is currently done, and the remaining fifty percent would be divided equally among all States. The formula would only be applicable to any future increases in funding. This more equitable sharing of funds ensures that each State's CILs will receive additional funding each time there is an increase in funding and programs will be developed for people with disabilities regardless of where they live in the country.

This bill is supported by the National Council on Independent Living. I believe this a reasonable approach to solving this problem and look forward to working with my colleagues on this issue.

I ask unanimous consent that the text of the bill be printed in the RECORD.

S. 1237

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 ''Independent Living Improvement Act of 2003''.

SEC. 2. STATE ALLOTMENTS FOR CENTERS FOR INDEPENDENT LIVING.

Section 721 of the Rehabilitation Act of 1973 (42 U.S.C. 796f) is amended by striking subsection (c) and inserting the following:

''(c) ALLOTMENTS TO STATES.—

''(1) DEFINITIONS.—In this subsection:

''(A) ADDITIONAL APPROPRIATION.—The term 'additional appropriation' means the amount (if any) by which the appropriation for a fiscal year exceeds the total of—

''(i) the amount reserved under subsection (b) for that fiscal year; and

''(ii) the appropriation for fiscal year 2003.

''(B) APPROPRIATION.—The term 'appropriation' means the amount appropriated to carry out this part.

''(C) BASE APPROPRIATION.—The term 'base appropriation' means the portion of the appropriation for a fiscal year that is equal to the lesser of—

''(i) an amount equal to 100 percent of the appropriation, minus the amount reserved under subsection (b) for that fiscal year; or

''(ii) the appropriation for fiscal year 2003.

''(2) ALLOTMENTS TO STATES FROM BASE APPROPRIATION.—After the reservation required by subsection (b) has been made, the Commissioner shall allot to each State whose State plan has been approved under section 706 an amount that bears the same ratio to the base appropriation as the amount the State received under this subsection for fiscal year 2003 bears to the total amount that all States received under this subsection for fiscal year 2003.

''(3) ALLOTMENTS TO STATES ADDITIONAL APPROPRIATION.—From any additional appropriation for each fiscal year, the Commissioner shall allot to each State whose State plan has been approved under section 706 an amount equal to the sum of—

''(A) an amount that bears the same ratio to 50 percent of the additional appropriation as the population of the State bears to the population of all States; and

''(B) 1/56 of 50 percent of the additional appropriation.

''(4) MAINTENANCE OF EFFORT.—

''(A) IN GENERAL.—The Commissioner shall not make a payment for the allotments described in this subsection to any State for a fiscal year unless the Commissioner—

''(i) determines that the State independent living expenditure for the first preceding fiscal year is not less than the State independent living expenditure for the second preceding fiscal year; or

''(ii) reduces the amount of the payment by the amount by which the State independent living expenditure for the second preceding fiscal year exceeds the State independent living expenditure for the first preceding fiscal year.

''(B) DEFINITION.—In this subsection, the term 'State independent living expenditure', used with respect to a fiscal year, means the total expenditure in the State of other Federal funds (other than funds made available to carry out this part), State funds, and local funds for that fiscal year to provide assistance for centers for independent living.''.

SEC. 3. REPORT.

Section 704(m)(4)(D) of the Rehabilitation Act of 1973 (42 U.S.C. 795c(m)(4)(D)) is amended by inserting '', including reports indicating the manner in which and extent to which the State complied with the maintenance of effort requirement specified in section 721(c)(4)(A)(i)'' before the semicolon.

By Mrs. LINCOLN (for herself, Mrs. MURRAY, Ms. LANDRIEU, and Ms. CANTWELL):

S. 1238. A bill to amend titles XVIII, XIX, and XXI of the Social Security Act to improve women's health, and for other purposes; to the Committee on Finance.

Mrs. LINCOLN. Mr. President, I am pleased to introduce the Improving Women's Health Act of 2003, which seeks to make Medicare, Medicaid, and S–CHIP better programs for women. I am pleased to be joined in this effort today by my friends Senators MURRAY, LANDRIEU, and CANTWELL.

Women are the majority of Medicare recipients, and, at age 85, women make up 71 percent of the Medicare population. By adding several modern treatments to the list of Medicare benefits, we will begin to address some of the most prominent, underlying risk factors for illness that face women Medicare beneficiaries today. These new benefits represent the highest recommendations for Medicare beneficiaries in the U.S. Preventive Services Task Force and the Institute of Medicine. These benefits can help reduce Medicare beneficiaries' risk for health problems such as diabetes, stroke, cancer, osteoporosis, and heart disease.

This bill would also eliminate all cost-sharing for these and existing preventive health benefits to encourage women to get screened for diseases such as osteoporosis and breast cancer. We need to get rid of all barriers to preventative services. Studies have

shown that cost-sharing deters beneficiaries, especially those with low-incomes, from getting screened.

Because heart disease is the number one killer of women, this bill would add new preventive services to Medicare, such as cholesterol screening, medical nutrition therapy services for beneficiaries with cardiovascular disease, counseling for cessation of tobacco use, and diabetes screening.

In addition, this bill provides for coverage of annual pap smear and pelvic exams and boosts the payment amount for screening mammography under Medicare. Numerous reports in the media have indicated that screening mammography is not adequately reimbursed and, as a result, facilities are closing or ending their service. Facilities are saying that they are losing money on every patient that comes through the door, and patient load is rising.

Recognizing the role women play as caregivers for aging family members, this bill provides Medicare beneficiaries with a new option of receiving home health services in an adult day care setting. Adult day centers enable family caregivers to continue working or simply take a break from their caregiving duties. Most importantly, adult day care patients benefit from social interaction, therapeutic activities, nutrition, health monitoring, and medication management.

More than 22 million families nationwide, or nearly 1 in 4 families, serve as caregivers for aging seniors, providing close to 80 percent of the care of to individuals requiring long-term care. Nearly 75 percent of people providing care for aging family members are women who also maintain other responsibilities, such as working outside of the home and raising young children. The average loss of income to these caregivers has been shown to be over $650,000 in wages, pension, and Social Security benefits. The loss of productivity in U.S. businesses ranges from $11 to $29 billion a year. The services offered in adult day care facilities provide continuity of care and an important sense of community for both the senior and the caregiver. This important provision will benefit women of all ages.

Finally, this legislation provides States with the flexibility and Federal resources to improve and expand prenatal care for low-income pregnant women. It gives States new options to cover pregnant women under their State Children's Health Insurance Program, S–CHIP, to cover low-income legal immigrant pregnant women and children under Medicaid and S–CHIP, and to cover tobacco cessation counseling services for pregnant women under the Medicaid program. The bill also gives States the option to provide family planning services and supplies to low-income women. In recent years, a number of States, including Arkansas, have sought and received Federal permission in the form of waivers to provide Medicaid-financed family planning services and supplies to lower income, uninsured residents whose incomes are above the state's regular Medicaid eligibility ceilings. Under this section, States would no longer have to seek a waiver to extend Medicaid coverage for family planning services; instead they could establish these programs at their option.

I encourage my colleagues to join me by supporting this important legislation that will make Medicare, Medicaid, and S–CHIP better programs for all women.

By Mr. LUGAR:

S. 1240. A bill to establish the Millennium Challenge Corporation, and for other purposes; to the Committee on Foreign Relations.

Mr. LUGAR. Mr. President, I rise to introduce legislation that is intended to unite Senators behind the President's bold new commitment to international development. As my colleagues are aware, the President has offered a plan called the Millennium Challenge Corporation that will focus U.S. energy and resources on countries that, while very poor, show commitment to economic reform and development. It is a unique plan that would reward and showcase what we Americans believe to be the essential ingredients for success: good government, investments in people, and a reliance on free markets.

My colleagues on the Senate Foreign Relations Committee strongly supported the goals of the President's initiative and applauded his enthusiasm and personal commitment. But, when we considered the MCC legislation a few weeks ago, organizational issues divided the Committee. The Committee voted 11 to 8 against creating the MCC as an independent agency. Instead the functions of the MCC were integrated into the State Department.

This outcome did not capture the President's vision of a fresh start for a unique approach to development assistance. The Secretary of State himself argued against the Committee's majority on that vote. Secretary Powell said that the President's plan would be best achieved through the establishment of an innovative, flexible, narrowly targeted and highly visible separate organization that can complement other assistance provided through more traditional means.

I believe the Senate should work for a consensus on this issue. This important initiative cannot be allowed to founder on a question of organization.

I have been working to develop a middle ground that will satisfy the basic goals of all sides. My bill creates the needed ingredients for interagency coordination, a top priority among a majority on the Committee. But it does not undermine the integrity of the President's concept. It puts the MCC under the authority of the Secretary of State and has the MCC's Chief Executive Officer report to the Secretary. It gives the MCC the same status within the State Department as the U.S. Agency for International Development, with the right to manage itself, hire staff, and create its own culture. It mandates coordination between the MCC and USAID in the field and give USAID the primary role in preparing countries for MCC eligibility. It also includes the Administrator of USAID on the MCC board to ensure that the perspective of USAID is considered.

Through these means, I believe that the MCC can be substantially independent, as envisioned by the President, while preserving the leadership of the Secretary of State and the input of USAID.

I would emphasize that the President has invested his personal attention and time in the MCC concept. It is rare for a President of either party to provide such strong leadership in the area of development assistance. President Bush's advocacy is critical to the success of this initiative. I believe Congress will regret its actions if we undercut this opportunity for U.S. foreign policy by failing to reach a workable consensus on the MCC's organization.

I am hoping for a strong Senate vote on the MCC and will bring up my compromise proposal at an appropriate time. The MCC provides a way to focus single-mindedly on economic development that is results-based and meets clear benchmarks of success. We can have the coordination we seek while also insulating it from short-term political considerations so that it can focus on widening the universe of countries that live in peace and look to a prosperous and stable future.

I ask unanimous consent that the two accompany pages be printed in the RECORD.

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

MILLENNIUM CHALLENGE CORPORATION

ORIGINAL PROPOSAL

MCC is an independent agency.

President of the United States—Appoints MCC Chief Exec. Officer subject to advice and consent.

MCC Board Composition—Secretary of the Treasury, Director of OMB, Secretary of State, Chrman.

MCC Board Responsibilities—Directs all MCC activities, Develops indicators, Determines eligible countries, Writes contracts with MCC countries, Selects proposals for funding.

Secretary of State—Serves as Chairman of the MCC Board.

MCC Chief Exec. Officer—Shall exercise the functions and powers vested in him/her by the President and the Board.

USAID Administrator—Role not mentioned.

MARKED-UP VERSION

MCC does not exist; functions integrated into State.

President has no direct role.

MCC Board does not exist.

MCC Board does not exist.

Secretary of State—

Coordinates all MCA assistance.

Designates appropriate officer as coordinator.

