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Senate

The Senate met at 2 p.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

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

O God of lights, whom to find is life and whom to miss is tragedy, we thank You for bringing us through the hurricane.

Lord, help us to make You the one fixed star of our hope. Empower our Senators with the faith to face the future with confidence. Give each of us the wisdom to realize that right is more important than might. Enable us to live today with calm assurance, glowing enthusiasm, vibrant faith, personal integrity, and righteous abandon. May we not simply refuse the overtures of evil, but help us also to choose the highest good.

We pray this in Your strong name. Amen.

PLEDGE OF ALLEGIANCE

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

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

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today the Senate will resume debate on H.R. 2691, the Interior appropriations bill. We currently have five amendments which are pending to the bill. This afternoon the two managers will be discussing which of those amendments will be ready for Senate votes.

I announced last week that we would be voting today and asked that the

managers consider beginning that vote—we will probably have two votes, although we will be discussing that over the afternoon—at 5:30 this afternoon. If further debate is necessary on amendments or we are unable to set a time certain for the votes on those amendments it will be my intention to schedule a judicial nomination tonight. So I am pretty certain we will be voting about 5:30, but as soon as we firm that up after discussion with the leadership on both sides we will make that known to our colleagues.

With respect to the remainder of the week, we will try to finish the Interior appropriations bill as early as possible tomorrow. The managers were here Thursday and continued to work through this past Thursday morning. They, of course, are here and will continue to be here through the afternoon and early evening, although I do not want to encourage any new amendments. If anybody is at all considering amendments, we must have those come forward as soon as possible.

Following completion of the Interior appropriations bill, as we mentioned last week, we will continue with the appropriations process. We will possibly begin consideration of the DC appropriations bill, although I want to talk to the chairman of the Appropriations Committee and the various managers. We will consult with the leadership, the managers, and the appropriate committee chairmen to make that determination as we move a little bit closer.

We finished last week very strong, and as a number of conference reports become ready, I anticipate bringing them to the floor this week, if possible. We could schedule hopefully those conference reports with short time agreements and votes this week.

At the end of last week, I also mentioned that there are 11 judicial nominations on today's Executive Calendar. Six are ready to be scheduled for votes, and I will be scheduling these for floor

action over the course of the next couple of days.

At an appropriate time, I want to make a brief statement and would be happy to turn to the assistant leader of the other side for any comments about the week or the schedule for clarification for our colleagues.

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. Mr. President, I have spoken to the Democratic manager of the bill; I have not had the opportunity to speak to Senator BURNS. But we do have a very important appropriations hearing at 2:30, and I understand these two managers may wish to go there. Senator BINGAMAN is on his way over to offer an amendment, so we should have some activity on the floor this afternoon.

As the leader indicated, there is an amendment or two that we could vote on this evening. I have been informed, as the leader has just indicated, that he wants to do at least one judge tonight. So I think we are going to have one or two votes tonight with ease and still have a shot at finishing this bill tomorrow.

EFFECTS OF HURRICANE ISABEL

Mr. FRIST. Mr. President, I will comment on a couple of subjects. First, with regard to the natural disaster we had last Thursday and Thursday night, the tragedies continue to unfold in regard to damage along the east coast. As I walk around the Capitol today, it is very clear to me a large number of people on Capitol Hill, from Maryland, Virginia, and the surrounding areas have been struck very hard. A number of people are without electricity and clean water and are really suffering daily right now as I speak. I have spoken to different people asking if their

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



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electricity is up, and they have said: No. So that is Thursday night, Friday, Friday night, Saturday, Saturday night, Sunday, Sunday night, and now Monday. I know the local disaster relief and utility repair persons are working very hard, and we respect all of their work a great deal.

Again, it is time for everybody to pull together as we address the powerful effects and potential devastation from this hurricane. So our thoughts and prayers are with everybody. Everybody should gather together and we will pull through this as well as we might.

IRAQ

Mr. FRIST. The second subject I want to comment on is the continual news that we have with regard to what is going on in Baghdad. Today we received news that a suicide bomber detonated himself at the entrance of the U.N. headquarters in Baghdad. The bomber injured 19 people, including 2 Iraqi United Nations workers.

This terrorist action follows an assassination attempt over the weekend on Aquila al-Hashimi, one of the three women who is serving on the Iraqi governing council. I understand through reports that Ms. Al-Hashimi is recovering from the attempt on her life. Most of my colleagues know she is a leading candidate to become Iraq's future United Nations ambassador.

These outrageous attacks demonstrate the level of cowardice and depravity that indeed is almost beyond words, that the enemy would stalk and attack a woman who is serving her people and murder Iraqi civilians attempting to build a representative democracy or, as we just saw, one guardsman inspecting a car. That they would do these things shows us once again the ugly face of our enemy.

Some in this body have claimed there is no connection between Saddam and al-Qaida. This is false. As the President said last week, there is no question Saddam Hussein had al-Qaida ties. We know Saddam permitted the operation of a terrorist training camp on Iraqi soil. We know the Iraqi intelligence chief, Faruk Hijazi, met with bin Laden and his associates. And we know Abdul Rahman Yasin, a suspect in the 1993 World Trade Center bombing, was harbored in Iraq. We are now learning from documents found in Tikrit that he may have even received payments and a home from the Iraqi Government.

Thus, there is no doubt—there is no doubt—that Saddam was in league with terrorists. Saddam himself was the embodiment of terror.

There can also be no doubt that Saddam is finished; that Iraq, the American people, and the civilized world are better off without him and without his terror-sponsoring regime.

It is my expectation the Senate will turn to consideration of the President's emergency request for Iraq and Af-

ghanistan on the floor next week. It is my hope that we will have good debate, both in committees over the course of this week and, indeed, on the Senate floor, and complete action on this legislation before the Senate recesses on October 3.

I know Senators on both sides of the aisle have a lot of questions—many questions. The post-war situation in Iraq has required sacrifice. We see it every day—from the families who are separated by service, the families who are our constituents and friends to whom we talk on a daily basis and, most of all, those who have lost loved ones in the ongoing fighting.

The President has laid out a plan and a vision to move us forward. By actively participating in this debate we can fulfill that vision and support our service men and women who have already sacrificed so much. We will also send a message to friend and foe around the world that America will stand with the Iraqi people; that America will defeat the enemies of peace and democracy. It is that message that I believe, through our committee hearings this week, through our discussions and through the debate on the Senate floor, will ring most loudly—that America will stand with the Iraqi people and America will defeat the enemies of peace and democracy.

In preparation for next week's debate, Senate committees—this week, in fact, beginning right now at 2—will begin holding a whole series of hearings to examine and discuss the President's request. The Senate Appropriations Committee will be holding two hearings, the Foreign Relations Committee will be holding three hearings, and the Armed Services Committee will be holding one hearing. Each will examine closely the President's proposal, and I am confident that with the appropriate discussion and with that scrutiny it will win overwhelming support in the Senate.

The world now has before it a window to help the Iraqi people reclaim their future as a free people. The foundation of a democratic and stable Iraq will only be found in economic opportunity and liberty. It is this foundation that best defines—and this will play out as we talk over the course of this week—this is a foundation of economic opportunity coupled with security that President Bush's proposal best provides.

With our \$20 billion investment, we will not reconstruct the economy of Iraq, as a lot of people say or which they envision. That is not what the \$20 billion will be doing. That can only be done by the Iraqi people themselves. The Iraqi economy can only be reconstructed by the Iraqi people. It can only be done by their own resourcefulness, by their own commitment, by their own entrepreneurship, and by their own imagination. Yes, Iraqis now have the freedom to become entrepreneurs, to be creative, and to have that creativity realized and translated

through democratic principles into economic opportunity. What we must do is create a stable environment in which that newfound freedom will be allowed to flourish.

From our investment will flow other investments from other nations willing to help the Iraqi people and from the developing resources of the Iraqi people themselves. Our investment, at least as I see it, is not an obligation: it is a choice. It is a choice that the United States supports the Iraqi people. It is a choice that we believe democracy can and will flourish among them. And it is a choice that the American people are made more secure by Iraq having a free and democratic state.

The swift victory of our troops this spring makes us forget in some ways the threat Saddam once posed. We lived with the threat and instability emanating from Iraq for over two decades. Twice Saddam Hussein was on the verge of developing nuclear weapons—once stopped by the courageous airstrike by Israel and once stopped by the United States coalition in the 1991 gulf war. Twice Saddam Hussein invaded his neighbors to expand his reign of terror—once into Iran and once into Kuwait. Twice we sent the United States military to confront Saddam Hussein—once expelling him from Kuwait and once expelling him from Baghdad. Saddam Hussein played host to international terrorists to the very last day of his reign.

Some will argue that we cannot afford to finish the job in Iraq. We can't afford not to. We have already invested billions of dollars, through two wars and through two decades, in trying to end this persistent threat to the stability of the Middle East and to the safety of the United States and its allies.

We have it now within our power to ensure once and for all that there will be no third attempt to build yet another nuclear weapon. We have it within our power to ensure that there is not a third gulf war for yet another generation of Americans to fight. We have it within our power to help the Iraqi people build Iraq to become an exporter of stability in the region instead of the source of deadly weapons of war and oppression.

By putting Iraq on the path to economic opportunity and democracy, we will shift the entire strategic direction of the Middle East. By finishing the job we started, we will ensure a safer future for our own people.

I look forward to this debate in Senate, and I am confident that the outcome will be overwhelming support for the President of the United States.

I yield the floor.

RESERVATION OF LEADER TIME

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

DEPARTMENT OF THE INTERIOR
AND RELATED AGENCIES APPROPRIATIONS ACT, 2004

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 2691, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2691) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes.

Pending:

Reid amendment No. 1731, to prohibit the use of funds for initiating any new competitive sourcing studies.

Reid amendment No. 1732, to authorize the Secretary of the Interior to acquire certain lands located in Nye County, Nevada.

Reid amendment No. 1733, to provide for the conveyance of land to the city of Las Vegas, Nevada, for the construction of affordable housing for seniors.

Daschle amendment No. 1734, to provide additional funds for clinical services of the Indian Health Service, with an offset.

Daschle amendment No. 1739, to strike funding for implementation of the Department of the Interior's reorganization plan for the Bureau of Indian Affairs and the Office of Special Trustee and to transfer the savings to the Indian Health Service.

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

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

The assistant legislative clerk proceeded to call the roll.

Mr. BURNS. 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. BURNS. Mr. President, as we continue to work on the Interior appropriations this afternoon and tomorrow—and it appears there will be a couple of votes later on this evening—I wish to bring to the attention of Senators and to this country what we are talking about when we talk about healthy forests and why our requests for more money to replace the accounts in the Forest Service, in the Department of Agriculture, in the Bureau of Land Management, in the Fish and Wildlife Service, and in the Park Service in the Department of the Interior are important.

I stated on Thursday that this problem of forest fires which we have had in the West is a national problem and one we have to address if we are to manage our land for the environment, for the safety of those who work and recreate on public lands, and if we are to have public lands which Americans deserve and have paid for.

Once again, we have had a terrible fire season. Over 3 million acres have burned—most of it in the West and about a third of the acreage in my home State of Montana. I guess that makes us a little bit more sensitive about what we can do and what we can't do when it comes to forest fires and the protection of life, wildlife, and the health of our forests.

We took a firsthand look at the devastating impact of these fires on our parks, forests, and communities in August. We had a very dry and hot August in Montana. The fires were so bad in Glacier National Park and Yellowstone Park that they were closed to the public for many days. The Montana Department of Environmental Quality was issuing a daily alert for dangerous air and air quality throughout the State of Montana.

The impact of these fires goes far beyond losing trees, brush, and the flora of the forests of our Nation. We see a lot of the other ramifications also. Wildlife is destroyed and wildlife habitat is destroyed.

I will reiterate a conversation I had with some folks who lived here in Maryland who were watching the fire burn in Glacier. They were concerned about the loss of wildlife in those fires. They were concerned about endangered species. Where do they go? I said wherever they go, they will not have a habitat to come back to.

Another impact is poor air quality. Seniors and other people with respiratory problems suffer from the heaviest smoke which we have seen in many years. In fact, the airport in Missoula, MT, had to be shut down one day because of smoke.

The aftermath of these fires means contaminated streams and watersheds. Those watersheds not only feed wildlife but they also feed the municipal water supplies of our State.

Tourism in Montana is a huge industry. So there are lost recreational opportunities. Businesses and homes were destroyed. In fact, over 700 buildings and homes were lost. Unfortunately, there was also loss of life. Statewide, 27 firefighters lost their lives this year in wildfires.

We have an opportunity to act now to address the poor conditions of our forests and rangelands before they get any worse. We have an opportunity to change the conditions for the future of our kids and our grandkids.

In back of me is a map that depicts a great deal of both the east side and west side of the country which contain class 2 and 3 conditions. These conditions are classified as highly dangerous—or, let us say, flammable. I think the color red is pretty apropos. Not only do we see a lot of red up there in the panhandle of Idaho northwest of Montana, but look at the conditions in Arizona, New Mexico, Colorado, and you can't overlook the conditions in Oregon and Northern California. In fact, those fire conditions run all the way down the Sierras in California. We have seen devastating fires there; fire conditions in South Dakota, in the Black Hills in the western part of the State; and over in the eastern part of the State, conditions for rain showers.

Nonetheless, we have to prepare for dry years. If you compare this last year to the drought of the 1930s, which was just as bad, had we not changed the way we farmed and ranched, we would

have had another Kansas dust bowl, an Oklahoma dust bowl. This time it would have been more far reaching, reaching on up into the high plains of the Dakotas.

Look at northeastern Minnesota. Minnesota is almost solid red. Yet their fuel on the floor, the density of their forests, tells us it is high priority for fire. We see depicted the Ozarks of Missouri, the southern part of the State around the Lake of the Ozarks, reaching down almost to Poplar Bluff, into the southeastern part of the State.

If people in the northeast United States are not worried about what is west of the Mississippi River, take a look at the northern part of Pennsylvania and the wonderful forests of upstate New York. Right now our fuel load is high. Of course, after the storm this last week we might have a little more moisture; nonetheless, the fuel is there when it dries out.

Look at West Virginia. Look at Virginia. Look at Alabama. All of this is a national problem. Firefighters who were fighting the fires in the West—in Oregon, Idaho, and Montana this last time—came from Florida; the firefighters on the Robert fires were from North Carolina; firefighters from Kentucky—they are all trying to get the fires under control. This is not just a western problem; it is a problem for the forests nationwide. That is what it is all about when we talk about these situations.

The buildup of forest fuels occurred due to past management—or the lack of past management practices. Those practices allowed ladder fuel to grow into the healthy crowns of large trees; practices that did not effectively treat insect infestations and thus the high mortality rates in our forests; practices that did not effectively let us treat for tree mortality.

We talk about thinning and taking fuel off the forest floor. I would love to see a demo project comparing thinned and unthinned forests. Let one forest grow with no management and have an area not too far away that has been managed. Fire behavior in managed and unmanaged forests is quite different.

I remember as a young man way back I was on a couple of fires: The Edith Peak fire in Montana in 1953—and we lost a person on that fire, by the way—and the Tango fire in 1953. We learned a lot about how these fires react. I can state firsthand these fires now are hotter and are more devastating. There is more fuel on the floor of the forests.

This picture on the left is of a forest that has been thinned. In other words, the underbrush has been taken out, some of the trees have been thinned, and the larger trees can then grow. Where the sun is shut out part-time, you do not have nearly the amount of underbrush for fuel. Compare that to the picture on the right where nothing was done in the forest. Notice the downed timber and the old logs on the floor of the forest. They bored the logs

and checked the moisture. Some only contained 6 percent moisture. That is how dry and hot it was. The desks in this Chamber have at least 6 percent moisture. When the fire creates that much heat, it takes everything. It takes the humus out of the soil. It loosens the soil. So after the winter and then the spring thaw, we see erosion on the hills because there is nothing to hold the dirt in place. That is the difference.

The thinned forest is a managed forest. Sure, we will have fires. We will have lightning. And someone will have a campfire get away from them every now and then. We will always have fires, but they do not have to be of the intensity of the unthinned forests.

We watched a rampage fire move almost 2 miles—they move quickly—while we were standing there, in only 15 minutes. They had a 30-knot wind and the flames shot almost 200 feet into the air. That is where most of our problem is, trying to thin and to clean up under the fuel that is on the forest floor.

Grazing takes care of part of this. Where we had grazing permits, we did not have those hot fires because the fuel on the floor was not as dense.

The next example describes forest health and fuels reduction and the impact on the forest. See the healthy forest on the left. That is a young forest with trees running from 8 to 12 inches in diameter. I guarantee we cannot get from that young forest to this forest unless we thin and get the fuel off the floor of the forest. It is that simple. We cannot put a dense growth on the ground, experience drought and lightning storms, and have it not burn. That is why you can only grow so many trees if you want many big trees, beautiful forests, habitat for wildlife, habitat for endangered species, also a place to enjoy recreation. The forest needs a little intervention when it comes to management.

It is very simple. That is the reason, when farmers plant corn—and I appeal to my good friend in the chair today—they do not plant it an inch apart or they will have nothing. Give them space. Let them grow. Let them reproduce. We cannot get from the condition on the left to the condition on the right without effectively treating the conditions that have contributed to the poor health of our forests and our rangelands.

I have an illustration of the life history of a tree on the lower right hand side. This is a boring taken from a 100-year-old Ponderosa pine. Notice the healthy growth for the first 20 years. It is very healthy. Then notice the declining growth for the next 70 years. Finally, notice in the last 10 years, after the thinning occurred to allow that tree to breathe. The growth rate picked up again after it was thinned from competing brush and maybe other trees. That is what we are talking about, the life of a tree. A tree is just like you and I: It sprouts, it grows, it

ages. Then one day it dies of old age, just like the rest of us.

The House passed H.R. 1904, the Healthy Forest Restoration Act, a couple months ago. Now we have the opportunity to do the same. I am concerned about the healthy forest issue as I am concerned about replenishing the money we borrowed to fight fires within the Forest Service and Bureau of Land Management. So we have to work very hard to make sure our prevention money is not used in suppression.

Now, there is one other thing we did not bring up. Any time you don't thin, any time you lose trees, some die. And we have an infestation of pine bark beetles up in our part of the world. I will show you a chart that demonstrates the infestation of that.

Is it a western problem? No. That little beetle may be called a different name somewhere else, but basically, again, we have a national problem. The heaviest infestation is in California, northern California, even down into the Sierras. Right now, it is estimated they have anywhere from 400 to 800,000 acres infested with pine bark beetles.

What pine bark beetles do is they kill the trees. In other words, they destroy the cambium, its ability to grow. The cambium is the growing part; it is what makes the rings. If you are counting the rings, you are counting old cambium. It is the growing part of the tree. I took a couple years of forestry. I surprise myself every now and again.

That problem is not just west of the river. Look at Michigan. One of the best forestry schools is in Madison, WI, the University of Wisconsin. They have problems in their area, which is in the northern part of their State, the northeastern part of Minnesota, and the northwestern part of Wisconsin. It is also in the areas of Georgia, Tennessee, and northern Alabama. We have a little bit of a problem over there in a little State called New Jersey where we have a little bit of a problem with pine bark beetles. It works the same, but I think it has a different name. I am not big on names right now; I am just big on bugs.

But, nonetheless, it gives you the understanding this is not just a problem isolated to one region of the United States. It is time we come together: industry, land managers, and people who use those lands maybe for recreation, maybe to make a living. It is time we all come together. But it seems as though every time we get together on this bill everybody becomes a land manager and everybody becomes a forester, and sometimes that does not work.

But we know one thing. We have absolutely been crippled—they call it analysis by paralysis—in putting together a management plan to deal with this problem: both disease and fire. But we can do it. We have the ability to do it. We can do it in a way that I think Americans want it done.

They are tired of seeing fires every night on their summertime television

and the destruction they bring and what they cost the taxpayers. Actually, we are about \$850 million in arrears right now in the Forest Service, and that is taxpayer money. Everybody puts money into that pot.

We need to put a little more into prevention rather than in this devastating thing called fighting fires. So it is not a conservative or liberal view. Agriculture and plants and soil and water and sunlight don't claim any politics. The relationship of those four contributes to how well we manage our forests. If you have ever been in a forest fire—and I have—it is an experience you will never ever forget.

So we are going to have an amendment that puts money back into the Forest Service and the BLM for things such as forest stewardship, prevention, and water quality because, I will tell you, we will have—and it was the case in the Yellowstone fires in 1988—we will have erosion, we will have water quality problems for a long time just because once the growth is gone from the side of the mountain, then the soil comes down. There is nothing to hold it. So it is just not very good conservation. Now we see preservation—don't touch it; that is the way God meant it to be or whatever. This is a problem you run into because there have been 30 years of no management. Let's not say bad management but no management. We just could not get it done.

So we have an opportunity to do what is right for our forests and for our agricultural lands because from these forests come livelihoods, products that all of America demands. They are still building houses and there is still a great demand for forests and forest products. There is great demand for the recreational areas, great demand to protect our wildlife. And, remember, once that forest is burned up, there is no habitat to come back to. So we have an opportunity, and I think we should seize that opportunity and do the right thing for our forests.

Mr. President, I will yield the floor. I see my good friend from New Mexico has an amendment he wants to offer and speak to. I have to go to a little hearing on Iraq. I am not smart enough to shift gears quite that fast. I can't go from one to the other quite that quickly. But I took a little of the time of my good friend from New Mexico, and I appreciate his indulgence.

I yield the floor.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, first, I thank my colleague, the manager of the bill, for his courtesy.

Mr. President, I ask unanimous consent that the pending amendment be set aside temporarily and I be allowed to offer another amendment.

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

AMENDMENT NO. 1740

(Purpose: To ban commercial advertising on the National Mall)

Mr. BINGAMAN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for himself, Mr. DORGAN, and Mr. REID, proposes an amendment numbered 1740:

At the appropriate place, insert the following:

SEC. . None of the funds appropriated or otherwise made available by this or any other Act, hereafter enacted, may be used to permit the use of the National Mall for a special event, unless the permit expressly prohibits the erection, placement, or use of structures and signs bearing commercial advertising. The Secretary may allow for recognition of sponsors of special events, provided that the size and form of the recognition shall be consistent with the special nature and sanctity of the Mall and any lettering or design identifying the sponsor shall be no larger than one-third the size of the lettering or design identifying the special event. In approving special events, the Secretary shall ensure, to the maximum extent practicable, that public use of, and access to the Mall is not restricted. For purposes of this section, the term "special event" shall have the meaning given to it by section 7.96(g)(1)(ii) of title 36, Code of Federal Regulations.

Mr. BINGAMAN. Mr. President, I thank the clerk for reading the full amendment. I wanted her to read it so all Members would know what the subject of the amendment was and also the substance of it.

This amendment would prohibit the National Park Service from issuing any permit for a special event on the National Mall unless the permit expressly prohibits the use of commercial advertising.

Last week, I spoke at length about my concern with a particular special event that took place on The Mall earlier this month. This event was described by the Department of Interior as a football and musical festival entitled—and this whole thing is the title of the event—the "NFL Kickoff Live from the National Mall Presented by Pepsi Vanilla."

The Mall is often used for large public gatherings. We are all familiar with the Smithsonian Folklife Festival during the Fourth of July celebration and the Cherry Blossom Festival in the spring. The National Mall is also, of course, one of the most significant, if not the most significant, sites for public demonstrations in our Nation.

As Judge Buckley of the U.S. Court of Appeals for the District of Columbia wrote:

It is here [on the National Mall] that the constitutional right of speech and peaceful assembly find their fullest expression.

The management of The Mall is entrusted to the Department of the Interior. More specifically, it is entrusted to the National Park Service. The Park Service's own regulations and guidelines make clear that The Mall is not

intended to be used for commercial purposes. The Park Service guidelines state:

The theme of the special event must be consistent with the mission of the park area in which it is to be held, including consideration of possible damage and/or impairment to park property and . . . values.

In my view, with respect to the recent event I have described, for whatever reason, the Park Service decided to effectively ignore its own policy.

Let me show a couple of photographs to make the point. I showed these a week or so ago on the Senate floor. They fairly graphically point out the problem I am trying to have addressed. This is a photograph that appeared in the Washington Post. It is a photograph down The Mall. You can see the Capitol Building in the distance. You can see the various banners which were essentially just commercial advertising banners for Pepsi Vanilla. And then down at the bottom, it does say, "Take Pride in America." But the main thrust of the banner, I suggest, to any unbiased observer is that it is an ad for Pepsi Vanilla.

Obviously, this very large football is intended to advertise the National Football League which we all support, but clearly, what we see here in this photo is commercial activity being conducted on The Mall.

Let me show another event to make the point even further. This is a photograph related to the same event. It shows a large fence put up around a large portion of The Mall. It contains what are clearly advertisements for various companies: AOL for broadband, Pepsi Vanilla, Verizon, Coors Light. According to our Secretary of the Interior and to the Director of the National Park Service, these are not advertisements. Instead, in their view, these constitute sponsor recognition. Frankly, this is a distinction of which I was not aware.

The Department of the Interior and the Park Service continue to insist that this event, about which I have complained in the way it was conducted, was entirely appropriate, that the banners and the signs were just sponsor recognition. The Secretary of the Interior and the head of the Park Service are, of course, by law the two public officials appointed by the President and charged with the responsibility of protecting The Mall and ensuring that the uses of The Mall be appropriate. These photos clearly represent their view of what is appropriate use of The Mall. I strongly disagree.

Let me explain specifically what it is that I am opposed to. The Interior Department claims that the purpose of the event in this case was to express support for the Department's "Take Pride in America" slogan, encouraging people to volunteer for projects on public lands and to honor members of the Armed Forces. Obviously, all of us, all Americans favor these good purposes. But the stated rationale for approving the event is not consistent with what was taking place on The Mall.

In my opinion, the Interior Department and the National Park Service allowed a large portion of The Mall to be virtually closed to public use for several days to allow essentially for a commercial event. When I say "for several days," the permit allowed the sponsor of this event 17 days in which to organize and set up the extravaganza, conduct the event, and then remove the various items put there as part of it. But this was essentially a commercial event.

It featured commercial advertising by private corporations. The event was used as the basis for a commercial television production. The commercials featuring event sponsors were broadcast over large-screen televisions set up in The Mall. Those commercial uses and commercial advertising were not an appropriate use of The Mall.

I also believe it is not appropriate to close a large portion of The Mall for a commercially related purpose for long periods of time to the exclusion of the general public.

I received a letter last week from the Director of the National Park Service. She wrote to express her concern that if sponsor recognition were prohibited on The Mall, many special events that had been approved in the past would not be able to take place in the future. Frankly, I would have felt better had she also indicated in the letter some concern for the need to protect The Mall and to protect the public right to access to The Mall comparable to the level of interest that she demonstrated for corporate sponsors. But I do agree with the main point she was making, that most of these special events, many of which involve races or walks or various charitable causes, do not infringe on the public's ability to use The Mall. Most are not inherently commercial.

The amendment I am offering would allow the National Park Service to provide for limited sponsor recognition. It would require that the size and form of the recognition be consistent with the special nature and sanctity of The Mall, which is identical to the language we approved in the Senate earlier this year with respect to the proposed education center near the Vietnam Memorial on The Mall. It also would limit the size of any sponsor recognition to one-third the size of the lettering or design that is put there to name the special event.

As the photos indicate, during the last event, that was essentially reversed. The sponsors' names were given by far the greatest visibility.

Finally, the amendment directs that the Secretary, to the maximum extent possible, ensure that public use of The Mall and access not be restricted in leading up to or during or following these special events.

I do not believe in trying to micro-manage agency management decisions through legislation. With respect to this amendment, we have tried to give the Park Service flexibility to determine what is an appropriate means to

recognize event sponsors, while making it clear that at least the Congress believes commercial advertising should not be permitted.

Department of the Interior and National Park Service officials have not shown the judgment necessary to protect the public's interest under the authority they currently have. Instead, they have bent over backwards to accommodate commercial interests that wanted to use The Mall for commercial purposes. While it is impossible to legislate common sense and good judgment, I believe the amendment would at least make clear that The Mall, which the Park Service itself has described as "the single most significant public park and open space in our Nation's Capital," should not be a venue for commercial use and for advertising.

I believe this is an entirely reasonable amendment. It is one I am offering on behalf of myself and Senators DORGAN and REID of Nevada. I hope it can gain unanimous support and that by adopting it we can send a strong message that we believe The Mall's special place in our national heritage needs to be preserved.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. THOMAS. I ask unanimous consent that I be permitted to speak in morning business.

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

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

Mr. THOMAS. 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. BURNS. 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. BURNS. Mr. President, we have this bill narrowed down to about five or six amendments we are working on right now. I would like to alert Senators, though, if they have any amendments they want to be a part of this bill, they should file them tonight if possible for their consideration. We want to tie this bill up tomorrow and pass it and get it into conference and to the President's desk. We don't want to deny anybody their right to file their amendments, but we suggest they get them over here tonight because we are going to finish the bill tomorrow.

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. DASCHLE. 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. DASCHLE. Mr. President, I call for the regular order with respect to amendment No. 1739.

The PRESIDING OFFICER. The regular order has been requested.

AMENDMENT NO. 1739, AS MODIFIED

Mr. DASCHLE. Mr. President, I send a modification of amendment No. 1739 to the desk.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment (No. 1739), as modified, is as follows:

On page 46, line 7, strike "expended: *Provided, That*" and insert the following: ", and of which \$79,000,000 (composed of \$20,000,000 from administrative accounts for operation and support, \$6,000,000 from the trust accountability account, \$15,000,000 from the field operations account, and \$38,000,000 from the historical accounting account) shall be deducted from that amount, of which deducted amount \$63,000,000 shall be transferred to the Indian Health Service and available for clinical services: *Provided, That* none of the funds made available by this Act may be used for the proposed trust reform reorganization of the Bureau of Indian Affairs or the Office of Special Trustee: *Provided further, That*".

Mr. DASCHLE. Mr. President, I call for the regular order on amendment No. 1734.

The PRESIDING OFFICER. The regular order has been called for.

AMENDMENT NO. 1734, AS MODIFIED

Mr. DASCHLE. Mr. President, I ask that amendment No. 1734 be modified.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment (No. 1734), as modified, is as follows:

On page 88, beginning on line 17, strike "\$2,546,524,000" and all that follows through "*Provided*" on line 20, and insert the following: "\$2,838,524,000, together with payments received during the fiscal year pursuant to section 231(b) of the Public Health Service Act (42 U.S.C. 238(b)) for services furnished by the Indian Health Service, of which \$2,329,414,000 shall be available for clinical services: *Provided, That* funds made available to tribes and tribal organizations through contracts, *Provided further*".

Mr. DASCHLE. Mr. President, I offer these modifications in part because I have been informed that there are concerns about the germaneness of the offset we had included in the health amendment (No. 1734), and to make a minor technical correction to the trust reform amendment (No. 1739). The customs user fee is a very legitimate and, I would say, appropriate offset; but under the constraints presented to us under the rules, there is a technical point of order that can be raised. So in order to avoid points of order, we will avoid using this offset.

I regret that because I do believe that the offset would help us alleviate

some of the appropriations pressures that understandably the ranking member and the chairman had to confront as they were addressing the issues of the overall allocation and availability of funding.

Let me just go back to my comments last week when I offered the amendments. Very briefly, the first amendment would provide for \$292 million in additional funding for the Indian Health Service. This was the amendment that, on an overwhelmingly bipartisan basis, we passed during the budget resolution. I had offered an amendment that would have provided for, I believe, \$2.9 billion to fully fund the Indian Health Service, in terms of meeting the basic health care needs of their current user population. The President has asked for \$1.9 billion, and it falls so dramatically short of what is needed that there is a severe rationing of health care now on every reservation in the country. That rationing has affected the quality of life and, in fact, life itself in so many cases.

The allocation of resources on a per capita basis on the reservations today is about \$1,900. That is half of the \$3,800 that we spend on Federal prisoners today on a per capita basis. Federal prisoners today are allocated, per capita, about \$3,800 for the health care they receive in Federal prison. An Indian child born on the reservation is given \$1,900. Yet the incidence of diabetes, fetal alcohol syndrome, and some of the most difficult, challenging, and vexing problems we face in health care today—alcoholism, violent death—all are problems of far greater magnitude on reservations than anywhere else in the country. So their problems are worse than they are in prison, worse than in the general population in the country. The resources we allocate are a fraction of what they are in prison or what we spend per capita in the country.

Per capita health care spending for the U.S. general population is about \$5,000. So all this amendment says is we are going to put our money where our mouth was last spring. We said we will give at least \$292 million. I do not think there was a dissenting vote. I think it passed virtually unanimously, and yet here we are with efforts, I am told, to defeat this almost embarrassingly minimal amendment as we address the consequences of life and death on the reservations today.

The other amendment said, basically, the same thing. We are not anywhere close to dealing with public policy issues involving trust reform, trust policy. Unfortunately, the problems associated with government-to-government relationships and trust responsibility are as problematic as anything we are dealing with on reservations today. I cannot think of a more vexing issue maybe except for the health care problems we are facing.

Since we do not have the policy, it is almost impossible for us to put together the infrastructure within the

bureaucracy to implement the policy. One has to have a policy before they know what kind of a bureaucracy they are going to set up to implement it, and yet this budget has \$79 million to start creating the infrastructure for the implementation of the policy without having a clue what it is going to be.