Determines eligible countries.
Writes contracts with MCC countries.
Coordinator/Millennium Challenge Acct.—
Develops indicators.
Coordinates MCA aid with other govt. agencies.
Pursues MCA coordination with int'l donors.
Oversees other govt. agencies doing MCA work.
Resolves disputes amg agencies doing MCA work.
USAID Administrator—Role not mentioned.

COMPROMISE

MCC in State but has same autonomy as USAID.
President—Same as in Original Proposal.
MCC Board Composition.
Secretary of the Treasury.
Administrator of USAID.
US Trade Representative.
MCC Chief Exec. Officer.
Secretary of State, Chrmn.
MCC Board Responsibilities.
Develops indicators.
Determines eligible countries.
Writes contracts with MCC countries.
Select proposals for funding.
Secretary of State.
Coordinates all US foreign assistance.
Oversees the MCC Chief Exec. Officer.
Provides foreign policy guidance to the MCC.
Suspends MCC assistance in certain cases.
Serves as Chairman of the MCC Board.
MCC Chief Exec. Officer.
Manages the MCC.
Serves on the MCC board.
Coordinates MCC aid with other govt. agencies.
Pursues MCC coordination with int'l donors.
Oversees MCC work done by other govt. agencies.
Resolves disputes amg. agencies doing MCC work.
USAID Administrator.
Sits on the MCC board.
MCC required to coordinate with USAID in field.
USAID has primary role in preparing countries for MCC eligibility.

By Mr. MCCAIN (for himself, Mr. HOLLINGS, and Mrs. HUTCHISON):

S. 1244. A bill to authorize appropriations for the Federal Maritime Commission for fiscal years 2004 and 2005; to the Committee on Commerce, Science, and Transportation.

Mr. MCCAIN. Mr. President, I am pleased to be joined by Senator HOLLINGS, the Ranking Member of the Senate Commerce Committee; and Senator HUTCHISON, the Chairman of the Surface Transportation and Merchant Marine Subcommittee, in introducing a bipartisan bill to reauthorize the Federal Maritime Commission, FMC.

The Federal Maritime Commission is an independent agency comprised of five commissioners. Its primary responsibility is administering the Shipping Act of 1984 and enforcing the Foreign Shipping Practices Act and Section 19 of the Merchant Marine Act of 1920. The work carried out by the FMC is critical to protecting shippers and carriers from restrictive or unfair practices by foreign-flag carriers.

This legislation would authorize funding for the Commission to continue its important work through fiscal year 2005. Specifically, the bill would authorize $18.5 million for fiscal year 2004, which is the level requested by the Administration, and $19.5 million for fiscal year 2005. The bill also would amend Section 102(b) of the Reorganization Plan No. 7 of 1961 to require that the Commission's chairman be subject to Senate confirmation. Additionally, the bill would require the Commission to report to Congress on the status of any agreements or discussions with other Federal, State, or local governmental agencies concerning issues dealing with the sharing of ocean shipping information for the purpose of assisting law enforcement or anti-terrorism efforts. The Commission also would be directed to make recommendations on how the Commission's ocean shipping information could be better utilized to improve port security efforts.

I look forward to working with my colleagues in moving this bill through the legislative process in the weeks ahead.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 166—RECOGNIZING THE UNITED STATES AIR FORCE'S AIR FORCE NEWS AGENCY ON THE OCCASION OF ITS 25TH ANNIVERSARY AND HONORING THE AIR FORCE PERSONNEL WHO HAVE SERVED THE NATION WHILE ASSIGNED TO THAT AGENCY

Mr. CORNYN submitted the following resolution; which was referred to the Committee on the Judiciary.

S. RES. 166

Whereas the Air Force News Agency has served as the primary news and information organization for the United States Air Force since the agency was organized on June 1, 1978;

Whereas the Air Force News Agency currently has more than 480 personnel stationed around the world in 28 locations gathering news, information, and images about United States military missions;

Whereas the Air Force News Agency is capable of providing news, information, and images in the widest array of formats to the American public and the world, including print, television, radio, Internet, and telephone formats;

Whereas the Air Force News Agency provides a critical service to senior leaders and commanders of the Department of Defense and the United States Air Force by providing news, information, and images to service members wherever they are stationed around the world;

Whereas the Air Force News Agency helps ensure the morale and readiness of the members of the United States Armed Forces around the world by covering and reporting on the critical services they provide in service to the Nation, to their remote locations, to their family members, and to the American public;

Whereas the Air Force News Agency has recently contributed significantly in Operation Enduring Freedom, Operation Noble Eagle, Operation Anaconda in Afghanistan, and Operation Iraqi Freedom;

Whereas during Operation Desert Shield and Operation Desert Storm, the Air Force News Agency's Air Force Broadcasting Service delivered continuous radio and television news and information to coalition forces through the American Forces Desert Network;

Whereas the Air Force News Agency's Air Force News Service provides news, information, and images about the United States Air Force through its official web site, Air Force Link, to more than 3,700,000 Internet users every week, biweekly television news programs to more than 800 television stations and cable systems, and print news stories and images to more than 30,000 subscribers every weekday;

Whereas the Air Force News Agency's Army and Air Force Hometown News Service annually provides more than 800,000 news releases to 12,000 daily and weekly hometown newspapers of active, Reserve, and Guard service members and distributes more than 13,500 Holiday Greetings to 1,085 television stations and 2,906 radio stations each holiday season; and

Whereas the year 2003 marks the 25th anniversary of the Air Force News Agency: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the United States Air Force's Air Force News Agency on the occasion of its 25th anniversary; and

(2) honors the Air Force personnel who have served the Nation while assigned to that agency.

SENATE CONCURRENT RESOLUTION 53—HONORING AND CONGRATULATING CHAMBERS OF COMMERCE FOR THEIR EFFORTS THAT CONTRIBUTE TO THE IMPROVEMENT OF COMMUNITIES AND THE STRENGTHENING OF LOCAL AND REGIONAL ECONOMIES

Mr. LEVIN (for himself, and Ms. STABENOW) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 53

Whereas chambers of commerce throughout the United States contribute to the improvement of their communities and the strengthening of their local and regional economies;

Whereas in the Detroit, Michigan area, the Detroit Regional Chamber, originally known as the Detroit Board of Commerce, typifies the public-spirited contributions made by the chambers of commerce;

Whereas, on June 30, 1903, the Detroit Board of Commerce was formally organized with 253 charter members;

Whereas the Detroit Board of Commerce played a prominent role in the formation of the United States Chamber of Commerce;

Whereas the Detroit Board of Commerce participated in the Good Roads for Michigan campaign in 1910 and 1911, helping to gain voter approved of a $2,000,000 bond proposal to improve the roads of Wayne County, Michigan;

Whereas, in 1925, the Safety Council of the Detroit Board of Commerce helped develop the first traffic lights in Detroit;

Whereas, in 1927, the Detroit Board of Commerce brought together all of the cities, villages, and townships in southeast Michigan to tentatively establish boundaries for a metropolitan district for Detroit, embracing all or parts of Wayne, Oakland, Macomb, Monroe, and Washtenaw Counties at the request of the United States Census Bureau in advance of the 1930 census;

Whereas, in 1932, the Federal Home Loan Bank Board designated the Detroit Board of Commerce as the authorized agent for stock subscriptions in the Federal Home Loan Bank, as an early response to the Great Depression;

Whereas, in 1945, the Detroit Board of Commerce promoted the making of Victory Loans to veterans returning from service in the United States Armed Forces during World War II as a way of expressing thanks for the veterans' wartime service, and raised more than half of the total amount contributed in Wayne County, Michigan, to fund Victory Loans;

Whereas, in 1969, the Detroit Board of Commerce, then known as the Greater Detroit Chamber of Commerce, was instrumental in the establishment of a bus network connecting inner-city workers and jobs, which resulted in the creation of the Southeast Metropolitan Transportation Authority, now known as SMART;

Whereas the Detroit Board of Commerce has been known by several names during its century of existence, eventually becoming known as the Detroit Regional Chamber in November 1997;

Whereas the Detroit Regional Chamber is the largest chamber of commerce in the United States and has been in existence for over 100 years;

Whereas more than 19,000 businesses across southeast Michigan have decided to make an initial investment in the Detroit Regional Chamber to help develop the region;

Whereas the Detroit Regional Chamber has supported the concept of regionalism in southeast Michigan, representing the concerns of business and the region as a whole;

Whereas the mission of the Detroit Regional Chamber is to help power the economy of southeastern Michigan;

Whereas the Detroit Regional Chamber successfully advocates public policy concerns on behalf of its members at the local, regional, State, and national levels;

Whereas the Detroit Regional Chamber has implemented programs promoting diversity in its work force and has won recognition for such efforts;

Whereas the Detroit Regional Chamber is committed to promoting the interests of its members in the global marketplace through economic development efforts; and

Whereas, on June 30, 2003, the Detroit Regional Chamber celebrates its 100th anniversary: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), that Congress honors and congratulates chambers of commerce for their efforts that contribute to the improvement of their communities and the strengthening of their local and regional economies.

SENATE CONCURRENT RESOLUTION 54—COMMENDING MEDGAR WILEY EVERS AND HIS WIDOW, MYRLIE EVERS-WILLIAMS FOR THEIR LIVES AND ACCOMPLISHMENTS, DESIGNATING A MEDGAR EVERS NATIONAL WEEK OF REMEMBRANCE, AND FOR OTHER PURPOSES

Mr. COCHRAN (for himself and Mr. LOTT) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 54

Whereas a pioneer in the fight for racial justice, Medgar Wiley Evers, was born July 2, 1925, in Decatur, Mississippi, to James and Jessie Evers;

Whereas, to faithfully serve his country, Medgar Evers left high school to join the Army when World War II began and, after coming home to Mississippi, he completed high school, enrolled in Alcorn Agricultural and Mechanical College, presently known as Alcorn State University, and majored in business administration;

Whereas, as a student at Alcorn Agricultural and Mechanical College, Evers was a member of the debate team, the college choir, and the football and track teams, was the editor of the campus newspaper and the yearbook, and held several student offices, which gained him recognition in Who's Who in American Colleges;

Whereas, while a junior at Alcorn Agricultural and Mechanical College, Evers met a freshman named Myrlie Beasley, whom he married on December 24, 1951, and with whom he spent the remainder of his life;

Whereas, after Medgar Evers received a bachelor of arts degree, he moved to historic Mound Bayou, Mississippi, became employed by Magnolia Mutual Life Insurance Company, and soon began establishing local chapters of the National Association for the Advancement of Colored People (referred to in this resolution as the ''NAACP'') throughout the Delta region;

Whereas, moved by the plight of African-Americans in Mississippi and a desire to change the conditions facing them, in 1954, after the United States Supreme Court ruled school segregation unconstitutional, Medgar Evers became the first known African-American person to apply for admission to the University of Mississippi Law School, but was denied that admission;

Whereas, as a result of that denial, Medgar Evers contacted the NAACP to take legal action;