So what some of us are suggesting is that before we start spending another dollar on bureaucracy and infrastructure, let us, No. 1, agree on the policy but then, No. 2, let us put the money where it could do some good. Let us put it in the health care area, where we are so deficient today.

We have a problem. Just this weekend I was home and was reminded again what a dentistry problem we have. I think on all nine reservations in South Dakota I was told this weekend that we have five dentists—nine reservations, five dentists. We have such a chronic shortage of dentists, and I will have to go back and verify whether that number is accurate but whether it was five or six we do not even have one dentist per reservation.

We are saying we do not have the money to allocate to health care, but we have the money to allocate \$79 million to this reorganization within the BAA dealing with trust land responsibilities, and we do not even have the policy. So we are putting the cart before the horse, and we do not even have enough money to feed the horse when it comes to health care.

Both of these amendments are minor in scope and impact but could send a significant message that we understand the chronic problems we are facing in health care, and I hope that on a bipartisan basis we can support these amendments.

I understand there was some confusion about whether I was prepared to offer these modifications today and have votes on them. I would very much like to have the votes this evening. We had said we would work with our Republican colleagues to finish this bill tomorrow, but it is pretty hard to finish the bill if nobody is going to vote. So I want to have both of these votes this afternoon. That is two votes we can have this afternoon, and we can have a vote on the Bingaman amendment. Senator BINGAMAN has indicated he is willing to have a vote. So now we have three Democratic amendments on which we are prepared to vote. We can do it at this moment. We could do it at 5 or 5:30.

In order to accommodate Senators who are traveling, we generally agree not to have votes before 5, but I am certainly prepared to hold the vote open to accommodate those Senators who are traveling. Let's have at least those three votes this afternoon so we can work to complete our scheduled debate on this bill by the end of the day tomorrow.

I know the distinguished Senator from Montana, the chair of the subcommittee, has offered a very impor-

tant amendment on emergency funding. I hope to have that vote as well.

There is nobody on this side holding up votes on these amendments, and I would certainly hope that nobody on that side would, either. If we are going to do what I had committed to last week, I had indicated to the distinguished majority leader that we want to work with him to see if we can finish this bill by tomorrow night, and so I do not want anybody operating under an assumption that for some reason now we have offered these amendments and we are not prepared to vote. We are prepared to vote, and I hope we would begin doing so at 5.

I see my friend and colleague from Montana is standing and may want to address these votes as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. I thank my friend from South Dakota. We are running the trapline now. We have an objection to the Bingaman amendment, and someone wants to speak on it. Then we can vote in the morning. That will go away very fast. We are now running the trapline on the modifications of the Senator from South Dakota. We should have some kind of answer on that. I do not think we are going to vote before 5:30.

With regard to the Senator's amendment on reforming the trust and dealing with this problem, the policy has almost been set by the courts, as the Senator well knows. There is litigation on this. So I think what the Secretary of the Interior wants to do is to move forward with a system so they can finally bring closure to this problem that has been going on for how many years. This stretches more years than the Senator from South Dakota and I have probably been in the Senate.

We have not managed the trust moneys very well. Just getting the system up and knowing where we are so we can conform with parts of the litigation is quite the challenge we have right now, and I think that has to move forward because right now we cannot do it. I do not know if anybody wants to identify the horse or the cart. In fact, I am not real sure which one should go across the road first right now. I am not real sure that they know at Interior but at least they have a system in order to solve it, and we cannot move forward unless they have those dollars. So that is where we are.

There are a lot of people in Indian country who are very concerned about this and so we should move on that, but we are running the traplines.

I appreciate the distinguished minority leader coming today and offering his modification. We should have an answer for him pretty quickly, and I thank the minority leader for that.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. Mr. President, as always, I appreciate the response of the distinguished Senator from Montana. I

argue that the court decisions have actually made the situation even murkier and have created and compounded problems with regard to trust responsibility that have to be clarified through a legislative decision. He is absolutely right, this thing has gone on and on, but that is my point.

For us to lock into place, in bureaucracy somehow, a response to these court decisions compounds and makes even more unlikely some resolution to this issue, but that is obviously a view that is arguable. For whatever reason, the administration continues to persist in trying to lock in these court decisions, in my view in a very shortsighted and unacceptable manner for those who are involved in its implementation, especially on the reservations themselves. This is not going to work. I can't find a tribal chairman, I can't find a tribal council, that will tell you this is going to work. So to say we don't care what you think and we are going to override the rule, your own observations, or your own positions—our recognition of the need to work this out jointly—is not the way to go about it. But that is what this amendment is all about.

I appreciate, once again, the observations and the leadership provided by the Senator from Montana.

I hope we could have votes at least on the two amendments that were offered last week. I await the word from our colleagues.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. If the distinguished manager of the bill does not object, I ask unanimous consent that I be allowed to speak for up to 10 minutes as in morning business.

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

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

HISTORIC SENATE DEBATE

Mr. DORGAN. Mr. President, we are awaiting a couple of votes, I believe, at 5:30. We will vote on a couple of judge-ships. Following the votes today, we are going to see an event in the Senate that is unique. I will describe briefly what this is about.

Senator KYL, who is the chairman of the Republican Policy Committee, and I have visited about sponsoring debates in the Senate on a series of very big issues. I am chairman of the Democratic Policy Committee. We thought it would be interesting and useful to create a setting in the Senate that is

not connected to a specific piece of legislation on the Senate floor and have a debate back and forth, a structured debate about a big issue. We will do a series of those debates.

This evening, following the two votes will be the first of such debates. I have asked, on the Democratic side, Senator DURBIN and Senator CORZINE to be involved in this debate. The debate will be on the subject of Social Security. I believe—I hope I am not misstating the hypothesis—I believe the Republican side, which will be represented by Senator SUNUNU and Senator SANTORUM, will be describing their proposition that we ought to have private accounts in Social Security and the Democratic side will describe, I believe, why having private accounts in the Social Security system is inherently risky and moving in the wrong direction to provide security for this important program.

The point is, this is considered, and has always been considered, one of the great deliberative bodies in the world. Senate debate is a fascinating opportunity to not only inform Senators but inform the American people about the respective positions of the Republican caucus or the Democratic caucus on very significant issues that have national importance or worldwide importance.

I suspect my colleague, Senator KYL, will be here in a while, perhaps when the debate begins. I wish to describe what will happen following the two votes today.

I am pleased we are going to be able to do this with our two policy committees. It is important to have an aggressive, structured debate with ground rules and portray to the American people the importance of an issue of this type. This is the first, but there will be a number of additional debates in the coming months. We hope this will enhance the reputation and ability of the Senate to sink its teeth into big and important issues.

This is a great country in which we live. We are lucky to be Americans. We are lucky to be alive now. Those who are fortunate to be able to serve, or are given the privilege of serving in this great body, never for a moment misunderstand the wonder of it all. As you stand at these desks that have served this country in public debate and the development of public policy for now two centuries, the more you understand the grandeur of this great body. There are times all of us grit our teeth a bit or wipe our brow and wring our hands and wonder if the partisanship or the way these issues are presented is very attractive to the American people. Yet for over two centuries this democracy has endured, and the Senate, this great Chamber of debate about significant, important national policies, about who we are as Americans, about what we aspire to become as Americans, this Chamber has been the location of all of those great debates.

Those in the Senate who describe our experiences very often describe our ex-

periences in the context of the Senate desk. I sat at a desk on that side of the room. The first desk I was assigned permanently was a desk of a man named Robert La Follette. He stood for many hours on May 29, 1908, doing a filibuster. Apparently, according to history, he sat down for a turkey sandwich and a glass of eggnog. He lifted the eggnog to his lips and spat it out and began screaming: "I've been poisoned." This was 1908. They sent the glass of eggnog to a laboratory to have it analyzed and discovered someone had put enough poison in his drink to have killed him if he had drunk it. One little moment on the floor of the Senate. They never figured out who did that, by the way. That is one little desk and one little story. There are stories of majesty and courage and wonderful representation, great debate.

This is the Chamber where Webster stood and gave his orations. It is the Chamber where the great debates about this country's history and future occur. I am not suggesting tonight's debate will rise to quite that occasion, but we are starting tonight to have an opportunity to exchange views in a debate sponsored by the Republican Policy Committee and the Democratic Policy Committee. I say thank you to the four colleagues who will participate and say I think this does advance the opportunity to exchange views and to have the American people learn from that exchange of views about the two parties' positions on some very important issues.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. ALEXANDER. Mr. President, on behalf of the leader, as in executive session, I ask unanimous consent that, at 5:30 this evening, the Senate proceed to a vote on the confirmation of Calendar No. 356, to be followed immediately by a vote on the confirmation of No. 361, provided that immediately following those votes the President be notified of the Senate's action, and the Senate then resume legislative session; finally, that there be 2 minutes equally divided for debate prior to each of the votes.

Mr. REID. Reserving the right to object—and I shall not object—I do want to have the RECORD spread with the same statement Senator DASCHLE made earlier today. We have a number of amendments pending, two of which were offered by our Democratic leader, on which we are ready to vote. Senator BINGAMAN offered an amendment. We are ready to vote on that. We are going to do everything we can to proceed

through the amendments tomorrow. We will cooperate as much as we can. There are other Senators who have amendments to offer. We have indicated to the majority leader that we want to finish this bill tomorrow so we can move on to another appropriations bill.

I want the RECORD spread with the fact it is not we who are holding up this bill. We are ready to vote as of 5 today—as of now. We still think we can do the bill tomorrow. There are Senators who are going to offer amendments, and we do not want them to believe they are rushed because of our inactivity today.

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

Mr. ALEXANDER. Mr. President, I am informed that the manager is working hard to try to establish a time in the morning for those votes.

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

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

EXECUTIVE SESSION

NOMINATION OF GLEN E. CONRAD, OF VIRGINIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF VIRGINIA

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to executive session to consider Calendar No. 356, which the clerk will report.

The legislative clerk read the nomination of Glen E. Conrad, of Virginia, to be United States District Judge for the Western District of Virginia.

The PRESIDING OFFICER. There will be a period of 2 minutes of debate equally divided prior to the vote.

Mr. WARNER. Mr. President, I rise today in support of the nomination of Glen Conrad, who has been nominated to serve as a judge on the United States District Court for the Western District of Virginia. I had the pleasure of introducing him before the Senate Judiciary Committee this past July.

Judge Conrad has been nominated to fill the vacancy of Judge James Turk who began his service on this court in 1972 and recently took senior status. After Judge Turk informed Senator ALLEN and me about his intent to take senior status, Senator ALLEN and I began our search to find the most qualified and well-respected individual to fill Judge Turk's seat on the bench. During that process one name repeatedly was brought up—that name was Glen Conrad.

After interviewing Judge Conrad personally, Senator ALLEN and I were pleased to send this fine nominee's name to President Bush for consideration. President Bush promptly thereafter nominated Judge Conrad on April 28, 2003.

Judge Conrad's background makes him highly qualified for this position, and I strongly support his nomination. His experience with the law is extensive.

After graduating from the Marshall Wythe School of Law at the College of William and Mary, Mr. Conrad served as a probation officer in the Western District of Virginia. A little more than a year later, Mr. Conrad was selected to serve as a United States magistrate judge in the Western District. And, for the last 27 years, Judge Conrad has served as a magistrate judge in the Western District.

During his over a quarter of a century as a magistrate judge in the Western District of Virginia, Judge Conrad has earned a stellar reputation. From the many letters that I have received in support of his nomination, there is unanimity in describing Judge Conrad as intelligent, courteous, hard working and having an excellent judicial temperament.

I am confident that Judge Conrad will continue his service on the Western District of Virginia bench consistent with this reputation.

I urge my colleagues to support Judge Conrad's nomination.

Mr. LEAHY. Mr. President, today, we vote to confirm two district court nominees, United States Magistrate Judge Glen Allen Conrad and South Carolina Judge Henry Floyd. Unfortunately, we are still needlessly awaiting a vote on the judicial nominees from California, for the emergency vacancies in the Southern District, the busiest court in the country.

With today's confirmations, the Senate will now have confirmed 153 judicial nominees for this President. As I mentioned last week, this pace of confirmation stands in stark contrast to what occurred with judicial nominees during the Clinton Administration. It was not until well into the fourth year of President Clinton's second term, when Republicans controlled the Senate, before this many judicial nominees were confirmed. It took President Reagan, during his first term, almost to the end of his fourth year to get this many judicial nominees confirmed, and that was with a Senate that was controlled by the same party. It also took President George H.W. Bush well into his fourth year to get this many of his judicial nominees confirmed.

In contrast, today, with the shifts in Senate control, it has effectively taken a little more than 2 years of rapid Senate action to confirm 153 judicial nominees for this President, including 100 during Democratic control. This year alone the Senate has confirmed 53 judicial nominees, including 11 circuit court nominees in 2003. That is more

confirmations in just 9 months than Republicans allowed for President Clinton in 1996, 1995, 1999, or 2000. Overall, we have confirmed 28 circuit court nominees of President Bush since July of 2001, which is more than were confirmed at this time in the third year of President Reagan's first term, President George H.W. Bush's term, or either of President Clinton's terms.

The records of these two judicial nominees stands in contrast to the record of many of this President's judicial nominees, particularly for circuit court positions. Both Judge Conrad and Judge Floyd have significant judicial experience, with Judge Conrad serving as a Magistrate Judge for more than a quarter of a century. Far too many of this President's judicial nominees have limited legal experience and no judicial experience but significant partisan experience.

I note that there are now more George W. Bush appointees on the bench than there are active George Herbert Walker Bush appointees. The President's father served 4 full years. This President has served less than 3.

With these confirmations, there are no more vacancies in the district court in Virginia, as Judge Conrad joins Judge Hudson, who we confirmed last year to the district court in Virginia. Judge Floyd will join Judge Terry Wooten on the district court in South Carolina. Judge Floyd's confirmation will fill the vacancy created by the elevation of the controversial Judge Dennis Shedd last year. I congratulate Judge Conrad and Judge Floyd and their families.

Mr. ALLEN. Mr. President, I rise to speak on behalf of the nomination of Glen E. Conrad to be District Court Judge for the Western District of Virginia.

I have known Glen Conrad since the day I got out of law school at the University of Virginia, and I was a law clerk for Judge Williams in Abingdon, VA, not far from the Tennessee line. Glen Conrad was a U.S. magistrate judge in Abingdon and then he later moved up to Roanoke.

Judge Conrad is tremendously qualified not only to be a judge in the U.S. district court for the Western District of Virginia but a leader—a judge who is a leader, who understands the system and the operation of the court in the Western District of Virginia. In fact—and I know I speak for my colleague, John Warner—we examine many highly qualified individuals and we truly could find nobody more qualified by a proven record of experience and performance, with the proper judicial philosophy, with a proven temperament to fill this judgeship.

Indeed, this judgeship has been declared a judicial emergency by the Judicial Conference. Glen Conrad is experienced, knowledgeable, fair, and possesses an outstanding reputation and proven judicial experience.

As I said, I have known him for many years. His wife is someone who I have

admired, and I put her on the community college board when I was Governor of Virginia. Glen Conrad is a graduate of the College of William and Mary, and that is a very good undergraduate and law school. He is looked upon highly by his peers who know and acknowledge his qualifications and his experience.

He has been positively endorsed by the Virginia Bar Association, the Roanoke Bar Association, the Virginia Association of Defense Attorneys. He has been highly recommended by the Virginia Women Attorneys Association and by the Virginia State Bar. In fact, he received a highly qualified endorsement from the American Bar Association as well. So whether he is serving in this very large 51-county district, which includes courts in Danville, Lynchburg, Charlottesville, and then in the valley of Harrisonburg, as well as in Roanoke, Abingdon, and Big Stone Gap, regardless whether on the south side, the Piedmont, western, or southwestern Virginia, I believe the President has chosen a very outstanding nominee who will honorably and fairly administer justice in the Western District of Virginia and I urge my colleagues to support him.

I endorse him with my full confidence and recommend his approval this evening because we need to get him to work for the people and the litigants in the Western District of Virginia.

I yield the floor, and I yield the remainder of our time.

Mr. BINGAMAN. Mr. President, we yield back our time.

The PRESIDING OFFICER. All time is yielded back on the nomination.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is, Shall the Senate advise and consent to the nomination of Glen E. Conrad, of Virginia, to be United States District Judge for the Western District of Virginia? The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. I announce that the Senator from New Hampshire (Mr. GREGG), the Senator from Alaska (Mr. MURKOWSKI), and the Senator from Pennsylvania (Mr. SPECTER) are necessarily absent.

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Arkansas (Mrs. LINCOLN), the Senator from Maryland (Ms. MIKULSKI), and the Senator from Georgia (Mr. MILLER) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) and the Senator from Arkansas (Mrs. LINCOLN) would each vote "yea."

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

The result was announced—yeas 89, nays 0, as follows:

[Rollcall Vote No. 354 Ex.]

YEAS—89

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

NOT VOTING—11

Biden	Kerry	Miller
Edwards	Lieberman	Murkowski
Graham (FL)	Lincoln	Specter
Gregg	Mikulski	

The nomination was confirmed.

NOMINATION OF HENRY F. FLOYD, OF SOUTH CAROLINA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF SOUTH CAROLINA

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to consider the nomination of Henry F. Floyd, which the clerk will report.

The legislative clerk read as follows:

The nomination of Henry F. Floyd, of South Carolina, to be United States District Judge for the District of South Carolina.

The PRESIDING OFFICER. Under the previous order, there will be a period of 2 minutes of debate equally divided prior to the vote.

Mr. HOLLINGS. Mr. President, I rise to encourage my colleagues to vote for Henry Floyd to be a judge on the United States District Court for the District of South Carolina.

Judge Floyd is known throughout my State as a fine, fair, and even-handed jurist. There is no question a good judge has to possess a balanced judicial temperament. Judge Floyd showed as a State circuit court judge he is balanced. He has presided over complex class action litigation; felony criminal cases including capital murder cases; cases with difficult constitutional issues, and everything else like that. By all accounts, he has applied the law fairly, and the South Carolina Bar supports him.

This nominee also has a breadth of experience as a private practitioner,

representing civil and criminal clients in all sorts of matters; he was a lieutenant in the Army; and he was a South Carolina State legislator. He obviously is well qualified.

I think our colleagues on both sides of the aisle will find it refreshing to vote on a nominee who doesn't make us quarrel over religion, or advance any political agenda, and who answers our questions. For 37 years, Senator Thurmond and I practiced bipartisan cooperation in filling South Carolina's Federal bench. I thank Senator GRAHAM for continuing in this collegial tradition.

Mr. GRAHAM of South Carolina. Mr. President, Henry Floyd was the first person I thought of when a district court judgeship came open in South Carolina. I am pleased that the Senate has confirmed him today. Prior to becoming involved in politics, I had the good fortune of practicing before Judge Floyd on a number of occasions. He is the model of judicial temperament; learned, objective, and courteous.

A product of some of our State's finest educational institutions, Judge Floyd received his undergraduate degree at Wofford College and his law degree from the University of South Carolina. In 1992, after a decade of very successful private practice, he assumed the bench as a judge on the Thirteenth Judicial Circuit Court of South Carolina. Since that time, Judge Floyd has presided over several South Carolina's most controversial cases with skill and professionalism.

It was an pleasure to recommend Judge Floyd to President Bush. I wanted my first recommendation to be an example of how our judicial nominations process should work. We should seek only the best for the Federal judiciary. I believe my first recommendation fits that criterion.

I'm confident Judge Floyd will demonstrate the highest degree of professionalism and serve our State and Nation well. Judge Floyd has an exceptional legal mind, impeccable character, and a legacy of fair application of the law. He is a fine man and will be a great addition to the Federal bench. Mr. HOLLINGS. 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 Henry F. Floyd, of South Carolina, to be United States District Judge for the District of South Carolina? On this question the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from New Hampshire (Mr. GREGG), the Senator from Alaska (Ms. MURKOWSKI), and the Senator from Pennsylvania (Mr. SPECTER) are necessarily absent.

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN), the

Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Arkansas (Mrs. LINCOLN), the Senator from Maryland (Ms. MIKULSKI), and the Senator from Georgia (Mr. MILLER) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) and the Senator from Arkansas (Mrs. LINCOLN) would each vote "yea".

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

The result was announced—yeas 89, nays 0, as follows:

[Rollcall Vote No. 355 Ex.]

YEAS—89

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

NOT VOTING—11

Biden	Kerry	Miller
Edwards	Lieberman	Murkowski
Graham (FL)	Lincoln	Specter
Gregg	Mikulski	

The nomination was confirmed.

LEGISLATIVE SESSION

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

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2004—Continued

The PRESIDING OFFICER. The Senator from Nevada.

AMENDMENTS NOS. 1734 AND 1739 AS FURTHER MODIFIED

Mr. REID. Mr. President, earlier today there were two modifications to amendments offered by the Democratic leader, Senator DASCHLE. Since placing those modifications at the desk, staff has discovered some clerical errors. I ask unanimous consent that amendments Nos. 1734 and 1739 be further modified with the changes I send to the desk.

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

The amendments, as further modified, are as follows:

AMENDMENT NO. 1734, AS FURTHER MODIFIED

On page 88, beginning on line 17, strike "\$2,546,524,000" and all that follows through "Provided" on line 20, and insert the following: "\$2,838,524,000, together with payments received during the fiscal year pursuant to section 231(b) of the Public Health Service Act (42 U.S.C. 238(b)) for services furnished by the Indian Health Service, of which \$2,329,414,000 shall be available for clinical services: *Provided*,

AMENDMENT NO. 1739, AS MODIFIED FURTHER

On page 46, line 7, strike "*Provided, That*" and insert the following: "and of which \$79,000,000 (composed of \$20,000,000 from administrative accounts for operation and support, \$6,000,000 from the trust accountability account, \$15,000,000 from the field operations account, and \$38,000,000 from the historical accounting account) shall be deducted from that amount, of which deducted amount \$63,000,000 shall be transferred to the Indian Health Service and available for clinical services: *Provided, That* none of the funds made available by this Act may be used for the proposed trust reform reorganization of the Bureau of Indian Affairs or the Office of Special Trustee: *Provided further, That*".

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I ask unanimous consent that immediately following morning business on Tuesday morning, there be an additional 10 minutes equally divided prior to a vote in relation to the Daschle amendment No. 1734, as further modified, provided that no second-degree amendment be in order to the amendment prior to the vote.

Mr. REID. No objection. It is my understanding we will go into session at about 9:30, so the vote will be somewhere around 10:30 in the morning.

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

The Senator from Arizona.

ORDER OF PROCEDURE

Mr. KYL. Mr. President, I ask unanimous consent that there now be a period of morning business not to exceed 70 minutes with the time divided as follows: Senators KYL and DORGAN in control of the first 5 minutes, which will be equally divided; the majority leader or designee in control of the next 6 minutes; the minority leader or designee in control of the second 6-minute period; the minority leader or designee in control of the next 6 minutes; the majority leader or designee in control of the final 6-minute period.

I further ask unanimous consent that the next period of time be divided as follows: Each side permitted to ask up to five questions for up to 1 minute each in an alternating fashion, to be followed by a response of up to 2 minutes to be controlled by the other side of the aisle, with the Democrats to ask the first question.

I further ask unanimous consent that the final 10 minutes be equally divided for closing comments.

Finally, I ask unanimous consent that upon yielding of the floor, any de-

bate time remaining during that period of controlled time be yielded back.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, the time on this side will be controlled by the Senator from Illinois, Mr. DURBIN, rather than the Democratic leader.

Mr. KYL. Time on the Republican side will be controlled by Senator SANTORUM or Senator SUNUNU.

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

Mr. KYL. Mr. President, let me explain what that very rapidly read unanimous consent order provides for. Senator DORGAN and I chair the policy committees of the Democratic and Republican sides and have agreed that every month or so we should have a debate which is really a debate, rather than just a bunch of speeches read, which frequently characterizes what passes for debate here on the Senate floor. Our constituents might tune in and see us reading speeches and wonder whether we have a debate on a specific issue where we mix it up together, respond to each other's points, and have that all relative to a very specific question.

So we agreed we would do that; we would try to pick a topic that was not really current: that we would have different Members on each side engage in these debates when they were held. And we agreed that the first debate topic would be on the general subject of Social Security.

As a result, tonight we have the first of these debates with two Members from the Republican side and two Members from the Democratic side debating a general topic relating to Social Security. All of the requests for time will be through the President, of course, pursuant to this unanimous consent agreement.

It is hoped that as a result of Democrats responding to Republicans and vice versa, asking each other questions, actually there may some elucidation, some light that would come out of this debate, rather than heat, and that we could agree or disagree in an agreeable spirit on an important topic to people around this country.

I am looking forward to this debate. This will be the first of our experiments. Obviously, if the participants have suggestions about how to conduct future debates, we would like to hear those so we can continue, and maybe it will become a tradition in the Senate. I think we are ready for that.

The debate will be started with Senator SUNUNU from New Hampshire and therefore, again, with Senators SUNUNU and SANTORUM having time on this side. I yield now to the Senator from New Hampshire, Mr. SUNUNU.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

SOCIAL SECURITY

Mr. SUNUNU. Mr. President, I welcome the remarks of the Senator from

Arizona and my colleagues tonight for what I hope will be an enjoyable evening and will set the tone for further debates to follow.

Tonight we are talking about the important issue of Social Security. Let us begin by recognizing together that this is an important issue, one that deserves to be talked about with substance and in a direct and clear way. It is also an issue that we need to address with substantive legislation, because the one thing I think we can agree on is that not acting provides us with the greatest risk of all.

If we look at what the Social Security actuaries have said, the President's bipartisan commission has said, and countless committees in Congress which have looked at this issue have said and recognize that if we don't act, we are faced with the stark choices of raising taxes or cutting benefits, which is not something any of us wish to do.

We need to strengthen Social Security by improving the rate of return of investments made within the system, and strengthen Social Security by extending the solvency of the trust fund by, I believe, empowering individuals.

Tonight, I want to talk about that important notion, empowering individuals and allowing them, as part of the Social Security reform package, to invest a portion of what they pay in taxes every week in a personal retirement account. We are going to hear a lot tonight about how these personal retirement accounts might be risky, how we cannot trust individuals or count on individuals to make good choices or decisions, how we cannot count on the Government to enact a substantive regulatory regime that protects the markets or the individual investors, and how this is risky because it takes money out of the Social Security trust fund. But I believe we need to recognize that empowering individuals to make such investments and control their retirement accounts is central to strengthening the rate of return I talked about, to improving the solvency of the Social Security system, and making a stronger retirement system for future generations.

Let's be clear about what we are talking about here. The kinds of investment options that most all of the legislation that has been introduced deals with offer voluntary accounts but don't touch the benefits of anybody who is retired today or any near-retirees, and they still provide a guaranteed minimum benefit. If you look at the legislation introduced by Congressman KOLBE or Congressman STENHOLM in the House, or Senators GREGG and BREAU in the Senate, or Congressman NICK SMITH from Michigan in the House as well, these are pieces of legislation that reflect and respect the individual's strength to make good decisions, and the potential to improve the rate of return of the system, but at the same time protects the guaranteed minimum benefit that our retirees, and especially those without a strong economic means, have come to count on.

There are two issues I want to focus on in my remarks. First is this notion of empowerment and why it is so important to the strength of a retirement system that allows personal accounts. Second is the issue of solvency, on which I am sure we will get into some detail.

First, empowerment. When I talk about power, I think it is hard not to talk about money. Money is power; we all understand that working here in Washington. Any time we can take money out of Washington and return it to the individual or give the individual more control of their own money, we are strengthening and empowering them. In particular, these personal investment accounts—all of them I have seen structured in legislation more often than not increase opportunities for low-income people.

Those with high incomes in America have IRAs and 401(k)s; they have access to personal retirement accounts or retirement security investments that are independent from Government. Why is it that we are afraid to give that same economic empowerment to those at the lower side of the income scale?

These personal accounts create a real asset. Why are we afraid to allow individuals to control and own a real asset, a tangible asset that they can pass on to their family when they die? The opponents of personal retirement accounts say: We make a promise; we have a retirement promise within Social Security; we don't need to allow the individual to own the asset.

Well, I maintain that a promise is something very different than owning an asset. If you don't believe that, you can go to developing countries where they don't have private property rights, to former Communist countries where the state always promised to allow them to keep their land or promised to provide a pension. Owning something is very different indeed than simply having a government promise.

We want to empower them with a real asset that they can count on to be there when they retire. Over time, with a higher, stronger rate of return, the solvency of the overall retirement security system will be strengthened. The worst thing is to do nothing.

Between 2017 and 2041, we will begin paying out of Social Security. We may have Social Security surpluses today, and the trust fund may be growing today, but come 2017 it will stop growing and begin to shrink. There will be \$6 trillion in outflows from general revenues in that timeframe and a \$25 trillion unfunded liability over the next 75 years.

If we don't take action, we will be forced to increase taxes or forced to cut benefits. But thoughtful, substantive action that includes the power of personal retirement accounts will make a difference for the individuals across the entire country.

There is a lot of opposition here because these are not Government-controlled investments. There is a lot of

opposition because the individuals won't be beholden to the whims of the Government. There is a lot of opposition here because some people don't want to harness the power of private markets, the power of compound interest, and the power of economic growth in order to create something that the Federal Government no longer controls.

I submit that those individuals and workers who are paying 13 percent today in payroll taxes will benefit greatly from this change. I think the risk is not to act. I think we need to act, and I look forward to hearing from the other side.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. CORZINE. Mr. President, I thank the leadership on both sides of the aisle for sponsoring this debate on the future of America's Social Security system. It is one of the most important debates I think we can have as a nation, and I think many on this side of the aisle believe Social Security is the clearest expression of our Nation's values.

The Social Security system, for 70 years, has provided a promise, a commitment between generations, that if you work hard, pay your taxes, and play by the rules, one day you will be able to retire. Actually, no expression of the common good of our Nation has been more broadly accepted nor admired for the results: That the reduction in poverty of America's seniors went from about 50 percent to 8 percent during the existence of Social Security is a testimony to its great success.

It is not a handout; it is not welfare. It is an earned benefit that rewards work. It promotes and rewards what I think all of us would like to see in our society. Senator DURBIN and I could not be more privileged to stand in support of this national commitment to America's seniors, disabled, and children who lose a parent.

This universal insurance program provides guaranteed security for all seniors. Let me emphasize the word "guaranteed." Regardless of the state of the economy, rate of inflation, fluctuations in the financial markets, or the length of one's life, security is guaranteed, dignity is guaranteed.

It is hard to underestimate the importance of Social Security for our Nation's elderly. Of the two-thirds of our seniors and the disabled, 50 percent or more of their income comes from Social Security. For 20 percent of seniors in this society, it is their only income. For women and minorities, it is a much higher percentage of their protection as they go forward. Nearly 2 million children receive survivor benefits. For the disabled, it is more than 50 percent of their income. It is the ultimate safety net and one that is earned.

I think it is important for us as Democrats—and we certainly argue this—that Social Security's guarantee of financial security should be at the top of our Nation's priorities, along

with educating our kids and protecting national security. "Social Security first" is more than a rhetorical phrase; it is a policy that works. That is why we so strongly oppose privatization views on Social Security through so-called personal accounts.

Privatization, in our view, is not about choice. Privatization is about mandatory cuts in guaranteed benefits. That is by the analysis from the President's own commission. All of the Social Security actuarial analyses admit that we will raid the trust funds for up to \$2 trillion and will force deep cuts in guaranteed benefits—up to 25 percent for many current workers and, as the years unfold, as much as 45 percent for future enrollees. Those benefit cuts would not be voluntary. They would apply to all retirees—even those who choose not to invest in private accounts. We think that is a major problem, a major flaw in the direction you take.

Seniors simply cannot afford to have benefits cut, particularly those on the low-income side of our society. After all, today's Social Security guaranteed benefits are simply an average of \$900 a month, or less than \$11,000 a year. In fact, for women, it is \$780 a month, or about \$9,300 a year. I think that is pretty tough to live on in New Jersey; I don't know in Illinois, or Pennsylvania, or New Hampshire; but \$9,300 doesn't cut it. It is very hard to presume that somebody is going to live successfully in their retirement. Many of us look at this and argue about priorities. Some argue that we need deep cuts to make sure Social Security is solvent. But the numbers prove that wrong, in my view.

In the next 75 years, the entire Social Security shortfall, in present value terms, is \$3.8 trillion. That is a lot of money. Meanwhile, the Bush tax cuts would cost more than \$12 trillion, present value, in the same amount of time. We need to make priority choices. We believe we can fund this, since it ought to be one of the highest priorities in society that would necessarily be on our agenda. We have the resources. It is a matter of will and of whether we want to make sure we have the fiscal discipline to set the priorities to make it happen.

I also want to talk about this rate of return. I am an old grizzled 30-year veteran of the financial markets, and I can tell you they go up, down, and move sideways for years on end. It is an uncertainty and a risk that you build into markets if you put it into these personal accounts.

We believe in that three-legged stool. We are not against private investing. We are not against personal savings. We encourage 401(k)s and IRAs, but I think it is a mistake to put at risk the guaranteed benefits for those 20 or 50 percent who are so dependent on Social Security.

There are a number of other problems I could find with private accounts. As to management fees, I assure my colleagues, the smaller the account, the higher the fees. They accumulate. We have had a number of problems with them in Great Britain and other countries. There are serious issues that need to be addressed before one even thinks about it.