Whereas in 1954, Medgar Evers was offered a position as the Mississippi Field Secretary for the NAACP, and he accepted the position, making Myrlie Evers his secretary;

Whereas, with his wife by his side, Medgar Evers began a movement to register people to vote in Mississippi and, as a result of his activities, Medgar Evers received numerous threats;

Whereas, in spite of the threats, Medgar Evers persisted, with dedication and courage, to organize rallies, build the NAACP's membership, and travel around the country with Myrlie Evers to educate the public;

Whereas Medgar Evers' passion for quality education for all children led him to file suit against the Jackson, Mississippi public schools, which gained him national media coverage;

Whereas Medgar Evers organized students from Tougaloo and Campbell Colleges, coordinated and led protest marches, organized boycotts of Jackson businesses and sit-ins, and challenged segregated bus seating, and for these heroic efforts, he was arrested, beaten, and jailed;

Whereas the violence against Medgar Evers came to a climax on June 12, 1963, when he was shot and killed in front of his home;

Whereas, after the fingerprints of an outspoken segregationist were recovered from the scene of the shooting, and 2 juries deadlocked without a conviction in the shooting case, Myrlie Evers and her 3 children moved to Claremont, California, where she enrolled in Pomona College and earned her bachelor's degree in sociology in 1968;

Whereas, after Medgar Evers' death, Myrlie Evers began to create her own legacy and emerged as a national catalyst for justice and equality by becoming active in politics, becoming a founder of the National Women's Political Caucus, running for Congress in California's 24th congressional district, serving as Commissioner of Public Works for Los Angeles, using her writing skills to serve as a correspondent for Ladies Home Journal and to cover the Paris Peace Talks, and rising to prominence as Director of Consumer Affairs for the Atlantic Richfield Company;

Whereas Myrlie Evers became Myrlie Evers-Williams when she married Walter Williams in 1976;

Whereas, in the 1990's, Evers-Williams convinced Mississippi prosecutors to reopen Medgar Evers' murder case, and the reopening of the case led to the conviction and life imprisonment of Medgar Evers' killer;

Whereas Evers-Williams became the first female to chair the 64-member Board of Directors of the NAACP, to provide guidance to an organization that was dear to Medgar Evers' heart;

Whereas Evers-Williams has published her memoirs, entitled ''Watch Me Fly: What I Learned on the Way to Becoming the Woman I Was Meant to Be'', to enlighten the world about the struggles that plagued her life as the wife of an activist and empowered her to become a community leader;

Whereas Evers-Williams is widely known as a motivational lecturer and continues to speak out against discrimination and injustice;

Whereas her latest endeavor has brought her home to Mississippi to make two remarkable contributions, through the establishment of the Evers Collection and the Medgar Evers Institute, which advance the knowledge and cause of social injustice and which encompass the many lessons in the life's work of Medgar Evers and Myrlie Evers-Williams;

Whereas Evers-Williams has presented the extraordinary papers in that Collection and Institute to the Mississippi Department of Archives and History, where the papers are being preserved and catalogued; and

Whereas it is the policy of Congress to recognize and pay tribute to the lives and accomplishments of extraordinary Mississippians such as Medgar Evers and Myrlie Evers-Williams, whose life sacrifices have contributed to the betterment of the lives of the citizens of Mississippi as well as the United States: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) Congress commends Medgar Wiley Evers and his widow, Myrlie Evers-Williams, and expresses the greatest respect and gratitude of Congress, for their lives and accomplishments;

(2) the Senate—

(A) designates the period beginning on June 9, 2003, and ending on June 16, 2003, as the ''Medgar Evers National Week of Remembrance''; and

(B) requests that the President issue a proclamation calling on the people of the United States to observe the week with appropriate ceremonies and activities; and

(3) copies of this resolution shall be furnished to the family of Medgar Wiley Evers and Myrlie Evers-Williams.

AMENDMENTS SUBMITTED AND PROPOSED

SA 878. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table.

SA 879. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 880. Mr. ALEXANDER (for himself, Mr. SANTORUM, Mr. CORNYN, Ms. LANDRIEU, Mr. BINGAMAN, Mr. DOMENICI, Mr. GRASSLEY, and Ms. MURKOWSKI) proposed an amendment to the bill S. 14, supra.

SA 881. Mr. BINGAMAN (for himself, Mr. INOUYE, and Mr. DASCHLE) proposed an amendment to the bill S. 14, supra.

SA 882. Mr. MCCONNELL (for himself, Mrs. FEINSTEIN, Mr. MCCAIN, Mr. AKAKA, Mr. ALEXANDER, Mr. ALLARD, Mr. ALLEN, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mrs. BOXER, Mr. BREAUX, Mr. BROWNBACK, Mr. BUNNING, Mr. CHAMBLISS, Mrs. CLINTON, Mr. COLEMAN, Ms. COLLINS, Mr. CORZINE, Mr. DASCHLE, Mr. DAYTON, Mrs. DOLE, Mr. DOMENICI, Mr. DURBIN, Mr. EDWARDS, Mr. FEINGOLD, Mr. FRIST, Mr. HAGEL, Mr. DORGAN, Mr. BURNS, Mr. KOHL, Mr. HARKIN, Mrs. HUTCHISON, Mr. JEFFORDS, Mr. KENNEDY, Mr. KERRY, Mr. KYL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. LUGAR, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Nebraska, Mr. REID, Mr. ROCKEFELLER, Mr. SANTORUM, Mr. SARBANES, Mr. SCHUMER, Mr. SMITH, Mr. SPECTER, Ms. STABENOW, Mr. VOINOVICH, Mr. WYDEN, Mr. GRAHAM of Florida, Mr. BAUCUS, and Mr. CAMPBELL) proposed an amendment to the bill S. 1215, to sanction the ruling Burmese military junta, to strengthen Burma's democratic forces and support and recognize the National League of Democracy as the legitimate representative of the Burmese people, and for other purposes.

SA 883. Mr. MCCONNELL (for himself, Mr. GRASSLEY, and Mr. BAUCUS) proposed an amendment to amendment SA 882 proposed by Mr. MCCONNELL (for himself, Mrs. FEINSTEIN, Mr. MCCAIN, Mr. AKAKA, Mr. ALEXANDER, Mr. ALLARD, Mr. ALLEN, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mrs. BOXER, Mr. BREAUX, Mr. BROWNBACK, Mr. BUNNING, Mr. CHAMBLISS, Mrs. CLINTON, Mr. COLEMAN, Ms. COLLINS, Mr. CORZINE, Mr. DASCHLE, Mr. DAYTON, Mrs. DOLE, Mr. DOMENICI, Mr. DURBIN, Mr. EDWARDS, Mr. FEINGOLD, Mr. FRIST, Mr. HAGEL, Mr. DORGAN, Mr. BURNS, Mr. KOHL, Mr. HARKIN, Mrs. HUTCHISON, Mr. JEFFORDS, Mr. KENNEDY, Mr. KERRY, Mr. KYL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. LUGAR, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Nebraska, Mr. REID, Mr. ROCKEFELLER, Mr. SANTORUM, Mr. SARBANES, Mr. SCHUMER, Mr. SMITH, Mr. SPECTER, Ms. STABENOW, Mr. VOINOVICH, Mr. WYDEN, Mr. GRAHAM of Florida, Mr. BAUCUS, AND Mr. CAMPBELL) to the bill S. 1215, supra.

SA 884. Mr. GRAHAM of Florida (for himself, Mrs. FEINSTEIN, Ms. CANTWELL, Mr. WYDEN, Mr. NELSON of Florida, Mrs. BOXER, Mr. LAUTENBERG, Mr. EDWARDS, Mr. KERRY, Mrs. MURRAY, Mr. LIEBERMAN, Mr. AKAKA, Mr. LEAHY, Ms. SNOWE, Mr. DODD, Mr. CHAFEE, Mrs. DOLE, Mr. KENNEDY, Mr. CORZINE, and Ms. COLLINS) proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes.

SA 885. Ms. MURKOWSKI submitted an amendment intended to be proposed by her to the bill S. 14, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 878. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 150, after line 14, insert the following:

SEC. 443. PLAN FOR WESTERN NEW YORK SERVICE CENTER.

Not later than December 31, 2003, the Secretary of Energy shall transmit to the Congress a plan for the transfer to the Secretary of title to, and full responsibility for the possession, transportation, disposal, stewardship, maintenance, and monitoring of, all facilities, property, and radioactive waste at the Western New York Service Center in West Valley, New York. The Secretary shall consult with the President of the New York State Energy Research and Development Authority in developing such plan.

SA 879. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. SUSTAINABILITY GRANTS FOR WOMEN'S BUSINESS CENTERS.

Section 29(k)(4)(A)(iv) of the Small Business Act (15 U.S.C. 656(k)(4)(A)(iv)) is amended by striking ''30.2 percent'' and inserting ''36 percent''.

SA 880. Mr. ALEXANDER (for himself, Mr. SANTORUM, Mr. CORNYN, Ms. LANDRIEU, Mr. BINGAMAN, Mr. DOMENICI, Mr. GRASSLEY, and Ms. MURKOWSKI) proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

Page 52, after line 22, insert:

''SECTION . NATURAL GAS SUPPLY SHORTAGE REPORT.

''(a) REPORT.—Not later than six months after the date of enactment of this act, the Secretary of Energy (''Secretary'') shall submit to the Congress a report on natural gas supplies and demand. In preparing the report, the Secretary shall consult with experts in natural gas supply and demand as well as representatives of State and local units of government, tribal organizations, and consumer and other organizations. As the Secretary deems advisable, the Secretary may hold public hearings and provide other opportunities for public comment. The report shall contain recommendations for federal actions that, if implemented, will result in a balance between natural gas supply and demand at a level that will ensure, to the maximum extent practicable, achievement of the objectives established in subsection (b).

''(b) OBJECTIVES OF REPORT.—In preparing the report, the Secretary shall seek to develop a series of recommendations that will result in a balance between natural gas supply and demand adequate to—

''(1) provide residential consumers with natural gas at reasonable and stable prices;

''(2) accommodate long-term maintenance and growth of domestic natural gas dependent industrial, manufactured and commercial enterprises;

''(3) facilitate the attainment of national ambient air quality standards under the Clean Air Act;

''(4) permit continued progress in reducing emissions associated with electric power generation; and

''(5) support development of the preliminary phases of hydrogen-based energy technologies.