I hope we do not lose track of that compact, of that commitment we have, that promise to make sure that if one plays by the rules, they pay their taxes and work hard, they will have a dignified retirement benefit. That is how the world has changed post the creation of Social Security, and we believe strongly that we ought to implement a plan that guarantees benefits.

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

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

Mr. DURBIN. Mr. President, I thank my colleagues for staying this evening. The world's greatest deliberative body does not spend a lot of time debating. That was one of the biggest surprises that I learned when I first came over to the Senate. I hope tonight, if we have a good debate, it will set a standard that will lead to even more debates on the Senate floor.

For 66 years, Social Security has been America's insurance policy. Social Security has been America's promise that when all else fails, the monthly check from Social Security is going to be there to help you pay for your food, your utilities, and your prescription drugs.

Social Security has never been Uncle Charlie's red hot investment tip, that stock that just could not lose. Social Security has always been that rainy day fund that your dad and your grandfather told you to take care of first before you even listened to Uncle Charlie.

Some politicians do not like Social Security. It is an old idea. It has been around for several years. It is conservative. It is a Government program. It was created by Franklin Roosevelt during the New Deal. It is also the horse, though it never sets a track record, that always finishes the race.

The critics want to dismantle Social Security for a flashy, dazzling money maker that just cannot lose. They want to cut the current Social Security monthly benefit and add higher administrative costs at the expense of your parents' retirement and your own.

Now, they tell us that Social Security privatization adds up, but like that hot stock tip, their privatization argument is all about faith and not facts. As every good magician, they want to divert your attention from the most important part of their presentation.

The supporters of privatizing Social Security cannot explain how they will fill the \$2 trillion hole in the Social Security trust fund that will be created when people lift out money to put in privatization personal accounts. If they

were honest about their \$2 trillion shortfall, they would tell you that the options are very limited and very painful.

For one thing, they might suggest we raise payroll taxes to make up the difference, but who needs an increased payroll tax with this lame economy? They could tell you honestly that we can raise the retirement age under Social Security and make up for the \$2 trillion shortfall in privatization. But is that something you want the Government to mandate at this point in your life? Or they could cut Social Security monthly benefits, but that might come just at the time when your mother's prescription drug bill goes up \$100 a month.

If it turns out that Uncle Charlie's hot stock tip, or the Republican privatization of Social Security, fails, guess who ends up holding the bag. Well, first, your parents, then you as their children, and ultimately, when the bottom falls out, future taxpayers.

The bad news about Social Security is not the bedrock principle on which it was founded. The bad news about Social Security is that this President and this Republican Congress, with their tax cuts for the wealthy and record-breaking deficits, are endangering Social Security and Medicare at exactly the wrong time.

This is a news flash from those who are supporting privatization, which I think they should crawl across every TV screen in America whenever this debate starts, and it ought to say, just so you did not miss it: The baby boomers are on the way.

We have only known that for 50 years. We have seen them coming. We know they expect Social Security to be there because they paid into it. So instead of historic deficits and Social Security privatization schemes, how about some conservatism for a change? How about protecting the Social Security trust fund?

In closing, this is a historic moment. Since the Republicans chose the issue of privatizing Social Security as our topic tonight, it now can be said officially to Republicans across America that it is now safe to say privatize Social Security again. For 3 years, they would not do it while the Dow Jones was diving, the Standard & Poor's was sliding, mutual funds were muddling, and corporate robbers were led away in shackles. Welcome back Social Security privatization. But there is one problem: the Republicans may now think it is safe to dive again into the Social Security privatization pool, but when it comes to common sense that pool is still empty.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I want to make sure the record is straight. I do not believe the Senator from New Hampshire used the word "privatization." My colleagues will not hear me use the term "privatization."

Privatization intimates to the American public that we are going to abandon

the current Social Security system and turn it over to completely private accounts, which is not what any proposal on this side of the aisle or what the President's commission suggested.

What the President's commission suggested, what every bill over on this side of the aisle proposes—and, by the way, joined in a bipartisan fashion and has historically been a bipartisan issue—is to take a portion of the contribution that comes into the Social Security Administration and give people the option voluntarily to establish a personal retirement account to be part of their Social Security benefit which continues to be guaranteed as it is, as much as it is, under current law.

So let's understand that we are still talking about the foundation of this system being the same. What we are talking about is trying to solve the problem, a problem that my two colleagues on the other side of the aisle did not address. They talked about the criticisms of the personal retirement account option for people to help finance the shortfall in Social Security, that \$25 trillion shortfall. They did not propose one solution as to how to do that.

We have proposed a solution that uses the power of the market, which uses individual choice. If my colleagues want to talk about guarantees, ask the people back in 1978 and 1984, after the 1977 and 1983 changes in Social Security, whether that benefit is guaranteed. In both 1977 and 1983 benefits were reduced. So this idea that there is some guarantee out there is only as good as the next Congress's vote. The real guarantee is ownership. One owns that money in their account. That is a private property right that is now not subject to the whim of the next Congress to take away from an individual. So what we are doing is giving real guarantees, real security to Social Security, No. 1.

No. 2, this idea that if we don't do anything, things will be fine? I hold up a comment by David Walker before the Aging Committee in the Senate. He said:

Taking action now on Social Security would not only promote increased budget flexibility in the future and stronger economic growth but would also make less dramatic action necessary than if we wait.

Waiting is not an option. There are three things we can do to fix the Social Security shortfall. No. 1, raise taxes; No. 2, cut benefits; No. 3, grow through investment and thereby make up the shortfall. Those are the three options.

Senator SUNUNU and I think most Republicans, and some Democrats, thankfully, have said we prefer option 3.

By the way, this debate has been around a while, as the Senators have suggested. One of the issues is, Do we include people who are not now in Social Security in Social Security, like teachers, local government employees, State employees who are now exempt? They are vehemently against losing their investment-based Social Security

system if they have to trade it for a pay-as-you-go, promise-from-politicians system that we have. If it is such a bad system, then why do all the people who have an investment-based system, at least in part, not want to be in this other system? The reason is because it works. Every other pension system in this country is based on that. And virtually every other pension system, Social Security system in the world, has some component of private investment.

We will be—I underscore “will” because I think it will eventually happen—the last to do this. But we should not wait because waiting costs. The longer we wait, the deeper the cuts in benefits that will have to be made if we do not go the personal retirement route, or the higher the taxes must go, again, if we do not come up with another method to solve this problem.

I want to put up a chart from Senator Moynihan. I heard talk that somehow or another, if this money is put aside, we are robbing money from the Social Security system. I have a couple of comments on that.

No. 1, the Social Security actuaries say:

If the personal accounts are considered as part of Social Security, it is reasonable to combine the amounts of the trust fund assets and the personal accounts for representation of the total system.

So when the Senator from New Jersey said you are taking this money out of the system, you are not actually taking the money out. Actuaries say you actually should include it as part of it since it is going to pay benefits.

The Senator from New York said:

Critics charge that establishing personal savings accounts would turn Social Security over to Wall Street. Dock workers would become day traders. A market downturn could wipe out benefits. The latter charge is obscene. The present progressive retirement benefit would remain.

That is the point I was making before.

We are not eliminating the base Social Security Program. We are enhancing it, we are stabilizing it, and we are better securing it through investment. There is no occasion to touch it.

Not one proposal the President has put forward or one proposal put forward on this side of the aisle, in a bipartisan fashion I might add, does anything to undermine the basic Social Security system. It is, in fact, a response to shore it up, to make it stronger, and to make it secure and guaranteed for future generations. That is why we so strongly believe in it.

I yield.

The PRESIDING OFFICER. Under the previous order, there will now be a period for questions and answers: 1 minute has been allocated for questions, 2 minutes for response. The Democrats are to propose the first question. The Senator from Illinois.

Mr. DURBIN. Paul Krugman of the New York Times summarized this prettily well.

Social Security as we know it is a system in which each generation's payroll taxes are mainly used to support the previous generation's retirement. If contributions from younger workers go into personal accounts instead, the problem is obvious. Who will pay benefits to today's retirees and older workers? Privatization creates a financial hole that must be filled by slashing benefits, providing large financial transfers.

The obvious question to the supporters of privatization is, Where will you find the \$2 trillion that makes your proposal honest? Without filling that financial hole with \$2 trillion, you have a theory that is too good to be true.

Mr. SANTORUM. That is a very good question.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. This question always harkens me back to a commercial which dates me a little bit. It was Fram Oil Filters. The question was: Pay me now or pay me later?

The issue is, and the issue that, again, my colleagues on the other side of the aisle fail to address, and that is there is an unfunded liability here. How are we going to make it up? The question is, What is the best way to guarantee that for future generations?

What I believe is, by allowing individuals to put money into accounts which they own, which increase in value, we will secure that system to the future. Does that mean coming up with more money now to secure the system later? Yes. But if you don't do that, you are going to pay much more later. So the question is, Pay me now—do it in a way that is progressive in the sense that individuals own money and have control of that investment, have real guarantees because it is their money—or pay me later, on a promise that my benefits will not be cut, which they will have to be, or taxes will not increase, which they will be.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SUNUNU. Mr. President, in their opening statements we heard the other side use the word “guarantee” numerous times. To be sure, my colleagues and I believe strongly in the moral obligation that we have to ensure a sound retirement system. But to simply say “guarantee,” “guarantee,” as if that will solve the fundamental problems in our retirement security system is a huge mistake and it ignores both demographics and the baby boom generation and history because, we all know, in 1977 and 1983, significant changes were made.

We are willing to stand up and talk about ways that have been actuarially shown to strengthen the solvency of the system, but we still have not heard a single idea or proposal of substance from the other side. If you are not going to cut benefits, and you are not going to raise taxes, what ever are you going to do?

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. I appreciate the comments of the Senator from New Hamp-

shire about guarantees. The idea of making certain that those payments, that \$900 average that we are talking about, is available is going to take some of those kinds of choices that the Senator outlined, as did the Senator from Pennsylvania. We have to make some tough choices.

We made a very tough choice when we said we are going to cut taxes, the present value of taxes, \$12.1 billion, which put us into deficit financing of \$550 to \$600 billion in the upcoming fiscal year, when the Social Security shortfall in this country, on a present value basis as opposed to accumulating all those totals over 75 years, is \$3.8 trillion—three times the coverage of the estate tax. Even if you reformed it up to a \$4 million or \$5 million exemption, it would fill about one-quarter of that hole. The dividend exclusion, the cut in capital gains, would take it up a little over half.

There are other options than just sitting here and suggesting that there are no ways to fund this Social Security gap. That was why it was so important to emphasize “Save Social Security First” when we were running surpluses. We wanted to build up that Social Security trust fund so there would be income from it, but also have the ability to meet those needs as we go forward.

I think it is absolutely essential that we focus on guaranteed benefits because we are looking at the core, the fundamental cornerstone of what retirement savings is for a vast number of Americans. Fifty percent plus depend mostly on Social Security.

So having that at the risk of the whims of the market is a whole different kettle of fish than having what a guaranteed benefit is about. That is why we emphasize it.

The PRESIDING OFFICER. Next question, Democrat Senator.

Mr. DURBIN. I ask my colleagues on the Republican side, they say it is voluntary and all about giving people a choice. What kind of choice do you give people who do not want to open a personal account, who don't want to privatize? The choice you give them is to see their monthly Social Security benefit reduced. The average benefit of \$900 will go down, if you decide that you don't want to play the stock market, you don't want to invest.

I have to ask you, How voluntary is that, if you are going to reduce the monthly benefit payment to those who do not sign up? And, the ultimate cost of this, since you cannot come up with a way to pay for the \$2 trillion, could be as much as 40 percent of that current \$900 monthly value. How voluntary is that? What kind of choice does that person have, when they lose the benefit they counted on all their working years?

Mr. SANTORUM. I assume what the Senator is referring to is the proposal by the administration to use price indexing versus wage indexing. Is that correct?

Mr. DURBIN. I was talking about the overall \$2 trillion.

Mr. SANTORUM. Maybe I am confused. When the Senator says what change would then occur, my guess is—I am confused by the question.

Mr. SUNUNU. If the Senator from Pennsylvania will yield on this point because it was a confusing question, to say the least, but I think it gets the facts completely wrong. There are pieces of legislation that protect the guaranteed minimum benefit and that make no changes to those in the current system. To suggest that simply the act of proposing to allow some worker to control 2 or 3 percent of what they earn every week in a private account means that somebody else's benefits will be cut is simply demagoguery.

The Senator from Pennsylvania addressed the question of pay me now or pay me later. To be sure, if you allow personal accounts to be set up, you won't have as much money flowing into the trust fund today, but you will earn a rate of return and increase the value of those accounts in such a way that the total value of all the assets in your retirement system will be greater in the long run.

I think the Senator who worked on Wall Street understands that fact. I think anyone who has an IRA or a 401(k) understands that fact.

The legislation that has been introduced in a bipartisan way in this Chamber and in the House has been scored by the Social Security actuary to increase the solvency of the Social Security trust fund over that 75-year window.

That may be a frustration to those who vehemently oppose personal accounts in any way, shape, or form, but it is a fact. The Social Security actuaries are not partisan in this debate.

The PRESIDING OFFICER. The next question is from the Senator from Pennsylvania.

Mr. SANTORUM. Thank you, Mr. President.

I reiterate the first question which the Senator from New Hampshire offered, which is, What specific plans are out there? But I am not sure we are going to get an answer to that tonight. I will go to a second question.

We hear a lot, as I mentioned in my remarks, about their guarantee, and I know both Senators know about the *Fleming v. Nestor* case in 1960—a U.S. Supreme Court case that said that Social Security benefits are not guaranteed. You do not have a private property right to Social Security benefits. It is a political promise.

We saw evidence of that in 1977 and 1983 with those amendments to the Social Security Act which reduced benefits. So we are talking about this great guarantee, this incredible, infallible promise. Yet we have seen cuts in Social Security by previous Congresses.

My question is, Can the Senator tell me that the 1977 and the 1983 amendments are not examples of what you would call a guaranteed benefit and how those reductions in benefits square

with you telling the American public that there is a guaranteed benefit?

Mr. DURBIN. Mr. President, let me just say that we can argue for some time as to whether this is a guaranteed entitlement. This much I can guarantee you. In a nation where 40 million people rely on Social Security for their checks, and where their families rely on receiving them, trust me; the people who are elected to this Chamber and the House of Representatives will be responsive to guaranteeing the future of Social Security. There is much less political risk when it comes to the future of Social Security than there is market risk when you decide that you are going to take a chunk of your savings and hope that you happen to retire at the right moment when the stock market is on the up tick rather than the down tick. The market risk is far greater than the political risk.

We might be able to suspend the rules of political science in this debate. We certainly cannot suspend logic, common sense, and mathematics.

If you wonder why this Nation is in deficit, listen to the argument on the other side. They will allow workers to opt out of Social Security and go into personal accounts and argue here calling this demagoguery when we raise the question that even if these workers opt out, that did not endanger Social Security. That doesn't add up. Once the workers opt out, there is not enough money to make current payments to retirees. They cannot explain to you how they will make up the difference. That is the problem—if we are going to maintain benefits, make it voluntary and not penalize current Social Security retirees. You have to explain to us how we make up the difference.

The PRESIDING OFFICER. The next question is from the Democratic side.

Mr. CORZINE. Thank you, Mr. President. Let me say on the constitutional question, the Court rules. But if there is a law that has to be changed, it has to come before this body. The political risk is no higher, in my view, than the market risk, being one who has lived with market risk for a fairly substantial period of my life and understanding that those risks are real and tangible. We have very real and tangible examples of that in the world today.

Look at the underfunded pension liabilities that are managed for some of those teachers and other people who have been talked about.

I think we are talking about two relationships. And I think when you are talking about—which gets to my question: Is \$900 a month too much to promise our seniors? Is a guaranteed benefit of \$900—and then adjusted for wage indexes so it is a standard of living and replacement wage—is that really too much? I ask the Senators.

Mr. SANTORUM. Only two-thirds of that \$900—\$600—is funded under the system we have right now. Three hundred dollars of that benefit—in other

words, two-thirds of that benefit—over the course of the next 75 years is going to be funded. So the question is, How are you going to make up this difference? We have put forth a plan that reduces that unfunded liability, that makes up that gap substantially. If we were to do one of the plans, it makes it up completely.

So I suggest that we have plans on the table on how you get there. What we have not heard from the other side is how they get there. We have heard about the Bush tax cut. Are you suggesting we should increase taxes? What taxes do you want to increase to pay for these benefits? Are you suggesting that you don't want to increase taxes but somehow you want to reduce benefits? What benefits are we going to reduce to pay for this? But the fact is, you can't say to folks, It would cost this much—and it is not costing anything because all of the money stays in the system—to do their personal retirement account.