''(c) CONTENTS OF REPORT.—The report shall provide a comprehensive analysis of natural gas supply and demand in the United States for the period from 2004 and 2015. The analysis shall include, at a minimum—

''(1) estimates of annual domestic demand for natural gas that take into account the effect of federal policies and actions that are likely to increase and decrease demand for natural gas;

''(2) projections of annual natural gas supplies, from domestic and foreign sources, under existing federal policies;

''(3) an identification of estimated natural gas supplies that are not available under existing federal policies;

''(4) scenarios for decreasing natural gas demand and increasing natural gas supplies comparing relative economic and environmental impacts of federal policies that—

''(A) encourage or require the use of natural gas to meet air quality, carbon dioxide emission reduction, or energy security goals;

''(B) encourage or require the use of energy sources other than natural gas, including coal, nuclear and renewable sources;

''(C) support technologies to develop alternative sources of natural gas and synthetic gas, including coal gasification technologies;

''(D) encourage or require the use of energy conservation and demand side management practices; and

''(E) affect access to domestic natural gas supplies; and

''(5) recommendations for federal actions to achieve the objectives of the report, including recommendations that—

''(A) encourage or require the use of energy sources other than natural gas, including coal, nuclear and renewable sources;

''(B) encourage or require the use of energy conservation or demand side management practices;

''(C) support technologies for the development of alternative sources of natural gas and synthetic gas, including coal gasification technologies; and

''(D) will improve access to domestic natural gas supplies.''.

SA 881. Mr. BINGAMAN (for himself, Mr. INOUYE, and Mr. DASCHLE) proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

Page 101, line 1, strike ''electrify Indian tribal land'' and all that follows through page 128, line 24, and insert:

''(4) electrify Indian tribal land and the homes of tribal members.''

(b) CONFORMING AMENDMENTS.—

(1) The table of contents of the Department of Energy Organization Act (42 U.S.C. prec. 7101) is amended—

(A) in the item relating to section 209, by striking ''Section'' and inserting ''Sec.''; and

(B) by striking the items relating to sections 213 through 216 and inserting the following:

''Sec. 213. Establishment of policy for National Nuclear Security Administration.
''Sec. 214. Establishment of security, counterintelligence, and intelligence policies.
''Sec. 215. Office of Counterintelligence.
''Sec. 216. Office of Intelligence.
''Sec. 217. Office of Indian Energy Policy and Programs

(2) Section 5315 of title 5, United States Code, is amended by inserting ''Director, Office of Indian Energy Policy and Programs, Department of Energy.'' after ''Inspector General, Department of Energy.''.

SEC. 303. INDIAN ENERGY.

(a) Title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501 et seq.) is amended to read as follows:

''TITLE XXVI—INDIAN ENERGY

''SEC. 2601. DEFINITIONS.

''For purposes of this title:

''(1) The term 'Director' means the Director of the Office of Indian Energy Policy and Programs, Department of Energy.

''(2) The term 'Indian land' means—

''(A) any land located within the boundaries of an Indian reservation, pueblo, or rancheria;

''(B) any land not located within the boundaries of an Indian reservation, pueblo, or rancheria, the title to which is held—

''(i) in trust by the United States for the benefit of an Indian tribe;

''(ii) by an Indian tribe, subject to restriction by the United States against alienation; or

''(iii) by a dependent Indian community; and

''(C) land conveyed to a Native Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

''(3) The term 'Indian reservation' includes—

''(A) an Indian reservation in existence in any State or States as of the date of enactment of this paragraph;

''(B) a public domain Indian allotment;

''(C) in Oklahoma, all land that is—

''(i) within the jurisdictional area of an Indian tribe, and

''(ii) within the boundaries of the last reservation of such tribe that was established by treaty, executive order, or secretarial order; and

''(D) a dependent Indian community located within the borders of the United States, regardless of whether the community is located—

''(i) on original or acquired territory of the community; or

''(ii) within or outside the boundaries of any particular State.

''(4) The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b), except the term, for the purpose of Section 2604, shall not include any Native Corporation.

''(5) The term 'Native Corporation' has the meaning given the term in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

''(6) The term 'organization' means a partnership, joint venture, limited liability company, or other unincorporated association or entity that is established to develop Indian energy resources.

''(7) The term 'Program' means the Indian energy resource development program established under section 2602(a).

''(8) The term 'Secretary' means the Secretary of the Interior.

''(9) The term 'tribal energy resource development organization' means an organization of 2 or more entities, at least 1 of which is an Indian tribe, that has the written consent of the governing bodies of all Indian tribes participating in the organization to apply for a grant, loan, or other guarantee authorized by sections 2602 or 2603 of this title.

''(10) The term 'tribal land' means any land or interests in land owned by any Indian tribe, band, nation, pueblo, community, rancheria, colony or other group, title to which is held in trust by the United States or which is subject to a restriction against alienation imposed by the United States.

''(11) The term 'vertical integration of energy resources'' means any project or activity that promotes the location and operation of a facility (including any pipeline, gathering system, transportation system or facility, or electric transmission facility), on or near Indian land to process, refine, generate electricity from, or otherwise develop energy resources on, Indian land.

''SEC. 2602. INDIAN TRIBAL ENERGY RESOURCE DEVELOPMENT.

''(a) DEPARTMENT OF THE INTERIOR PROGRAM.—

''(1) To assist Indian tribes in the development of energy resources and further the goal of Indian self-determination, and with the consent of any affected Indian tribe, the Secretary shall establish and implement an Indian energy resource development program to assist Indian tribes and tribal energy resource development organizations in achieving the purposes of this title.

''(2) In carrying out the Program, the Secretary shall—

''(A) provide development grants to Indian tribes and tribal energy resource development organizations for use in developing or obtaining the managerial and technical capacity needed to develop energy resources on Indian land, and to properly account for resulting energy production and revenues;

''(B) provide grants to Indian tribes and tribal energy resource development organizations for use in carrying out projects to promote the vertical integration of energy resources, and to process, use, or develop those energy resources, on Indian land; and

''(C) provide low-interest loans to Indian tribes and tribal energy resource development organizations for use in the promotion of energy resource development and vertical integration of energy resources on Indian land.

''(3) There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 2004 through 2014.

''(b) INDIAN ENERGY EDUCATION PLANNING AND MANAGEMENT ASSISTANCE.—

''(1) The Director shall establish programs to assist Indian tribes in meeting energy education, research and development, planning, and management needs.

''(2) In carrying out this section, the Director may provide grants, on a competitive basis, to an Indian tribe or tribal energy resource development organization for use in carrying out—

''(A) energy, energy efficiency, and energy conservation programs;

''(B) studies and other activities supporting tribal acquisition of energy supplies, services, and facilities;

''(C) planning, construction, development, operation, maintenance, and improvement of tribal electrical generation, transmission, and distribution facilities located on Indian land; and

''(D) development, construction, and interconnection of electric power transmission facilities located on Indian land with other electric transmission facilities.

''(3)(A) The Director may develop, in consultation with Indian tribes, a formula for providing grants under this section.

''(B) In providing a grant under this subsection, the Director shall give priority to an application received from an Indian tribe with inadequate electric service (as determined by the Director).

''(4) The Secretary of Energy may promulgate such regulations as necessary to carry out this subsection.

''(5) There is authorized to be appropriated to carry out this subsection $20,000,000 for each of fiscal years 2004 through 2011.

''(c) LOAN GUARANTEE PROGRAM.—

''(1) Subject to paragraph (3), the Secretary of Energy may provide loan guarantees (as defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) for not more than 90 percent of the unpaid principal and interest due on any loan made to any Indian tribe for energy development.

''(2) A loan guaranteed under this subsection shall be made by—

''(A) a financial institution subject to examination by the Secretary of Energy; or

''(B) an Indian tribe, from funds of the Indian tribe.

''(3) The aggregate outstanding amount guaranteed by the Secretary of Energy at any time under this subsection shall not exceed $2,000,000,000.

''(4) The Secretary of Energy may promulgate such regulations as the Secretary of Energy determines are necessary to carry out this subsection.

''(5) There are authorized to be appropriated such sums as are necessary to carry out this subsection, to remain available until expended.

''(6) Not later than 1 year from the date of enactment of this section, the Secretary of Energy shall report to the Congress on the financing requirements of Indian tribes for energy development on Indian land.

''(d) INDIAN ENERGY PREFERENCE.—

''(1) In purchasing electricity or any other energy product or byproduct, a Federal agency or department may give preference to an energy and resource production enterprise, partnership, consortium, corporation, or other type of business organization the majority of the interest in which is owned and controlled by 1 or more Indian tribes.

''(2) In carrying out this subsection, a Federal agency or department shall not—

''(A) pay more than the prevailing market price for an energy product or byproduct; and

''(B) obtain less than prevailing market terms and conditions.''.

''SEC. 2603. INDIAN TRIBAL ENERGY RESOURCE REGULATION.

''(a) GRANTS.—The Secretary may provide to Indian tribes and tribal energy resource development organizations, on an annual basis, grants for use in developing, administering, implementing, and enforcing tribal laws (including regulations) governing the development and management of energy resources on Indian land.

''(b) USE OF FUNDS.—Funds from a grant provided under this section may be used by an Indian tribe or tribal energy resource development organization for—

''(1) the development of a tribal energy resource inventory or tribal energy resource on Indian land;

''(2) the development of a feasibility study or other report necessary to the development of energy resources on Indian land;

''(3) the development and enforcement of tribal laws and the development of technical infrastructure to protect the environment under applicable law; or

''(4) the training of employees that—

''(A) are engaged in the development of energy resources on Indian land; or

''(B) are responsible for protecting the environment.

''(c) OTHER ASSISTANCE.—To the maximum extent practicable, the Secretary and the Secretary of Energy shall make available to Indian tribes and tribal energy resource development organizations scientific and technical data for use in the development and management of energy resources on Indian land.

''SEC. 2604. LEASES, BUSINESS AGREEMENTS, AND RIGHTS-OF-WAY INVOLVING ENERGY DEVELOPMENT OR TRANSMISSION.

''(a) LEASES AND AGREEMENTS.—Subject to the provisions of this section—

''(1) an Indian tribe may, at its discretion, enter into a lease or business agreement for the purpose of energy development, including a lease or business agreement for—

''(A) exploration for, extraction of, processing of, or other development of energy resources on tribal land; and

''(B) construction or operation of an electric generation, transmission, or distribution facility located on tribal land; or a facility to process or refine energy resources developed on tribal land; and

''(2) such lease or business agreement described in paragraph (1) shall not require the approval of the Secretary under section 2103 of the Revised Statutes (25 U.S.C. 81) or any other provision of Title 25, U.S. Code, if—

''(A) the lease or business agreement is executed in accordance with a tribal energy resource agreement approved by the Secretary under subsection (e);

''(B) the term of the lease or business agreement does not exceed—

''(i) 30 years; or

''(ii) in the case of a lease for the production of oil and gas resources, 10 years and as long thereafter as oil or gas is produced in paying quantities; and

''(C) the Indian tribe has entered into a tribal energy resource agreement with the Secretary, as described in subsection (e), relating to the development of energy resources on tribal land (including an annual trust asset evaluation of the activities of the Indian tribe conducted in accordance with the agreement).

''(b) RIGHTS-OF-WAY FOR PIPELINES OR ELECTRIC TRANSMISSION OR DISTRIBUTION LINES.—An Indian tribe may grant a right-of-way over tribal land for a pipeline or an electric transmission or distribution line without specific approval by the Secretary if—

''(1) the right-of-way is executed in accordance with a tribal energy resource agreement approved by the Secretary under subsection (e);

''(2) the term of the right-of-way does not exceed 30 years;

''(3) the pipeline or electric transmission or distribution line serves—

''(A) an electric generation, transmission, or distribution facility located on tribal land; or

''(B) a facility located on tribal land that processes or refines energy resources developed on tribal land; and

''(4) the Indian tribe has entered into a tribal energy resource agreement with the Secretary, as described in subsection (e), relating to the development of energy resources on tribal land (including an annual trust asset evaluation of the activities of the Indian tribe conducted in accordance with the agreement).

''(c) RENEWALS.—A lease or business agreement entered into or a right-of-way granted by an Indian tribe under this section may be renewed at the discretion of the Indian tribe in accordance with this section.

''(d) VALIDITY.—No lease, business agreement, or right-of-way relating to the development of tribal energy resources pursuant to the provisions of this section shall be valid unless the lease, business agreement, or right-of-way is authorized in accordance with a tribal energy resource agreement approved by the Secretary under subsection (e)(2).

''(e) TRIBAL ENERGY RESOURCE AGREEMENTS.—

''(1) On promulgation of regulations under paragraph (8), an Indian tribe may submit to the Secretary for approval a tribal energy resource agreement governing leases, business agreements, and rights-of-way under this section.

''(2)(A) Not later than 180 days after the date on which the Secretary receives a tribal energy resource agreement submitted by an Indian tribe under paragraph (1) (or one year if the Secretary determines such additional time is necessary to comply with applicable federal law), the Secretary shall approve or disapprove the tribal energy resource agreement.

''(B) The Secretary shall approve a tribal energy resource agreement submitted under paragraph (1) if—

''(i) the Secretary determines that the Indian tribe has demonstrated that the Indian tribe has sufficient capacity to regulate the development of energy resources of the Indian tribe; and

''(ii) the tribal energy resource agreement includes provisions that, with respect to a lease, business agreement, or right-of-way under this section—

''(1) ensure the acquisition of necessary information from the applicant for the lease, business agreement, or right-of-way;

''(II) address the term of the lease or business agreement or the term of conveyance of the right-of-way;

''(III) address amendments and renewals;

''(IV) address consideration for the lease, business agreement, or right-of-way;

''(V) address technical or other relevant requirements;

''(VI) establish requirements for environmental review in accordance with subparagraph (C);

''(VII) ensure compliance with all applicable environmental laws;

''(VIII) identify final approval authority;

''(IX) provide for public notification of final approvals;

''(X) establish a process for consultation with any affected States concerning potential off-reservation impacts associated with the lease, business agreement, or right-of-way;

''(XI) describe the remedies for breach of the lease, agreement, or right-of-way; and

''(XII) describe tribal remedies, if any, against the United States for breach of any duties of the United States under such tribal energy resource agreement.

''(C) Tribal energy resource agreements submitted under paragraph (1) shall establish, and include provisions to ensure compliance with, an environmental review process that, with respect to a lease, business agreement, or right-of-way under this section, provides for—

''(i) Except as provided in clause (ii) of this subparagraph, the preparation of a document comparable to an environmental assessment as provided for in existing regulations issued by the President's Council on Environmental Quality, including brief discussions of the need for the proposal and the environmental impacts (including impacts on cultural resources) of the proposed action and alternatives (which may be limited to a no-action alternative except in circumstances in which section 102(2)(E) of the National Environmental Policy Act (42 U.S.C. 4332(2)(E)) would require a broader consideration of alternatives if such action were proposed by a federal agency);

''(ii) in the event that the environmental analysis specified in clause (i) leads to a determination by the responsible tribal official that the impacts of the proposed action will be significant, the tribe will prepare an environmental impact statement comparable to that required pursuant to existing regulations of the Council on Environmental Quality, provided that the preparation of an environmental assessment pursuant to clause (i) is not required if the responsible tribal official makes a threshold determination that an environmental impact statement pursuant to this clause (ii) will be required;

''(iii) the identification of proposed mitigation and mechanisms to ensure that any mitigation measures that are incorporated into the environmental documents required pursuant to clause (i) or (ii) will be enforceable;

''(iv) a process for ensuring that the public is informed of and has an opportunity to comment on the environmental impacts of any proposed lease, business agreement, or right-of-way before the issuance of a final document under clauses (i) or (ii), and before tribal approval of the lease, business agreement, or right-of-way (or any amendment to or renewal of the lease, business agreement, or right-of-way); and

''(v) sufficient administrative support and technical capability to carry out the environmental review process.

''(D) A tribal energy resource agreement negotiated between the Secretary and an Indian tribe in accordance with this subsection shall include—

''(i) provisions requiring the Secretary to conduct an annual trust asset evaluation to monitor the performance of the activities of the Indian tribe associated with the development of energy resources on tribal land by the Indian tribe; and

''(ii) in the case of a finding by the Secretary of imminent jeopardy to a physical trust asset, provisions authorizing the Secretary to reassume responsibility for activities associated with the development of energy resources on tribal land.

''(3) The Secretary shall provide notice and opportunity for public comment on tribal energy resource agreements submitted under paragraph (1).

''(4) If the Secretary disapproves a tribal energy resource agreement submitted by an Indian tribe under paragraph (1), the Secretary shall—

''(A) notify the Indian tribe in writing of the basis for the disapproval;

''(B) identify what changes or other actions are required to address the concerns of the Secretary; and

''(C) provide the Indian tribe with an opportunity to revise and resubmit the tribal energy resource agreement.

''(5) If an Indian tribe executes a lease or business agreement or grants a right-of-way in accordance with a tribal energy resource agreement approved under this subsection, the Indian tribe shall, in accordance with the process and requirements set forth in the Secretary's regulations adopted pursuant to subsection (e)(8), provide to the Secretary—

''(A) a copy of the lease, business agreement, or right-of-way document (including all amendments to and renewals of the document); and

''(B) in the case of a tribal energy resource agreement or a lease, business agreement, or right-of-way that permits payment to be made directly to the Indian tribe, documentation of those payments sufficient to enable the Secretary to discharge the trust responsibility of the United States as appropriate under applicable law.

''(6)(A) Nothing in this section shall absolve the United States from any responsibility to Indians or Indian tribes, including those which derive from the trust relationship as set forth in treaties, statutes, regulations, Executive Orders, court decisions, and agreements between the United States and any Indian tribe; provided further that the Secretary shall carry out the actions required in this section in a manner consistent with the trust responsibility to protect and conserve the trust resources of Indian tribes and individual Indians, and shall act in good faith in upholding such trust responsibility.

''(B) The Secretary shall continue to have a trust obligation to ensure that the rights of an Indian tribe are protected in the event of a violation of federal law or the terms of any lease, business agreement or right-of-way under this section by any other party to any such lease, business agreement or right-of-way.

''(7)(A) In this paragraph, the term 'interested party' means any person or entity the interests of which have sustained or will sustain an adverse environmental impact as a result of the failure of an Indian tribe to comply with a tribal energy resource agreement of the Indian tribe approved by the Secretary under paragraph (2).

''(B) After exhaustion of tribal remedies, and in accordance with the process and requirements set forth in regulations adopted by the Secretary pursuant to subsection (e)(8), an interested party may submit to the Secretary a petition to review compliance of an Indian tribe with a tribal energy resource agreement of the Indian tribe approved under this subsection.

''(C) If the Secretary determines that an Indian tribe is not in compliance with a tribal energy resource agreement approved

under this subsection, the Secretary shall take such action as is necessary to compel compliance, including—

''(i) suspending a lease, business agreement, or right-of-way under this section until an Indian tribe is in compliance with the approved tribal energy resource agreement; and

''(ii) rescinding approval of the tribal energy resource agreement and reassuming the responsibility for approval of any future leases, business agreements, or rights-of-way described in subsections (a) and (b).

''(D) If the Secretary seeks to compel compliance of an Indian tribe with an approved tribal energy resource agreement under subparagraph (C)(ii), the Secretary shall—

''(i) make a written determination that describes the manner in which the tribal energy resource agreement has been violated;

''(ii) provide the Indian tribe with a written notice of the violation together with the written determination; and

''(iii) before taking any action described in subparagraph (C)(ii) or seeking any other remedy, provide the Indian tribe with a hearing and a reasonable opportunity to attain compliance with the tribal energy resource agreement.

''(E) An Indian tribe described in subparagraph (D) shall retain all rights to appeal as provided in regulations promulgated by the Secretary.

''(F) Any decision of the Secretary with respect to a review or appeal described in this paragraph (7) shall constitute a final agency action.

''(8) Not later than 180 days after the date of enactment of the Indian Tribal Energy Development and Self-Determination Act of 2003, the Secretary shall promulgate regulations that implement the provisions of this subsection, including—

''(A) criteria to be used in determining the capacity of an Indian tribe described in paragraph (2)(B)(i), including the experience of the Indian tribe in managing natural resources and financial and administrative resources available for use by the Indian tribe in implementing the approved tribal energy resource agreement of the Indian tribe; and

''(B) a process and requirements in accordance with which an Indian tribe may—

''(i) voluntarily rescind an approved tribal energy resource agreement approved by the Secretary under this subsection; and

''(ii) return to the Secretary the responsibility to approve any future leases, business agreements, and rights-of-way described in this subsection.

''(f) NO EFFECT ON OTHER LAW.—Nothing in this section affects the application of—

''(1) any Federal environmental law;

''(2) the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.); or

''(3) except as otherwise provided in this title, the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.).

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of the Interior $2,000,000 for each of fiscal years 2004 through 2010 to make grants or provide other appropriate assistance to Indian tribes to assist them in the implementation of any tribal energy resource agreements entered into pursuant to this section.

''(h) EXPIRATION OF AUTHORITY.—The authority of an Indian tribe to enter into, or issue, leases, business agreements or rights-of-way pursuant to this section, and the Secretary's authority to approve tribal energy resource agreements pursuant to this section, shall expire seven years after the date of enactment of the Indian Energy Development and Self-Determination Act of 2003, unless reauthorized by a subsequent Act of Congress.

''SEC. 2605. FEDERAL POWER MARKETING ADMINISTRATIONS.

''(a) DEFINITIONS.—In this section:

''(1) The term 'Administrator' means the Administrator of the Bonneville Power Administration and the Administrator of the Western Area Power Administration.

''(2) The term 'power marketing administration' means—

''(A) the Bonneville Power Administration;

''(B) the Western Area Power Administration; and

''(C) any other power administration the power allocation of which is used by or for the benefit of an Indian tribe located in the service area of the administration.

''(b) ENCOURAGEMENT OF INDIAN TRIBAL ENERGY DEVELOPMENT.—Each Administrator shall encourage Indian tribal energy development by taking such actions as are appropriate, including administration of programs of the Bonneville Power Administration and the Western Area Power Administration, in accordance with this section.