The question is, How do you make up the difference? Again, no answer and no ideas. We can do this or we can make up the difference or we will make sure the guarantee is good—but no plan and no ideas and no honesty to the American public as to what the particular solution is to solve this problem.

We have been courageous enough and bold enough to put forward a plan which, by the way, looks remarkably, in part, like the Thrift Savings Plan. Over these last few years, as bad as the market was, I didn't hear any Member of Congress or anybody else say we will abolish the Thrift Savings Plan. A diversified and balanced fund leads to good, long-term, stable investments over time.

That is what we are talking about. If it is good enough for Federal employees, it should be good enough for Social Security recipients.

Mr. SUNUNU. Mr. President, we always hear the opponents of personal accounts talk about risk. They love to talk about the fact that the market was down yesterday or the day before, or a particular stock didn't perform well. But, of course, nobody is talking about investing their retirement savings in the market the day before they retire. We are not even talking about investment for 1 or 2 years. We are talking about investing for 20, 30, or 35 years. Everybody knows the market goes up and down. But in a portfolio that is balanced and that is mixed with stocks and bonds, or with a blend of the two, the return over the long term will be strong but will be much higher than you could otherwise get from Social Security.

As a proof of that, I ask my colleagues if they can find any 20-year period in the last 100 years when this stock market didn't outperform U.S. Treasuries?

Mr. DURBIN. Mr. President, if you will look at the funds to invest in for

individuals, virtually all of them suggest there is going to be an administrative cost in that instance. Most of them require a minimum investment of \$2,000 because, frankly, the administrative costs can be so overwhelming. You tend to ignore that when you talk about the creation of personal accounts.

The British, in their experience in the United Kingdom, found that the administrative costs got out of hand to the point where they had to step in after several years. They also will step in because fraud was taking place. People were deluding future retirees into believing they were going to win in the market if they invested. That is a case in point where they tried to take the retirement savings in the United Kingdom using your model, and it didn't work. The administrative costs were far greater than they anticipated. Also, there was a fraud involved.

Taking money and putting it in the stock market is an option every American should have. But to use the Social Security funds of an individual for that purpose raises a risk that is too great for some people.

If the Senator from Pennsylvania suggests in the Thrift Savings Plan, the Federal retirees—he did not say that is part of our retirement; that is our savings account, over and above our retirement. I support what Al Gore supported, as do most Democrats, Social Security Plus. That allows people to invest in the Social Security over and above their Social Security. That would give them a chance to take advantage of a good market and not be eaten alive by administrative costs or defrauded out of the basic needs to survive.

The PRESIDING OFFICER (Mr. BROWNBACK). The next question is from the Democrats.

Mr. CORZINE. If the Senator from Pennsylvania will wait, I will ask that question.

The question we have to get to when we are talking about an intellectually honest debate about Social Security and whether people have a plan—you can ask whether one wants to talk about capital gains, tax dividend exclusion, inheritance tax, as I suggested, as a means to fill some of this gap. Others may have other choices. It happens to be this Senator's choice with regard to these particular issues, but there are other ways to do it.

There is no answer that I am hearing from my Republican colleagues about where you get the \$2 trillion that is going to finance these transitions to private accounts—there is none; I have yet to hear it—without entering into the general funds at a time when we already have denigrated our fiscal posture in this country to an extraordinary degree, switching from \$250 billion surpluses.

The PRESIDING OFFICER. The time of the Senator has expired.

The Republican response.

Mr. SANTORUM. First, I say again what we are talking about here with

this thrift savings model—and I know many have been critical of that. It was stated that administrative costs would eat up the benefit. The administrative costs on Thrift Savings was .05 percent, .07—only 50 cents on every \$1,000 investment. So it will not eat up the benefits of investment. That is No. 1. It can be done in a way that makes sense from the market return point of view.

The question the Senator from New Jersey poses is, How are we going to finance this? Again, the cost of not doing something is much larger than the cost of doing something.

The Senator has said he would increase taxes. I suggest that is certainly not an option I support. But I certainly respect the Senator from New Jersey for coming forward and saying we can solve this problem by increasing taxes.

The Senator suggests we increase taxes on things having nothing to do with Social Security, which would separate the covenant we have had, that Franklin Roosevelt put forward, that the contribution would somehow tie directly to the benefit you receive. So we will finance Social Security with things outside of Social Security.

I am not suggesting that. I am suggesting we will finance the shortfall through allowing people to take a portion of what is already being paid. If we did it immediately, we could put a little over 2 percent into personal retirement accounts and it would not affect anything. We have a surplus right now big enough to finance 2 or 3 percent of benefits going to that account. And over time, yes, we would have to come up with a mechanism in the short term to finance that 2 or 3 percent, whatever we put aside. Again, that would grow, so we would not have to do so over the long time.

The PRESIDING OFFICER. The time has expired.

The next question is from the Republicans.

Mr. SANTORUM. The Senator from Illinois mentioned the British system. The Senator from Illinois knows that the current Prime Minister of Britain, who is not a Conservative-Republican but a Labor-Democrat, if you will, has suggested expanding the personal retirement accounts in Britain, saying they have learned from their mistakes, the system has been improved and reformed, and he wants to expand the system to create more opportunities.

Just recently—in the last couple of years—Sweden—that conservative bastion in Scandinavia—has gone to personal retirement accounts. Most European companies have done so. Almost all of the South American countries have done so. Russia and China are going in that direction. The rest of the developed world has recognized the power of the market as a reliable tool to finance long-term commitments for retirement. Not here in America. Now, that is not a surprise because when we adopted Social Security in the late 1930s, we were one of the last to do so.

I ask the Senator who asked the question, if it is good enough for the

rest of the world, why isn't it good enough for us?

Mr. DURBIN. I thank the Senator from Pennsylvania. It is rare of him to argue that the social programs in Russia and China should be emulated here in the United States.

It is interesting he would start with the British because they certainly have a much grander view when it comes to government responsibility on health care. If we were to guarantee the same type of health care protection to Americans as the British, not only for retirees but for the people, perhaps we could follow their logic in saying we may have failed over the last 10 or 15 years with their private savings accounts but people were not hurt that badly.

In the United States, if the experiment which the Senator has suggested with Social Security benefits tries and fails, we will have a generation or two of retirees on the hook, people who will not have what they anticipated they would have at the time of retirement. Then where does the burden fall? It falls on their children, first, to try to take care of their parents, and ultimately on the rest of the taxpayers.

This noble experiment, unfortunately, still has this big gap in it—\$2 trillion—which the Republicans, suggesting privatization of Social Security, cannot come up with. Until they do, we are going to have to cut benefits. Cutting benefits is certainly not the answer to providing any kind of security for our retirees.

The PRESIDING OFFICER. The next question is from the Democrats.

Mr. CORZINE. I know my colleagues on the other side of the aisle are a little resistant to talking about avoiding making permanent some of the Bush tax cuts, but I wonder if there is any proposal at all, among the tax cuts that the President has laid down and we as a Congress have supported, that one would feel were appropriate to help finance this incredible deficit that I think we all agree is so important, whether it is to fill that \$2 trillion gap that you admit is there and will have to default. Is it looking at people who make more than \$1 million? Is that worth trading off financing adequately the Social Security system? Is there no tax cut that has come through that would not be justified relative to the cost of having it?

The PRESIDING OFFICER. The time has expired.

Mr. SUNUNU. Mr. President, let me provide for my colleagues an example of what it is to answer a question: No. Of course not.

Cutting taxes is about strengthening the economy. If you have not noticed, we have been in a recession. When you are in a recession, you want the economy to grow because economic growth is the single most important thing to increasing revenues. If you want to balance the budget, you need to do two things: Strengthen the economy and strengthen revenue growth, and of

course control spending. I am not willing to forgo the tax cuts that have strengthened the economy.

When we asked the Democrats in this Chamber tonight for a plan to strengthen Social Security, we heard no answer. When we pointed out that the long-term success of markets in generating economic growth and a strong rate of return is historically without argument, they ignored the question. When we asked about the success of personal retirement accounts in country after country around the world, they changed the subject and decided they wanted to talk about health care.

We cannot ignore the challenge before us. We have talked about substantive solutions here. The suggestion that simply because we are creating personal accounts means we have to cut benefits and the fact that the Democrats want to ignore the rate of return that strengthens the assets in the entire system is not reason not to take action. We need to take action. We need to take up this challenge. And we need to be clear in the answers to the questions that are being asked tonight.

The PRESIDING OFFICER. This will be the final question that will be asked by the Republican side, which will have 1 minute.

Mr. SUNUNU. Mr. President, to that point about this suggestion that there is \$2 trillion or \$3 trillion—the number seems to get greater—in this so-called hole that does not exist because in the long run the system will be in better actuarial balance and because those assets will always be part of this system—to this point precisely, the non-partisan actuaries of Social Security found that under a reformed system as proposed by the President's commission almost all workers could expect to receive higher benefits with a personal account plan, and the biggest increase in benefits would go to low-income workers.

In 2050, a low-wage retiree could expect 26 percent higher benefits from the commission's personal account proposal. Why, if this kind of a proposal is not just actuarially sound but better for low-income workers, are my opponents unwilling to even consider the idea of personal accounts?

The PRESIDING OFFICER. Two minute response from the Democratic side.

Mr. CORZINE. The Senator from New Hampshire makes the assertion that the Social Security actuaries have said that these plans—at least the President's commission's plans—will resolve the problem related to solvency. I, for the life of me, do not read those actuarial reports with that conclusion. In fact, the reason we are talking about the \$2 trillion that seems to be missing—the magic asterisk—is that that, in fact, is talked about in these actuarial reports as a basis for cutting guaranteed benefits—25 percent for near termers, 45 percent for people out in that 50-year timeframe.

There is a missing hole. It is not enough just to assert that this is actuarially sound when that is not, in fact, what the reports say, at least as I read them. And I do not understand how we are going to get through those transition costs, which are repeated by almost any objective analyst I have heard talking about moving to privatized accounts.

That is why we so strongly stand and speak to guaranteed benefits because that is what the program is about. Yes, it has the political risk, but, as I think the Senator from New Hampshire knows, markets have a risk. They have real risk.

The Senator talked about a 20-year timeframe. I think if one looked from 1929 to 1949, you would find a 20-year period where returns were at best flat, if not diminished. So it is a very tough analysis to show that any individual retiring at any given point in time is going to be secure because the markets have produced a 7-percent return, which, if you look at 100 years or 50 years, may very well be the actuarial result. But you don't eat actuarial results; you eat benefits.

The PRESIDING OFFICER. There will now be a period for closing arguments on either side. Each side has 5 minutes in which to close their arguments.

Who yields time?

The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I would like to be recognized for 2½ minutes.

The PRESIDING OFFICER. The Senator is recognized for up to 2½ minutes.

Mr. SANTORUM. Thank you, Mr. President.

I thank my colleagues for this debate and appreciate the opportunity to talk about this very important issue in a way that talks about the bigger issues of the day. I thank them for their engagement on this issue.

I end my part of this debate by going back to someone who is not necessarily a great favorite of mine but someone who knew a little bit about the Social Security system, and that is Franklin Delano Roosevelt. He was adamant—adamant—that we have a funded Social Security system. He did not agree with the pay-as-you-go system that was adopted in the late 1930s. In fact, his Secretary of Labor, Frances Perkins, said that he—“he” being FDR—described building such a system, a pay-as-you-go system—which is the system today—as “immoral,” immoral because he understood that a pay-as-you-go system would pile up obligations on future generations of taxpayers.

That is exactly what is going on. Back in 1940, there were 40 workers for every 1 beneficiary. Today, there are 3.4 workers for every 1 beneficiary. In 20 years, there will be less than 2 workers for every 1 beneficiary.

This system is becoming more and more and more inequitable. Franklin Roosevelt was right when he said such

a system is immoral. A moral system, which every other retirement system in America is funded upon, is a funded system, a system that says you will contribute so much, invest that money and have that money funded—real assets to pay benefits, not taxing future generations for accrued benefits of someone in the past.

We are in a system that has what I described. We will keep that system forever. But we should at least have a partially funded system that has some buildup of equities to be able to pay benefits for future generations. That is what we are trying to do. It is a more moral system. It is a better and more equitable system. Considering the changes in demographics that we have going on in this country, it is one that is necessary to avoid big cuts in benefits or big tax increases. It is the fairest, most equitable, just way—most moral way, according to Franklin Roosevelt—and we should adopt it.

The PRESIDING OFFICER. Who yields time?

Mr. DURBIN. Mr. President, to clarify the UC, do I understand we have 5 minutes to close, and we will be the final speakers?

The PRESIDING OFFICER. The Democratic side has 5 minutes. The Republican side had 5 minutes, and they have used 2½ minutes. There is nothing in the UC to determine which side goes last.

Mr. DURBIN. If I could read to the Chair—and perhaps I am mistaken here—it said: Further, I ask consent that the next 10 minutes be equally divided for closing comments, with the Republicans controlling the first 5 minutes.

The PRESIDING OFFICER. That order was not obtained.

Mr. DURBIN. It was changed.

Could I have clarification what the order is, then, so we can end this appropriately?

The PRESIDING OFFICER. It was simply 10 minutes for closing argument. There was no delineation as to who would go first or second in the final determination of the order that was obtained.

Mr. DURBIN. Thank you, Mr. President.

Mr. President, I would ask to be notified when I have used 2½ minutes.

The PRESIDING OFFICER. The Senator will be notified.

Mr. DURBIN. Mr. President, I have listened carefully to the debate tonight and I have listened to the suggestions to privatize Social Security with personal accounts, and I have waited to hear the following: If you take current people paying into Social Security for today's retirees out of the mix, who is going to make up the difference? Who is going to make up the money that is lost currently being paid to retirees?

That is an unanswered question. Until that question is answered, this cannot be an honest proposal. That gap, that failure of any discussion on privatization of Social Security, leaves

current retirees in the lurch—and those about to retire—because people will be bailing out if they decide to take personal accounts proposed by the Republican side—and nobody makes up the difference.

I will say that the Republican side has been resolute in saying they will not even consider looking at the tax cuts that President Bush has proposed twice now during his administration, resolute in their belief that though they have failed to revive the economy—these tax cuts have driven us into the deepest deficits in our history—and though the total cost of these tax cuts will be three times the amount of money that we need to save Social Security on a permanent basis, they are resolute that we cannot ask one millionaire in America to give up a penny in his Bush tax cuts—too much, too far to go.

It shows you how this cannot be resolved in honest terms because unless and until we are all committed to the future of Social Security, unless and until we realize that rich and poor in this country all benefit from having this insurance policy—which Franklin Roosevelt conceived so that our parents and grandparents could live in dignity—we will continue to reach a stalemate in this conversation.

Stick with the basics. We should not cut current benefits. We should make any program voluntary, and it should be an add-on to the Social Security retirement. It should not be in place of it, unless you can come up with an honest answer of how we are going to fill the hole.

I yield the floor.

The PRESIDING OFFICER. The Senator has used 2½ minutes.

The Republicans have 2 minutes 30 seconds remaining.

Mr. SUNUNU. Mr. President, earlier in the debate I made clear that it was frustrating that we had asked the other side for a proposal, a plan, specifics to strengthen the Social Security system, and they had not given an answer.

Here, finally, in the last minutes of a debate that has gone over 1 hour, we get an answer: They will commit to raising taxes. Because to suspend or eliminate tax cuts in order to cover this shortfall in Social Security is to make a firm commitment that you will raise taxes, that you will take new taxes into the general revenues and divert them to Social Security. That is a tax increase. There is no ifs, ands, or buts about it.

Every worker in the country already pays over 12 percent of their payroll every week in taxes into the Social Security system. I say that is enough. We can reform, strengthen, and vitalize this program by empowering workers, giving them the option to control 2 or 3 or 4 percent of those payroll taxes every week and put it in a personal retirement account, not to gamble it on penny stocks but to put it in a fund similar to the Federal Thrift Savings Plan, a mixed basket of stocks, a very

secure investment in bonds, perhaps a mix of the two, to invest not for 1 or 2 years but for 20 or 30 or 40 years; empower workers today to control more of what they earn. Surely that is a good thing for those workers because it gives them an asset they can leave to their family.

When we take money out of the hands of bureaucrats and give more control to individuals, we are making them more powerful and, to be sure, we are making the bureaucracies less powerful. That is indeed a step in the right direction.

When they set up these accounts, the assets don't disappear or go away. They stay part of the retirement security system. If you look at the proposal just introduced last week by Representative NICK SMITH, that has been scored by the actuaries as returning more to the system in the long run to cover any shortfall that you claim. Whether it is \$500 million or \$500 billion or \$1 trillion or \$2 trillion, whatever number you choose to pick today, over the long run there are more assets in the system to be used to pay benefits, and that is what makes it actuarially sound. That is what makes it a good idea for workers and a good idea for the American people.