''(c) ACTION BY THE ADMINISTRATOR.—In carrying out this section, and in accordance with existing law—

''(1) each Administrator shall consider the unique relationship that exists between the United States and Indian tribes.

''(2) power allocations from the Western Area Power Administration to Indian tribes may be used to meet firming, supplemental, and reserve needs of Indian-owned energy projects on Indian land;

''(3) the Administrator of the Western Area Power Administration may purchase power from Indian tribes to meet the firming, supplemental, and reserve requirements of the Western Area Power Administration; and

''(4) each Administrator shall not pay more than the prevailing market price for an energy product nor obtain less than prevailing market terms and conditions.

''(d) ASSISTANCE FOR TRANSMISSION SYSTEM USE.—

''(1) An Administrator may provide technical assistance to Indian tribes seeking to use the high-voltage transmission system for delivery of electric power.

''(2) The costs of technical assistance provided under paragraph (1) shall be funded by the Secretary of Energy using nonreimbursable funds appropriated for that purpose, or by the applicable Indian tribes.

''(e) POWER ALLOCATION STUDY.—Not later than 2 years after the date of enactment of the Indian Tribal Energy Development and Self-Determination Act of 2003, the Secretary of Energy shall submit to the Congress a report that—

''(1) describes the use by Indian tribes of Federal power allocations of the Western Area Power Administration (or power sold by the Southwestern Power Administration) and the Bonneville Power Administration to or for the benefit of Indian tribes in service areas of those administrations; and

''(2) identifies—

''(A) the quantity of power allocated to Indian tribes by the Western Area Power Administration;

''(B) the quantity of power sold to Indian tribes by other power marketing administrations; and

''(C) barriers that impede tribal access to and use of Federal power, including an assessment of opportunities to remove those barriers and improve the ability of power marketing administrations to facilitate the use of Federal power by Indian tribes.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $750,000, which shall remain available until expended and shall not be reimbursable.

''SEC. 2606. INDIAN MINERAL DEVELOPMENT REVIEW.

''(a) IN GENERAL.—The Secretary shall conduct a review of all activities being conducted under the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.) as of that date.

''(b) REPORT.—Not later than 1 year after the date of enactment of the Indian Tribal Energy Development and Self-Determination Act of 2003, the Secretary shall submit to the Congress a report that includes—

''(1) the results of the review;

''(2) recommendations to ensure that Indian tribes have the opportunity to develop Indian energy resources; and

''(3) an analysis of the barriers to the development of energy resources on Indian land (including legal, fiscal, market, and other barriers), along with recommendations for the removal of those barriers.

''SEC. 2607. WIND AND HYDROPOWER FEASIBILITY STUDY.

''(a) STUDY.—The Secretary of Energy, in coordination with the Secretary of the Army and the Secretary, shall conduct a study of the cost and feasibility of developing a demonstration project that would use wind energy generated by Indian tribes and hydropower generated by the Army Corps of Engineers on the Missouri River to supply firming and supplemental power to the Western Area Power Administration.

''(b) SCOPE OF STUDY.—The study shall—

''(1) determine the feasibility of the blending of wind energy and hydropower generated from the Missouri River dams operated by the Army Corps of Engineers;

''(2) review historical purchase requirements and projected purchase requirements for firming and the patterns of availability and use of firming energy;

''(3) assess the wind energy resource potential on tribal land and projected cost savings through a blend of wind and hydropower over a 30-year period;

''(4) determine seasonal capacity needs and associated transmission upgrades for integration of tribal wind generation; and

''(5) include an independent tribal engineer as a study team member.

''(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary and Secretary of the Army shall submit to Congress a report that describes the results of the study, including—

''(1) an analysis of the potential energy cost or benefits to the customers of the Western Area Power Administration through the blend of wind and hydropower;

''(2) an evaluation of whether a combined wind and hydropower system can reduce reservoir fluctuation, enhance efficient and reliable energy production, and provide Missouri River management flexibility;

''(3) recommendations for a demonstration project that could be carried out by the Western Area Power Administration in partnership with an Indian tribal government or tribal energy resource development organization to demonstrate the feasibility and potential of using wind energy produced on Indian land to supply firming energy to the Western Area Power Administration or any other Federal power marketing agency; and

''(4) an identification of—

''(A) the economic and environmental costs or benefits to be realized through such a Federal-tribal partnership; and

''(B) the manner in which such a partnership could contribute to the energy security of the United States.

''(d) FUNDING.—

''(1) There is authorized to be appropriated to carry out this section $500,000, to remain available until expended.

''(2) Costs incurred by the Secretary in carrying out this section shall be nonreimbursable.''.

(b) CONFORMING AMENDMENTS.—The table of contents for the Energy Policy Act of 1992 (25 U.S.C. 3501 et seq.) is amended by striking items relating to Title XXVI, and inserting:

SA 882. Mr. MCCONNELL (for himself, Mrs. FEINSTEIN, Mr. MCCAIN, Mr. AKAKA, Mr. ALEXANDER, Mr. ALLARD, Mr. ALLEN, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mrs. BOXER, Mr. BREAUX, Mr. BROWNBACK, Mr. BUNNING, Mr. CHAMBLISS, Mrs. CLINTON, Mr. COLEMAN, Ms. COLLINS, Mr. CORZINE, Mr. DASCHLE, Mr. DAYTON, Mrs. DOLE, Mr. DOMENICI, Mr. DURBIN, Mr. EDWARDS, Mr. FEINGOLD, Mr. FRIST, Mr. HAGEL, Mr. DORGAN, Mr. BURNS, Mr. KOHL, Mr. HARKIN, Mrs. HUTCHISON, Mr. JEFFORDS, Mr. KENNEDY, Mr. KERRY, Mr. KYL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. LUGAR, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Nebraska, Mr. REID, Mr. ROCKEFELLER, Mr. SANTORUM, Mr. SARBANES, MR. SCHUMER, Mr. SMITH, Mr. SPECTER, Ms. STABENOW, Mr. VOINOVICH, Mr. WYDEN, Mr. GRAHAM of Florida, Mr. BAUCUS, and Mr. CAMPBELL,) proposed an amendment to the bill S. 1215, to sanction the ruling Burmese military junta, to strengthen Burma's democratic foreces and support and recognize the National League of Democracy as the legitimate representative of the Burmese people, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Burmese Freedom and Democracy Act of 2003''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The State Peace and Development Council (SPDC) has failed to transfer power to the National League for Democracy (NLD) whose parliamentarians won an overwhelming victory in the 1990 elections in Burma.

(2) The SPDC has failed to enter into meaningful, political dialogue with the NLD and ethnic minorities and has dismissed the efforts of United Nations Special Envoy Razali bin Ismail to further such dialogue.

(3) According to the State Department's ''Report to the Congress Regarding Conditions in Burma and U.S. Policy Toward Burma'' dated March 28, 2003, the SPDC has become ''more confrontational'' in its exchanges with the NLD.

(4) On May 30, 2003, the SPDC, threatened by continued support for the NLD throughout Burma, brutally attacked NLD supporters, killed and injured scores of civilians, and arrested democracy advocate Aung San Suu Kyi and other activists.

(5) The SPDC continues egregious human rights violations against Burmese citizens, uses rape as a weapon of intimidation and torture against women, and forcibly conscripts child-soldiers for the use in fighting indigenous ethnic groups.

(6) The SPDC has demonstrably failed to cooperate with the United States in stopping the flood of heroin and methamphetamines being grown, refined, manufactured, and transported in areas under the control of the SPDC serving to flood the region and much of the world with these illicit drugs.

(7) The SPDC provides safety, security, and engages in business dealings with narcotics traffickers under indictment by United States authorities, and other producers and traffickers of narcotics.

(8) The International Labor Organization (ILO), for the first time in its 82-year history, adopted in 2000, a resolution recommending that governments, employers, and workers organizations take appropriate measures to ensure that their relations with the SPDC do not abet the government-sponsored system of forced, compulsory, or slave labor in Burma, and that other international bodies reconsider any cooperation they may be engaged in with Burma and, if appropriate, cease as soon as possible any activity that could abet the practice of forced, compulsory, or slave labor.

(9) The SPDC has integrated the Burmese military and its surrogates into all facets of the economy effectively destroying any free enterprise system.

(10) Investment in Burmese companies and purchases from them serve to provide the SPDC with currency that is used to finance its instruments of terror and repression against the Burmese people.

(11) On April 15, 2003, the American Apparel and Footwear Association expressed its ''strong support for a full and immediate ban on U.S. textiles, apparel and footwear imports from Burma'' and called upon the United States Government to ''impose an outright ban on U.S. imports'' of these items until Burma demonstrates respect for basic human and labor rights of its citizens.

(12) The policy of the United States, as articulated by the President on April 24, 2003, is to officially recognize the NLD as the legitimate representative of the Burmese people as determined by the 1990 election.

SEC. 3. BAN AGAINST TRADE THAT SUPPORTS THE MILITARY REGIME OF BURMA.

(a) GENERAL BAN.—

(1) IN GENERAL.—Notwithstanding any other provision of law, until such time as the President determines and certifies to Congress that Burma has met the conditions described in paragraph (3), no article may be imported into the United States that is produced, mined, manufactured, grown, or assembled in Burma.

(2) BAN ON IMPORTS FROM CERTAIN COMPANIES.—The import restrictions contained in paragraph (1) shall apply to, among other entities—

(A) the SPDC, any ministry of the SPDC, a member of the SPDC or an immediate family member of such member;

(B) known narcotics traffickers from Burma or an immediate family member of such narcotics trafficker;

(C) the Union of Myanmar Economics Holdings Incorporated (UMEHI) or any company in which the UMEHI has a fiduciary interest;

(D) the Myanmar Economic Corporation (MEC) or any company in which the MEC has a fiduciary interest;

(E) the Union Solidarity and Development Association (USDA); and

(F) any successor entity for the SPDC, UMEHI, MEC, or USDA.

(3) CONDITIONS DESCRIBED.—The conditions described in this paragraph are the following:

(A) The SPDC has made substantial and measurable progress to end violations of internationally recognized human rights including rape, and the Secretary of State, after consultation with the ILO Secretary General and relevant nongovernmental organizations, reports to the appropriate congressional committees that the SPDC no longer systematically violates workers rights, including the use of forced and child labor, and conscription of child-soldiers.

(B) The SPDC has made measurable and substantial progress toward implementing a democratic government including—

(i) releasing all political prisoners;

(ii) allowing freedom of speech and the press;

(iii) allowing freedom of association;

(iv) permitting the peaceful exercise of religion; and

(v) bringing to a conclusion an agreement between the SPDC and the democratic forces led by the NLD and Burma's ethnic nationalities on the transfer of power to a civilian government accountable to the Burmese people through democratic elections under the rule of law.

(C) Pursuant to the terms of section 706 of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228), Burma has not failed demonstrably to make substantial efforts to adhere to its obligations under international counternarcotics agreements and to take other effective counternarcotics measures, including the arrest and extradition of all individuals under indictment in the United States for narcotics trafficking, and concrete and measurable actions to stem the flow of illicit drug money into Burma's banking system and economic enterprises and to stop the manufacture and export of methamphetamines.

(4) APPROPRIATE CONGRESSIONAL COMMITTEES.—In this subsection, the term ''appropriate congressional committees'' means the Committees on Foreign Relations and Appropriations of the Senate and the Committees on International Relations and Appropriations of the House of Representatives.

(b) WAIVER AUTHORITIES.—

(1) IN GENERAL.—The President may waive the prohibitions described in this section for any or all products imported from Burma to the United States if the President determines and notifies the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and International Relations of the House of Representatives that to do so is in the national security interest of the United States.

(2) INTERNATIONAL OBLIGATIONS.—The President may waive any provision of this Act found to be in violation of any international obligations of the United States pursuant to any final ruling relating to Burma under the dispute settlement procedures of the World Trade Organization.

SEC. 4. FREEZING ASSETS OF THE BURMESE REGIME IN THE UNITED STATES.

Not later than 60 days after the date of enactment of this Act, the Secretary of the Treasury shall direct, and promulgate regulations to the same, that any United States financial institution holding funds belonging to the SPDC or the assets of those individuals who hold senior positions in the SPDC or its political arm, the Union Solidarity Development Association, shall promptly report those assets to the Office of Foreign Assets Control. The Secretary of the Treasury may take such action as may be necessary to secure such assets or funds.

SEC. 5. LOANS AT INTERNATIONAL FINANCIAL INSTITUTIONS.

The Secretary of the Treasury shall instruct the United States executive director to each appropriate international financial institution in which the United States participates, to oppose, and vote against the extension by such institution of any loan or financial or technical assistance to Burma

until such time as the conditions described in section 3(a)(3) are met.

SEC. 6. EXPANSION OF VISA BAN.

(a) IN GENERAL.—

(1) VISA BAN.—The President is authorized to deny visas and entry to the former and present leadership of the SPDC or the Union Solidarity Development Association.

(2) UPDATES.—The Secretary of State shall coordinate on a biannual basis with representatives of the European Union to ensure that an individual who is banned from obtaining a visa by the European Union for the reasons described in paragraph (1) is also banned from receiving a visa from the United States.

(b) PUBLICATION.—The Secretary of State shall post on the Department of State's website the names of individuals whose entry into the United States is banned under subsection (a).

SEC. 7. CONDEMNATION OF THE REGIME AND DISSEMINATION OF INFORMATION.

(a) IN GENERAL.—Congress encourages the Secretary of State to highlight the abysmal record of the SPDC to the international community and use all appropriate fora, including the Association of Southeast Asian Nations Regional Forum and Asian Nations Regional Forum, to encourage other states to restrict financial resources to the SPDC and Burmese companies while offering political recognition and support to Burma's democratic movement including the National League for Democracy and Burma's ethnic groups.

(b) UNITED STATES EMBASSY.—The United States embassy in Rangoon shall take all steps necessary to provide access of information and United States policy decisions to media organs not under the control of the ruling military regime.

SEC. 8. SUPPORT DEMOCRACY ACTIVISTS IN BURMA.

(a) IN GENERAL.—The President is authorized to use all available resources to assist Burmese democracy activists dedicated to nonviolent opposition to the regime in their efforts to promote freedom, democracy, and human rights in Burma, including a listing of constraints on such programming.

(b) REPORTS.—

(1) FIRST REPORT.—Not later than 3 months after the date of enactment of this Act, the Secretary of State shall provide the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and International Relations of the House of Representatives a comprehensive report on its short- and long-term programs and activities to support democracy activists in Burma, including a list of constraints on such programming.

(2) REPORT ON RESOURCES.—Not later than 6 months after the date of enactment of this Act, the Secretary of State shall provide the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and International Relations of the House of Representatives a report identifying resources that will be necessary for the reconstruction of Burma, after the SPDC is removed from power, including—

(A) the formation of democratic institutions;

(B) establishing the rule of law;

(C) establishing freedom of the press;

(D) providing for the successful reintegration of military officers and personnel into Burmese society; and

(E) providing health, educational, and economic development.

SA 883. Mr. MCCONNELL (for himself, Mr. GRASSLEY, and Mr. BAUCUS) proposed an amendment to amendment SA 882 proposed by Mr. MCCONNELL (for himself, Mrs. FEINSTEIN, Mr. MCCAIN, Mr. AKAKA, Mr. ALEXANDER, Mr. ALLARD, Mr. ALLEN, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mrs. BOXER, Mr. BREAUX, Mr. BROWNBACK, Mr. BUNNING, Mr. CHAMBLISS, Mrs. CLINTON, Mr. COLEMAN, Ms. COLLINS, Mr. CORZINE, Mr. DASCHLE, Mr. DAYTON, Mrs. DOLE, Mr. DOMENICI, Mr. DURBIN, Mr. EDWARDS, Mr. FEINGOLD, Mr. FRIST, Mr. HAGEL, Mr. DORGAN, Mr. BURNS, Mr. KOHL, Mr. HARKIN, Mrs. HUTCHISON, Mr. JEFFORDS, Mr. KENNEDY, Mr. KERRY, Mr. KYL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. LUGAR, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Nebraska, Mr. REID, Mr. ROCKEFELLER, Mr. SANTORUM, Mr. SARBANES, Mr. SCHUMER, Mr. SMITH, Mr. SPECTER, Ms. STABENOW, Mr. VOINOVICH, Mr. WYDEN, Mr. GRAHAM of Florida, Mr. BAUCUS, and Mr. CAMPBELL) to the bill S. 1215, to sanction the ruling Burmese military junta, to strengthen Burma's democratic forces and support and recognize the National League of Democracy as the legitimate representative of the Burmese people, and for other purposes; as follows:

On page 5, line 5, insert ''and except as provided in section 9'' after ''law''.

Beginning on page 7, line 23, strike all through page 8, line 3, and insert the following:

(4) APPROPRIATE CONGRESSIONAL COMMITTEES.—In this Act, the term ''appropriate congressional committees'' means the Committee on Foreign Relations, the Committee on Finance, and the Committee on Appropriations of the Senate and the Committee on International Relations, the Committee on Ways and Means, and the Committee on Appropriations of the House of Representatives.

On page 8, beginning on line 5, strike all through line 13, and insert the following:

(1) IN GENERAL.—The President may waive the prohibitions described in this section for any or all products imported from Burma to the United States if the President determines and notifies the appropriate congressional committees that to do so is in the vital national security interest of the United States.

On page 11, beginning on line 16, strike ''Committees on Appropriations and Foreign Relations of the Senate'' and all that follows through ''House of Representatives'' on line 19, and insert ''appropriate congressional committees''.

On page 12, beginning on line 1, strike ''Committees on Appropriations and Foreign Relations of the Senate'' and all that follows through ''House of Representatives'' on line 4, and insert ''appropriate congressional committees''.

On page 12, after line 16, insert the following:

(3) REPORT ON TRADE SANCTIONS.—Not later than 90 days before the date that the import restrictions contained in section 3(a)(1) are to expire, the Secretary of State, in consultation with the United States Trade Representative and other appropriate agencies, shall submit to the appropriate congressional committees, a report on—

(A) conditions in Burma, including human rights violations, arrest and detention of democracy activists, forced and child labor, and the status of dialogue between the SPDC and the NLD and ethnic minorities;

(B) bilateral and multilateral measures undertaken by the United States Government and other governments to promote human rights and democracy in Burma; and

(C) the impact and effectiveness of the provisions of this Act in furthering the policy objectives of the United States toward Burma.

SEC. 9. DURATION OF SANCTIONS.

(a) TERMINATION BY REQUEST FROM DEMOCRATIC BURMA.—The President may terminate any provision in this Act upon the request of a democratically elected government in Burma, provided that all the conditions in section 3(a)(3) have been met.

(b) CONTINUATION OF IMPORT SANCTIONS.—

(1) EXPIRATION.—The import restrictions contained in section 3(a)(1) shall expire 1 year from the date of enactment of this Act unless renewed under paragraph (2) of this section.

(2) RESOLUTION BY CONGRESS.—The import restrictions contained in section 3(a)(1) may be renewed annually for a 1-year period if, prior to the anniversary of the date of enactment of this Act, and each year thereafter, a renewal resolution is enacted into law in accordance with subsection (c).

(c) RENEWAL RESOLUTIONS.—

(1) IN GENERAL.—For purposes of this section, the term ''renewal resolution'' means a joint resolution of the 2 Houses of Congress, the sole matter after the resolving clause of which is as follows: ''That Congress approves the renewal of the import restrictions contained in section 3(a)(1) of the Burmese Freedom and Democracy Act of 2003.''

(2) PROCEDURES.—

(A) IN GENERAL.—A renewal resolution—

(i) may be introduced in either House of Congress by any member of such House at any time within the 90-day period before the expiration of the import restrictions contained in section 3(a)(1); and

(ii) the provisions of subparagraph (B) shall apply.

(B) EXPEDITED CONSIDERATION.—The provisions of section 152 (b), (c), (d), (e), and (f) of the Trade Act of 1974 (19 U.S.C. 2192 (b), (c), (d), (e), and (f)) apply to a renewal resolution under this Act as if such resolution were a resolution described in section 152(a) of the Trade Act of 1974.

SA 884. Mr. GRAHAM of Florida (for himself, Mrs. FEINSTEIN, Ms. CANTWELL, Mr. WYDEN, Mr. NELSON of Florida, Mrs. BOXER, Mr. LAUTENBERG, Mr. EDWARDS, Mr. KERRY, Mrs. MURRAY, Mr. LIEBERMAN, Mr. AKAKA, Mr. LEAHY, Ms. SNOWE, Mr. DODD, Mr. CHAFEE, Mrs. DOLE, Mr. KENNEDY, Mr. CORZINE, and Ms. COLLINS) proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

Beginning on page 23, strike line 20 and all that follows through page 25, line 8.

SA 885. Ms. MURKOWSKI submitted an amendment intended to be proposed by her to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XI, add the following:

Subtitle I—Miscellaneous

SEC. 1195. ENERGY SECURITY OF ISRAEL.

(a) IN GENERAL.—Notwithstanding any other provision of law, the President may export oil to, or secure oil for, any country pursuant to a bilateral international oil supply agreement entered into by the United States with such nation before June 25, 1979,

or to any country pursuant to the International Emergency Oil Sharing Plan of the International Energy Agency.

(b) MEMORANDUM OF AGREEMENT.—The following agreements shall be deemed to have entered into force by operation of law and shall be deemed to have no termination date:

(1) The agreement entitled ''Agreement amending and extending the memorandum of agreement of June 22, 1979'', entered into force November 13, 1994 (TIAS 12580).