I thank my colleagues.

The PRESIDING OFFICER. The Democratic side is recognized for 2½ minutes. The Senator from New Jersey.

Mr. CORZINE. Mr. President, we could get into a debate about whether making tax cuts that have not occurred yet permanent is a tax hike. I think that is not what we are talking about tonight.

Are there ways this can be financed? At least this Senator made some specific suggestions about where one could look for funding that would cover this gap, and I think there are a number of ways of looking at it. They require tough choices. Is providing \$900 monthly income to seniors more important than eliminating the estate tax, providing a dividend exclusion to a very narrow sector of our society, or is it better to provide \$900, \$11,000 a year on average, to the American people, providing also for 2 million kids who lost their parents, dealing with the disabled in this country? It is hard for me to understand these tradeoffs, but at least I believe that that is an argument the American people would find winning.

I also believe Social Security has been a promise to the American people—again, that if you live by the rules, you pay your taxes, if you show up and work, if you are committed to a lifetime of work, you will have a dignified retirement. And putting this into the risk of a marketplace—a world that, both fortunately and unfortunately, from time to time I have lived in—can lead to results for individuals that are much different than what the expectations or whatever actuarial numbers are projected by people who are bureaucrats thinking about what

returns will average out over some long period of time. Because people live in the here and now, in a 20-year time-frame or 40-year. They work and they retire at a certain point in time. And if the market is not performing at that point in time, when that account they own comes up, they don't have those guaranteed benefits.

By the way, this is a zero sum game. When you take out that \$2 trillion, it requires that somebody else give, not only the people who are choosing to leave the system but those people who choose to stay in the system.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CORZINE. We should protect Social Security and oppose privatization.

The PRESIDING OFFICER. The debate is concluded.

STEEL TARIFFS

Mr. ALEXANDER. Mr. President, I would like to make a few remarks about the report of the International Trade Commission on steel tariffs, which was made over the weekend. Late last Friday night, the International Trade Commission released its report on the impact of the steel tariff. The steel tariff is a tax. It is a tax that the administration imposed in March of 2002 on at least 10 different kinds of imported steel, including the kind of steel that is used to make automobiles and trucks in this country. The effect of the tariff was to increase the price of that steel up to 30 percent. It had a noble purpose. The President hoped to save some steel jobs in this country.

The International Trade Commission (ITC) over the last several months has taken a lot of testimony and done a good deal of study to see what was the impact of that decision made in March of 2002 on both the steel industry, the steel producing part of our country, and on the automobile industry and on the other steel consuming parts of our economy. The report's finding on the overall economic impact of the steel tariff was not very surprising. According to the report, the steel tariff has saved a few steel jobs by raising the price of steel. But it has cost U.S. manufacturers, the auto parts suppliers, for example, over \$680 million. The report also claims that somehow to make up for this, the tariff revenue to the U.S. Government, collected on the steel that came in from outside the country, was about \$650 million. So the ITC estimates that there was not too much damage to the economy, only a \$30 million loss in GDP.

But what that overlooks is who paid the tax? It was, in part, the struggling auto parts suppliers who are manufacturing parts in this country in competition with auto parts suppliers all over the world. They paid the tariff to the federal government directly when they shipped in foreign steel themselves and in part indirectly when they paid higher prices to their distributors

who brought in steel from abroad for them. They paid the tax.

What has happened over the last year and a half, when all of us have been making speeches about how our greatest economic challenge may be how to keep our manufacturing jobs from moving overseas, is that we have imposed upon our manufacturers a tax, a tariff that has increased their costs by up to 30 percent and made them less competitive.

As a result, they have done what manufacturers have to do. Rather than lose money, they have laid off a few employees or they have begun in a few cases—I know this in my own State of Tennessee; we are a big manufacturing State and one-third of the manufacturing jobs are automotive jobs—they have begun to move their parts suppliers to Mexico or Japan or Korea or other parts of the world where parts can be made, paying the global steel price.

So, yes, we may have brought in \$650 million to the U.S. Treasury in the tariff, but it has been paid on the backs of the steel-producing auto parts suppliers and other steel consumers of this country, and it has had the effect of driving jobs overseas.

The report also illustrated something we knew to be true; that the steel tariff is hurting steel-consuming firms all across the United States, from auto parts suppliers to home appliance manufacturers, to tool and die shops to metal stamping facilities. All of these steel-consuming firms have been affected by the burden of the steel tariff in some shape or form.

Here are a few things the report said: One-half of the steel-consuming firms surveyed reported they had difficulty in obtaining steel in the quantities and quantities they needed. That is an added cost.

Second, almost a third of these firms relocated or shifted production to foreign plants, facilities, after the implementation of the tariff.

That is exactly what we do not want in this country is any kind of new cost added by the Federal Government which causes a parts supplier in New Hampshire or Tennessee to move a plant overseas.

Third, one-quarter of these steel-consuming firms reported that their customers shifted to purchasing finished parts or assemblies overseas as a result of the steel tariff.

Let's say you are making a sunroof in Gordonsville, TN, and the cost of steel goes up 15 or 20 percent and that is the major raw material you are using. The Nissan Smyrna plant in Tennessee can buy that roof from just down the road in Gordonsville, everything else being equal, but the sunroof can also be made to a high standard of quality in many other countries in the world—in Japan, in Korea, in Mexico, in Canada. If costs are too high, too much out of whack, then the American automobile plant, in order to keep its costs down so it can be competitive,

will buy that finished part from overseas. That is not subject to any tariff.

Fourth, almost one-third of these firms reported the contracts they had in place to purchase steel were broken or modified after the tariff was imposed and reported a loss in profits due to these problems of approximately \$190 million.

Finally, one-third of these firms reported longer lead and delivery times.

This also is very important. There is such a thing as just-in-time delivery in the automobile business. That is why in Tennessee we have gone from having two dozen auto parts suppliers 12 or 14 years ago to more than 950 today. The Toyota plant and the Nissan plant and the Saturn plant and the Mercedes plant—all of them located in the South, some still located in the Midwest—they like to have their parts suppliers nearby. If those firms have longer lead and delivery times, it makes that just-in-time delivery advantage less reliable.

In addition, the report further highlighted the impact the steel tariff had specifically on auto parts suppliers. There are a lot of automotive people in the country. Historically, they have been in Michigan and in Ohio—the song “Detroit City” was written about Tennesseans who went to the Midwest to get good jobs and send the money home, and then they would come back themselves one day. Now, a lot of those auto parts suppliers have followed the auto plants to the rest of the country, to the Southeast and the Deep South.

As I mentioned earlier, Tennessee is home to about 950 of these auto parts suppliers. They make up about one-third of all our State's manufacturing jobs.

Mr. President, 85 percent of the auto parts suppliers surveyed in the ITC report said that their steel prices in the United States were higher than global prices; 31 percent reported that customers had shifted purchases to buying finished parts or assemblies overseas as a result of the tariff; 74 percent reported changes in contract prices for steel; and 55 percent reported the steel tariff was the only important factor in these changes in steel prices. Mr. President, 79 percent reported an inability to pass on steel price increases to customers.

There is a lot of back and forth about just to what extent these steel prices have gone up. The report mentioned a variety of figures. It mentioned a figure of an 8 percent increase in hot bar steel. I wonder if maybe taking a snapshot of 8 percent in March of this year over March of last year ignores some of what goes in between.

But here is what some of the auto parts suppliers said in testimony before the International Trade Commission was the effect of the steel tariff on steel prices.

Arvin Meritor said its price increases were 25 percent to 40 percent on cold rolled and galvanized steel. Delphi said its prices increased 5 percent to 48 per-

cent. DURA saw its prices increase 30 percent. Federal Mogul saw its prices increase 25 percent. Metaldyne saw its prices increase 10 percent. Transpro saw its prices increase 25 percent.

Maybe some were lower and maybe some were higher, but these plants found in a very competitive business that even a few pennies more in cost per part makes a difference in their ability to keep a job in the United States. They found their costs suddenly way up—15 percent, 20 percent, or 25 percent. All of these burdens have meant extra costs to steel-consuming firms—extra costs that have affected steel-consuming jobs all across America. The steel tariff may have saved some steel-producing jobs, but it has already destroyed a lot more steel-consuming jobs. The findings of the ITC report alone should give the President ample reason to end the steel tariffs.

I spoke on this subject on July 16 in this Chamber. I tried to point out at that time how both steel-consuming and steel-producing jobs are important to our country. But if that is all you are considering, there are a whole lot more steel-consuming jobs than there are steel-producing jobs. For example, in Tennessee, there are about 328,000 steel-consuming jobs. There are only about 3,000 steel-producing jobs. There are 100 times more steel-consuming jobs than steel-producing jobs.

The United States has 12.8 million steel-consuming jobs—2.1 million of which are in the auto business. The United States has 226,000 steel-producing jobs.

Everybody's job is important. Just to come along and say we want to save steel jobs cannot be used as a rationale for a steel tariff when the effect is that it destroys a lot more steel-consuming jobs. Even in States such as West Virginia and Pennsylvania, there are a lot more steel-consuming jobs than there are steel-producing jobs. There are more auto jobs in Pennsylvania than there are steel-producing jobs. That is no reason for the steel tariff.

The economy is beginning to recover. Manufacturing is up. Manufacturing jobs are not up. We are more productive. So there are fewer jobs. But manufacturing for the last 3 months, according to the Wall Street Journal, is up.

I strongly believe this recovery is a direct result of the President's job and economic growth plan. The last thing we need now is to continue any new costs such as the steel tariff on a major manufacturing sector that slows down our economic growth. I fear that if the steel tariff remains, we will see more plant costs during 2004 in Tennessee and across America.

I believe the President has made an honest, good-faith effort to save steel jobs. But it has backfired by destroying auto and other steel-consuming jobs. I hope he takes into account the information that was revealed in this report this weekend. The President is a very good listener. He has given this decision almost 2 years to operate. I hope

he will decide based on the fact that the tariff is destroying auto jobs that the best decision he could make for the American worker is to end the steel tariff, and to end the steel tariff now.

WAR ON TERRORISM

Mr. THOMAS. Mr. President, of course we have an important bill before the Senate. However, one of the overriding activities, and it is unfortunate, is the discussion of our efforts in Iraq and probably the highest priority now, the fight over terrorism.

It is a challenge, of course, to deal with terrorism, which is not only focused in one place but particularly in that part of the world. We have a commitment to win on our terms. We are highly committed.

Our world changed September 11. The things attached to September 11 went beyond Iraq, went beyond Afghanistan. We are dedicated to complete our work there. We are dedicated to completing the job we have begun. Everyone understands that. It is a difficult task. Never before have our troops done such a wonderful job. We have ahead following up with stability in Iraq. It is a long-term, difficult job.

We have heard stated our involvement in Iraq is based on fraud put forth in Texas. This is unreal and something that we do not need to put up with in the Senate.

Our involvement with Iraq goes back a long time, to the gulf war. Our troops did a great job there. We worked with Iraq following that. They failed to agree with the United Nations agreement on the followup. So obviously, there were many reasons to do something with Saddam Hussein. I don't think there is any question about that.

The key to Iraq is winning the war on terrorism. That is why we are there. The President has asked for a large amount of money to fund the war on terrorism. We knew that would be the case. Certainly of the \$87 billion, some is for our troops. No one argues with the notion we have to give our troops the support they need. The majority of the money will go to our troops in Iraq and Afghanistan while we continue to give them the resources they need to continue to win.

There are also other needs if we are going to finally get this country to be self-supportive, which is our goal, and to do away with terrorism so it is not a source of danger around the world. We have to be committed. The stakes are high. And our spending has been high.

We have been, since September 11, in some unusual arrangements. I am serious about trying to control spending and to keep it within the budget, but when there are extraordinary circumstances, you have to take extraordinary steps. And certainly September 11 is extraordinary. Certainly the economy now, which we are trying to strengthen, is extraordinary. The terrorism that continues to take place is extraordinary.

So if we are to be successful in this global war, we must be willing to pay that price, and we must do the job correctly. I think that is particularly important after we are there. I guess before we began, you could talk about all kinds of things. The fact is, we are there. The fact is, we are committed. The fact is, we have done a great deal. We need to continue to see it through and see our duty through.

Where are we today? We are winning the war in Iraq. The situation remains dangerous, of course, and it is not settled, it is not steady. But great progress has been made.

It is interesting how much of a different picture you receive from people who have been to Iraq and then come back and tell what they have seen and what they feel as compared to what you see on the news nightly. I understand that bad things are always news, and so that is not a new idea. But progress is being made. There is no food crisis, no refugee crisis, no public health crisis.

The coalition is helping Iraq establish a representative basis for a democratic government of their own, something they, of course, have never had. And it is part of our goal for the future. The coalition authorities continue to help repair the vital infrastructure all across the country. We are seeing increasingly other countries becoming involved. I think soon we will see the U.N. be more involved than it is now. Coalition forces are aggressively hunting down members of the former regime.

Unfortunately, some would rather ignore the achievements, I think, for political purposes. That is too bad. I understand there can be differences of view. That is perfectly legitimate. But when you get the sense that sort of thing is being designed toward an election in 2004, it is a little disturbing.

The former regime in Iraq had ties to al-Qaida; there is no question. It harbored and supported terrorists; there is no question. It possessed weapons and used weapons of mass destruction. They had done that; there is no question. They were a threat to the region and the world. We know that was the case.

When we decided to use military force, the President made the best decision he could make. To suggest this was dreamed up in Texas for political purposes is not realistic, nor is it fair. Using the best information available at the time, the President made his decision—a tough decision. Can you imagine having to make that kind of decision following September 11?

So it is a very difficult issue. But I think, truly—and my only point is—we can disagree, but we ought to disagree taking into account the facts, letting people make their own judgments. I understand that. But I think to portray the President as deliberately misleading the public is not a reasonable approach and one that should not take place among our associates. The war on

terrorism takes time and patience and dollars, and we must see it through.

Mr. President, I feel very strongly about this issue, so I wanted to make those comments today.

CONGRATULATIONS TO LAIRD LARSON AND BOB DUXBURY

Mr. DASCHLE. Mr. President, today I want to offer my warmest regards and sincere congratulations to Laird Larson of Clark, SD, and Bob Duxbury of Wessington, South Dakota, on their receipt of South Dakota State University's Eminent Farmer award for 2003 in Brookings last Friday night.

Laird Larson and Bob Duxbury are well known and highly respected within SD, not only as dedicated farmers, but also as innovative community leaders. I know of no individuals more deserving of this recognition than Laird and Bob.

Laird and his wife, Kathy, have farmed in Clark County, SD, for almost 30 years. They are active in a number of farm organizations, including the South Dakota Crop Improvement Association, SDCIA, where Laird has served on the county board of directors for nearly 20 years and as State president. This year the SDCIA recognized Laird as its Premier Certified Seed Grower.

Laird also has a long history promoting agricultural education. He has raised funds for renovating greenhouses at South Dakota State University and is currently working to develop a seed science center at the school.

Laird and Kathy Larson understand the unique character of rural life and have passed on its values to their three accomplished children: Heidi, who works for Wisconsin Crop Improvement; Shane, who I had the pleasure of getting to know when he worked on my Senate staff several years ago; and Sara, who is majoring in special education at Augustana College in Sioux Falls. The Larson family reflects the strength and character of rural life in America today.

Bob Duxbury and his wife, Rose, farm and ranch near Wessington, in central South Dakota. In a landscape dotted with farms, ranches and small communities, farmers and ranchers not only are called upon to feed our Nation with safe and affordable food, but in many instances are also called upon to serve in public office. Bob exemplifies that dual commitment, standing today as a shining example of Thomas Jefferson's enduring ideal of the citizen farmer.

Bob's commitment to agriculture started at a very young age, with his own participation in 4-H and continued with his degree from South Dakota State University in 1956, which he used to teach animal science. He served as the State's Secretary of Agriculture from 1975 to 1978 and was a member of the State Fair Board from 1971 to 1975. He also has been a member of the South Dakota legislature for nearly 20 years, many of those in leadership positions.

It is instructive that Bob has maintained his interest in 4-H programs for six decades, serving as president of the South Dakota 4-H Leaders Association, and was a recipient of the first National 4-H Alumni Award for South Dakota in 1973. As chair of the Hand County 4-H Leaders Association, he helped secure the current county 4-H site and assisted with construction of the other facilities. His love of agriculture and rural South Dakota is being carried forward, as his grandchildren are now involved with 4-H.

Again, congratulations to Laird Larson and Bob Duxbury for their recognition by South Dakota State University for their contributions to South Dakota agriculture.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in Redwood City, CA. On September 13, 2003, a Sikh cab driver, Devinder Singh, was shot and killed in an apparent hate crime. Two days after the anniversary of the September 11, 2001, bombing tragedy, Devinder Singh was called to pick up two passengers and drive them from Redwood City, CA to Menlo Park, CA. One or both of the passengers shot and killed him after driving less than four blocks in the cab.