(2) The agreement entitled ''Agreement amending the contingency implementing arrangements of October 17, 1980'', entered into force June 27, 1995 (TIAS 12670).

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet in executive session during the session of the Senate on Wednesday, June 11, 2003. The following agenda will be considered:

S. 648, Pharmacy Education Aid Act of 2003.

S __, Greater Access to Affordable Pharmaceuticals Act.

Any nominees that have been cleared for action.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, June 11, 2003, at 10 a.m., in room 485 of the Russell Senate Office Building to conduct a hearing on the nomination of Charles W. Grim, D.D.S., to be the Director of the Indian Health Service at the Department of Health and Human Services; to be followed immediately by another hearing on S. 1146, to implement the recommendations of the Garrison Unit Joint Tribal Advisory Committee by providing authorization for the construction of a rural health care facility on the Fort Berthold Indian Reservation, ND.

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

COMMITTEE ON THE JUDICIARY

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on ''Judicial and Executive Nominations'' on Wednesday, June 11, 2003, at 9:30 a.m., in the Dirksen Senate Office Building Room 650.

Panel I: Senators.

Panel II: William H. Pryor, Jr., to be United States Circuit Judge for the Eleventh Circuit.

Panel III: Diane M. Stuart to be Director, Violence Against Women Office, United States Department of Justice.

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

JOINT ECONOMIC COMMITTEE

Mr. THOMAS. Mr. President, I ask unanimous consent that the Joint Economic Committee be authorized to conduct a hearing in room 628 of the Dirksen Senate Office Building, Wednesday, June 11, 2003, from 9:30 a.m. to 1 p.m.

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

SUBCOMMITTEE ON COMPETITION, FOREIGN COMMERCE, AND INFRASTRUCTURE

Mr. THOMAS. Mr. President, I ask unanimous consent that the Subcommittee on Competition, Foreign Commerce, and Infrastructure be authorized to meet on Wednesday, June 11, 2003, at 2:30 p.m.

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

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. THOMAS. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs be authorized to meet on Wednesday, June 11, 2003, at 9 a.m., for a hearing entitled ''Patient Safety: Instilling Hospitals with a Culture of Continuous Improvement.''

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

PRIVILEGES OF THE FLOOR

Mr. ENZI. Mr. President, I ask unanimous consent that Greg Dean of my office be given floor privileges during the debate on the Energy Bill.

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

Mr. GRAHAM of Florida. Mr. President, I ask unanimous consent that Mindy Yergin, an intern in my office, be granted floor privileges for the remainder of the consideration of this legislation.

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

Mrs. MURRAY. Mr. President, I ask unanimous consent that Andrea Lee, a legislative fellow in my office, be granted the privilege of the floor for the remainder of the debate on S. 14, the Energy Bill.

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

EXECUTIVE SESSION

NOMINATION DISCHARGED AND EXECUTIVE CALENDAR

Mr. FITZGERALD. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session and that the nomination of Clay Johnson, to be Deputy Director for Management, OMB, be discharged from the Governmental Affairs Committee; I further ask consent that the Senate proceed to its consideration and the consideration of Executive Calendar No. 224 en bloc; further, that the nominations be confirmed, the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

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

The nominations considered and confirmed en bloc are as follows:

EXECUTIVE OFFICE OF THE PRESIDENT

Clay Johnson III, of Texas, to be Deputy Director of Management, Office for Management and Budget.

DEPARTMENT OF JUSTICE

Harlon Eugene Costner, of North Carolina, to be United States Marshal for the Middle District of North Carolina for the term of four years.

LEGISLATIVE SESSION

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

COMMENDING MEDGAR WILEY EVERS AND HIS WIDOW, MYRLIE EVERS-WILLIAMS

Mr. FITZGERALD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 54, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 54) commending Medgar Wiley Evers and his widow, Myrlie Evers-Williams, for their lives and accomplishments, designating a Medgar Evers National Week of Remembrance, and for other purposes.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FITZGERALD. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD.

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

The concurrent resolution (S. Con. Res. 54) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 54

Whereas a pioneer in the fight for racial justice, Medgar Wiley Evers, was born July 2, 1925, in Decatur, Mississippi, to James and Jessie Evers;

Whereas, to faithfully serve his country, Medgar Evers left high school to join the Army when World War II began and, after coming home to Mississippi, he completed high school, enrolled in Alcorn Agricultural and Mechanical College, presently known as Alcorn State University, and majored in business administration;

Whereas, as a student at Alcorn Agricultural and Mechanical College, Evers was a member of the debate team, the college choir, and the football and track teams, was the editor of the campus newspaper and the yearbook, and held several student offices, which gained him recognition in Who's Who in American Colleges;

Whereas, while a junior at Alcorn Agricultural and Mechanical College, Evers met a freshman named Myrlie Beasley, whom he married on December 24, 1951, and with whom he spent the remainder of his life;

Whereas, after Medgar Evers received a bachelor of arts degree, he moved to historic Mound Bayou, Mississippi, became employed by Magnolia Mutual Life Insurance Company, and soon began establishing local chapters of the National Association for the Advancement of Colored People (referred to in this resolution as the ''NAACP'') throughout the Delta region;

Whereas, moved by the plight of African-Americans in Mississippi and a desire to change the conditions facing them, in 1954, after the United States Supreme Court ruled school segregation unconstitutional, Medgar Evers became the first known African-American person to apply for admission to the University of Mississippi Law School, but was denied that admission;

Whereas, as a result of that denial, Medgar Evers contacted the NAACP to take legal action;

Whereas in 1954, Medgar Evers was offered a position as the Mississippi Field Secretary for the NAACP, and he accepted the position, making Myrlie Evers his secretary;

Whereas, with his wife by his side, Medgar Evers began a movement to register people to vote in Mississippi and, as a result of his activities, Medgar Evers received numerous threats;

Whereas, in spite of the threats, Medgar Evers persisted, with dedication and courage, to organize rallies, build the NAACP's membership, and travel around the country with Myrlie Evers to educate the public;

Whereas Medgar Evers' passion for quality education for all children led him to file suit against the Jackson, Mississippi public schools, which gained him national media coverage;

Whereas Medgar Evers organized students from Tougaloo and Campbell Colleges, coordinated and led protest marches, organized boycotts of Jackson businesses and sit-ins, and challenged segregated bus seating, and for these heroic efforts, he was arrested, beaten, and jailed;

Whereas the violence against Medgar Evers came to a climax on June 12, 1963, when he was shot and killed in front of his home;

Whereas, after the fingerprints of an outspoken segregationist were recovered from the scene of the shooting, and 2 juries deadlocked without a conviction in the shooting case, Myrlie Evers and her 3 children moved to Claremont, California, where she enrolled in Pomona College and earned her bachelor's degree in sociology in 1968;

Whereas, after Medgar Evers' death, Myrlie Evers began to create her own legacy and emerged as a national catalyst for justice and equality by becoming active in politics, becoming a founder of the National Women's Political Caucus, running for Congress in California's 24th congressional district, serving as Commissioner of Public Works for Los Angeles, using her writing skills to serve as a correspondent for Ladies Home Journal and to cover the Paris Peace Talks, and rising to prominence as Director of Consumer Affairs for the Atlantic Richfield Company;

Whereas Myrlie Evers became Myrlie Evers-Williams when she married Walter Williams in 1976;

Whereas, in the 1990's, Evers-Williams convinced Mississippi prosecutors to reopen Medgar Evers' murder case, and the reopening of the case led to the conviction and life imprisonment of Medgar Evers' killer;

Whereas Evers-Williams became the first female to chair the 64-member Board of Directors of the NAACP, to provide guidance to an organization that was dear to Medgar Evers' heart;

Whereas Evers-Williams has published her memoirs, entitled ''Watch Me Fly: What I Learned on the Way to Becoming the Woman I Was Meant to Be'', to enlighten the world about the struggles that plagued her life as the wife of an activist and empowered her to become a community leader;

Whereas Evers-Williams is widely known as a motivational lecturer and continues to speak out against discrimination and injustice;

Whereas her latest endeavor has brought her home to Mississippi to make two remarkable contributions, through the establishment of the Evers Collection and the Medgar Evers Institute, which advance the knowledge and cause of social injustice and which encompass the many lessons in the life's work of Medgar Evers and Myrlie Evers-Williams;

Whereas Evers-Williams has presented the extraordinary papers in that Collection and Institute to the Mississippi Department of Archives and History, where the papers are being preserved and catalogued; and

Whereas it is the policy of Congress to recognize and pay tribute to the lives and accomplishments of extraordinary Mississippians such as Medgar Evers and Myrlie Evers-Williams, whose life sacrifices have contributed to the betterment of the lives of the citizens of Mississippi as well as the United States: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) Congress commends Medgar Wiley Evers and his widow, Myrlie Evers-Williams, and expresses the greatest respect and gratitude of Congress, for their lives and accomplishments;

(2) the Senate—

(A) designates the period beginning on June 9, 2003, and ending on June 16, 2003, as the ''Medgar Evers National Week of Remembrance''; and

(B) requests that the President issue a proclamation calling on the people of the United States to observe the week with appropriate ceremonies and activities; and

(3) copies of this resolution shall be furnished to the family of Medgar Wiley Evers and Myrlie Evers-Williams.

ORDERS FOR THURSDAY, JUNE 12, 2003

Mr. FITZGERALD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Thursday, June 12. I further ask consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of S. 14, the Energy bill, as provided under the previous order.

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

PROGRAM

Mr. FITZGERALD. For the information of all Senators, tomorrow morning the Senate will resume consideration of S. 14, the Energy bill. The Graham amendment relating to the Outer Continental Shelf is currently pending to the energy bill. Under a previous agreement, when the Senate resumes consideration of the bill tomorrow morning, there will be up to 90 minutes of debate prior to a vote on or in relation to the amendment. Therefore, the first vote of tomorrow's session will occur at approximately 11 a.m. In addition to the Graham amendment, the Senate will consider other amendments to the Energy bill, and Members should expect rollcall votes throughout the day.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FITZGERALD. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:57 p.m., adjourned until Thursday, June 12, 2003, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 11, 2003:

EXECUTIVE OFFICE OF THE PRESIDENT

CLAY JOHNSON III, OF TEXAS, TO BE DEPUTY DIRECTOR FOR MANAGEMENT, OFFICE OF MANAGEMENT AND BUDGET.

THE JUDICIARY

RICHARD C. WESLEY, OF NEW YORK, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SECOND CIRCUIT.

J. RONNIE GREER, OF TENNESSEE, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF TENNESSEE.

MARK R. KRAVITZ, OF CONNECTICUT, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF CONNECTICUT.

DEPARTMENT OF JUSTICE

HARLON EUGENE COSTNER, OF NORTH CAROLINA, TO BE UNITED STATES MARSHAL FOR THE MIDDLE DISTRICT OF NORTH CAROLINA FOR THE TERM OF FOUR YEARS.