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.

THE ENERGY AND WATER DEVELOPMENT APPROPRIATIONS BILL FOR FISCAL YEAR 2004

Mr. MCCAIN. Mr. President, last week the Senate passed the annual energy and water appropriations bill. As my colleagues well know, the energy and water development appropriations bill is perhaps one of the most important measures this body considers each year. This bill provides funding for our Nation's energy resources, finances much-needed improvements to our water infrastructure and provides funding for critical aspects of our national security needs.

Let me begin, by commending the managers of this bill, Senator DOMENICI, the chairman of the subcommittee on energy and water development, and Senator REID, the subcommittee's ranking member, for their hard work

on this legislation. The task before them was great, and they successfully completed this bill in a timely fashion, allowing the appropriations process to move forward.

As my colleagues know, this legislation funds critical cleanup activities at various sites across the country and continues ongoing water infrastructure projects managed by the Army Corps of Engineers and the Bureau of Reclamation. Furthermore, the bill increases funding for the energy supply, designed to develop new energy technologies and improve existing energy programs. These are significant aspects of this legislation and seek to ensure a diverse energy supply for our nation.

Given the energy problems facing our country, these aspects of the bill are worthy pursuits. Again, I have tremendous respect for the hard work done by the managers in putting this bill together. I am, however, disappointed that once again my colleagues on the Appropriations Committee have succumbed to temptation and loaded this bill with numerous locality-specific earmarks, special deals and unnecessary, wasteful porkbarrel spending projects.

This bill contains nearly \$1.2 billion more than what was appropriated for fiscal year 2003 and is over \$700 million more than the administration's budget request. In this bill, I have identified over 700 items of unrequested, locality specific earmarks, unauthorized spending and special deals for certain states totaling nearly \$1.5 billion. I will post a list of these items on my official Senate website.

Let me highlight just some of the egregious aspects of this bill. There is \$6.9 million for the New Mexico Education Enrichment Foundation. Aren't any of the other 49 States in this country entitled to "Education Enrichment"? There is \$1 million for water management in Hawaii. There is \$1.5 million above the budget request for oyster recovery in Maryland and Virginia. There is \$500,000 for exhibits at the Atomic Testing History Institute in Nevada. History Institute—a pretty fancy name for a museum. There is language directing the Corps of Engineers to repair a Fish Viewing Building in Washington State. There is \$13 million above the budget request for the Kanawha River in West Virginia.

There is \$1.5 million for the University of Nevada-Las Vegas to conduct safety and risk analysis. There is \$20 million for the Lewis and Clark Water Project in South Dakota. There is \$3 million above the budget request for the Tropicana and Flamingo Washes in Nevada. There is \$105 million to build a "microsystem and engineering" facility in New Mexico. There is \$690 million to build a waste treatment plant in Richland, WA. There is \$14 million to build an "immobilized" interim waste storage facility in Richland, WA. Just how many wastes facilities does Richland, WA need? Thankfully this one is "immobilized"—there is nothing

more disturbing than "mobilized" waste.

There is \$20.2 million to build a glass waste storage building in Savannah River, SC. There is \$38 million above the request for the Appalachian Regional Commission. There is \$5 million above the budget request for the Delta Regional Authority. There is \$39 million above the budget request for the Denali Commission.

The Corps of Engineers general construction account itself contains 128 unrequested, locality-specific projects which total over \$382 million. Let me read a few of those for the RECORD. I ask unanimous consent that the list of these 128 projects be printed in the RECORD.

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

UNREQUESTED ARMY CORPS OF ENGINEER CONSTRUCTION PROJECTS

ALASKA

\$4 Million for Dillingham Emergency Bank
\$3 Million for Dillingham Small Boak
\$4 Million for Kake Dam
\$1 Million for Sand Point
\$1 Million for Sitka
\$10 Million for Wrangell

ARIZONA:

\$3.5 Million for Rio De Flagg, Flagstaff
\$7 Million for Tres Rios
\$5 Million for Tucson Drainage Area

ARKANSAS

An increase of \$7 Million over the budget request for Montgomery Point Lock and Dam
\$3 Million for Ozark- Jeta Taylor (Rehabilitation for powerhouse)
\$750,000 for the Red River below Denison Dam
\$1.25 Million for the Red River Emergency Bank

CALIFORNIA

An increase of \$1 Million over the budget request for Hamilton Airfield Wetlands Restoration
\$4 Million for Harbor South Bay Water Recycling
\$200,000 for Imperial Beach
An increase of \$2.5 Million over the budget request for Napa River
An increase of \$13 Million over the budget request amount for Oakland Harbor
\$15 Million for the Port of Los Angeles Main Deepening

DELAWARE

\$214,000 for the Delaware Cost from Cape Henlopen to Fenwick Island
\$500,000 for the Delaware Bay Coastline, Port Mahon

FLORIDA

\$1 Million for Florida Keys Water Quality Improvement
\$500,000 for Tampa Harbor

GEORGIA

An increase of \$1.5 Million over the budget request for Brunswick Harbor
\$3.85 Million for the Richard B. Russell Dam and Lake

HAWAII

\$1 Million for Hawaii Water Management
\$175,000 for Lao Stream Flood Control
\$2.5 Million for Kaunapali Harbor in Lanai

ILLINOIS

\$1 Million for the Chicago Shoreline
\$4 Million for Lock and Dam 24 of the Mississippi River
\$100,000 for Nutwood Levee

INDIANA
\$500,000 for the City of Indianapolis

IOWA
\$500,000 for the Des Moines Recreational River and Greenbelt
\$750,000 for Lock and Dam 19
An increase of \$6.6 Million over the budget request for the Missouri River Levee System

LOUISIANA
\$500,000 for Ascension Parish
An increase of \$2 Million over the budget request for Comite River
\$500,000 for East Baton Rouge Parish
\$200,000 for Grand Isle and vicinity
An increase of \$5 Million over the budget request for the Inner Harbor Navigational Canal Lock
An increase of \$1.3 Million over the budget request for the J. Bennett Johnston Waterway
An increase of \$3 Million over the budget request for Lake Pontchartrain and vicinity
\$500,000 for Livingston Parish
\$200,000 for Mississippi River, Gulf Outlet

MARYLAND
\$1.6 Million for Chesapeake Bay Environmental Restitution and Protection
An increase of \$1.5 Million over the budget request for Chesapeake Bay Oyster Recovery
\$4 Million for Cumberland

MASSACHUSETTS
\$1 Million for Muddy River, Brookline and Boston

MICHIGAN
\$200,000 for Genessee County
\$250,000 for Negaunee
\$2 Million for Sault Ste. Marie Lock Replacement
\$388,000 for Twelve Towns Drain Retention Facility

MINNESOTA
\$1 Million for Breckenridge
\$250,000 for Upper Mississippi River, Mississippi Place, and St. Paul

MISSISSIPPI
\$11 Million for Desoto County
\$2.5 Million for Gulfport Harbor
\$8 Million for Mississippi Environmental Infrastructure

MISSOURI
An increase of \$500,000 over the budget request for Blue River Basin
An increase of \$4 Million over the budget request for Blue River Channel
\$500,000 for Bois Brule Leves and Drainage
An increase of \$1 Million over the budget request for Meramec River Basin
\$3 Million for Missouri and Middle Mississippi Rivers Enhancement
An increase of \$500,000 over the budget request for Table Rock Lake for Dam Safety

MONTANA
\$8 Million for Fort Peck Fish Hatchery
\$3 Million for Rural Montana

NEBRASKA
\$1.5 Million for Antelope Creek
\$500,000 for Sand Creek Watershed
\$500,000 for Western Sarpy and Clear Creek

NEVADA
\$10 Million for rural Nevada
An increase of \$3.3 Million over the budget request for the Tropicana and Flamingo Washes

NEW JERSEY
\$500,000 for Brigantine Inlet to Great Egg
An increase of \$9.6 Million over the budget request for the Delaware River Main Channel

An increase of \$659,000 for the Lower Cape May Meadows, Cape May Point
\$500,000 for Passaic River Flood Management
\$500,000 for the Passaic River Steambank Restoration
\$250,000 for the Ramapo and Mahwah Rivers
An increase of \$522,000 over the budget request for the Raritan River Basin and the Green Book Sub-basin
An increase of \$800,000 over the budget request for Townsends Inlet to Cap May Inlet

NEW MEXICO
An increase of \$700,000 over the budget request for the Acequias Irrigation System
An increase of \$600,000 over the budget request for Alamogordo
\$6 Million for Central New Mexico
\$600,000 for Middle Rio Grande Flood Damage Reduction
\$600,000 for the Rio Grande Floodway, from San Acacia to Bosque Del Apache

NORTH CAROLINA
\$1 Million for Dare County Beaches, and Bodie Island
\$200,000 for West Onslow Beach and New River
An increase of \$10.4 Million over the budget request for Wilmington Harbor

NORTH DAKOTA
An increase of \$482,000 over the budget request for the Buford Trenton Irrigation District Land Acquisition
\$1 Million for Grafton Park River
An increase of \$13.5 Million over the budget request for Grand Forks and East Grand Forks
\$50,000 for Missouri River restoration

OHIO
\$2 Million for Holes Creek in West Carrollton
\$3 Million for the metropolitan region of Cincinnati, Duck Creek

OKLAHOMA
\$2 Million for Canton Lake Dam Safety
\$2.5 Million for Lawton

OREGON
\$5 Million for Bonneville Powerhouse Phase II

PENNSYLVANIA
\$1 Million for the Schuylkill River Park

SOUTH CAROLINA
\$200,000 for Folly Beach
\$350,000 for Lake Marion and Moultrie

SOUTH DAKOTA
An increase of \$6.2 Million over the budget request for the Cheyenne River Sioux Tribe and Lower Brule Sioux
\$500,000 for Missouri River Restoration
An increase of \$1.7 Million for Pierre

TENNESSEE
\$1 Million for Black Fix, Oaklands, and Murfee Springs Wetlands
\$1.7 for the Cumberland County Water Supply

TEXAS
An increase of \$1.3 Million over the budget request for Brays Bayou
\$9.28 Million for Dallas Floodway extension
An increase of \$21 Million over the budget request for Houston Galveston Navigation Channels
\$5 Million for North Padre Island Packery Channel
\$2 million for Red River Chloride Control

VERMONT
\$500,000 Lake Champlain Watershed Initiative

VIRGINIA
\$3 Million for Embrey Dam
\$3 Million for Lake Merriweather, Little Calfpasture

\$4 Million for Norfolk Channel Harbor

WASHINGTON
An increase of \$2.1 Million over the budget request for Chief Joseph Dam Gas Abatement
An increase of \$700,000 for Mt. St. Helens Sediment Control
\$1.5 Million for Puget Sound and adjacent Waters
\$1 Million for Shoalwater Bay Shoreline Erosion
An increase of \$250,000 over the budget request for the Dalles Powerhouse (Units 1-14)

WEST VIRGINIA
An increase of \$1.7 Million for Bluestone Lake Dam Safety
\$3 Million for Greenbriar River
An increase of \$8.4 Million over the budget request for Levisa and Tug Forks and Upper Cumberland River
An increase of \$13 Million over the budget request for Marmet Lock, on the Kanawha River

WYOMING
\$500,000 for Jackson Hole Miscellaneous Provisions

MISCELLANEOUS PROVISIONS
An increase of \$5 Million over the budget request for Aquatic Ecosystem Restoration
An increase of \$6 Million over the budget request for Dam Safety and Seepage/Stability Correction Program
An increase of \$2 Million over the budget request for Emergency Stream bank and Shoreline Protection
An increase of \$10 Million over the budget request for Flood Control Projects
An increase of \$3 Million over the budget request for navigation projects
An increase of \$3 Million over the budget request for project modifications for improving the environment.

Mr. MCCAIN. I am confident that many of my colleagues will maintain the importance of the need to fully fund these and many of the other projects in their respective States. That is fine. I do not fault them for it. In fact, let me state clearly, that I do not question the merits of these projects. Most of them, I am sure, are very important and worthy of Federal funds.

It is the process, with which I have a serious problem. The Appropriations Committee has effectively usurped the power of the authorizing committees and acts as one, all-powerful funding machine. Projects are often funded with little or no background study, and are approved after simply being requested by a fellow Senator. These same projects are directed to certain states and localities, completely circumventing the proper, competitive-based awards process. Additionally, as is the case throughout this bill, members of the Appropriations Committee use directive language to force cabinet secretaries and agency heads to use scarce taxpayer dollars to fund members' pet projects, while not allotting them a single dime with which to fulfill the requirements imposed upon them by the appropriators.

Additionally, this bill deauthorizes 20 inactive corps projects, some dating as far back as 1946. While I appreciate the committee recognizing the need for inactive projects to be deauthorized, I

must point out that an appropriations bill is simply not the place for this type of language. A project should be deauthorized in the same way it is supposed to be authorized—by the appropriate authorizing committee, not by the Appropriations Committee.

As I often do during consideration of the appropriations bills, I had planned to offer an amendment to this bill to strip a provision that is designed to benefit one specific water project in the State of New Mexico. I chose not to offer my amendment in this case for various reasons. But I am putting the Senate on notice—I will continue to offer amendments to the remaining appropriations bills if these bills continue to come before this body loaded with unrequested earmarks or other unnecessary or wasteful spending.

As all of my colleagues know, CBO recently projected a potentially debilitating \$480 billion deficit for 2004. More importantly, we are at war. President Bush is poised to request a supplemental appropriation of \$87 billion for the ongoing military operations in Iraq and Afghanistan. Every one of us has asked ourselves the same question: Where is that money going to come from? I have an idea. Let's start with this bill. Let's eliminate all of the unrequested earmarks, all of the special deals, all of the pork and all of the waste. Let's prove to the American taxpayer that we in Washington do not see them as simply a cash cow for our every financial whim.

Both the President and the Vice President have recently called on Congress to control spending at this crucial time. Is it too much to ask Congress to tighten their own belts in order to benefit the men and women of the armed forces who continue to fight—and die—so that others may live free of tyranny and oppression? I don't think it is a lot to ask, I think it is our responsibility. We simply cannot continue to spend hardworking American's tax dollars in such an irresponsible manner any longer.

MR. KIRK BLOODSWORTH

Mr. LEAHY. Mr. President, I rise today to talk about a man, Kirk Noble Bloodsworth, who was the victim of a grossly imperfect system. I first met Kirk Bloodsworth in 2000 when he came to me as a man who had been exonerated after almost 9 years of wrongful imprisonment. I am proud to say that we have become close friends and partners in the fight to reform capital punishment in America.

For 8 years, 11 months and 19 days, Kirk Bloodsworth served time in prison as an innocent man. And for the next 10 years, Mr. Bloodsworth lived in a jail without bars. He lived in a world where people questioned his innocence, where rumors followed him everywhere he went, and where he was unable to find stable employment.

On July 25, 1984, 9-year-old Dawn Hamilton was brutally raped and mur-

dered. Fifteen days later, Kirk Bloodsworth was arrested based on the testimony of several witnesses who said they had seen him near the spot where they found Miss Hamilton. There was no physical evidence linking Mr. Bloodsworth to the crime.

In March, 1985, Mr. Bloodsworth, a former Marine with no criminal background, was convicted and sentenced to death in Maryland. He was 24 years old. Subsequently, the Maryland Court of Appeals overturned Mr. Bloodsworth's conviction. However, a second jury trial found him guilty, and sentenced him to two consecutive life terms. In 1992, at the request of Mr. Bloodsworth and his attorney, the evidence from his trial—Miss Hamilton's shirt and underpants—was tested for DNA. By June 1993, two DNA fingerprinting tests—one conducted by the Federal Bureau of Investigation and one conducted by Forensic Science Associates concluded that Mr. Bloodsworth's DNA was not the same as DNA found on Miss Hamilton's underpants.

On June 28, 1993, Mr. Bloodsworth was released from prison; in December, 1993, Maryland Governor William Schaefer pardoned him; and in June, 1994, the State of Maryland awarded him \$300,000 in compensation.

The wheels of justice broke down in this case, but we cannot pretend that what happened to Kirk Bloodsworth was an exceptional occurrence. Mr. Bloodsworth's nightmare of wrongful conviction has been repeated again and again across the country. To date, 111 individuals convicted and sentenced to death have been released from death row with evidence of their innocence, according to the Death Penalty Information Center.

Today Mr. Bloodsworth is outspoken about the importance of making post-conviction DNA testing available to defendants with a credible claim of innocence, something I have fought hard to accomplish as part of the Innocence Protection Act. People of good conscience can and will disagree on the morality of the death penalty. But we can all agree that a system that sentences innocent persons to death has no place in a civilized society, much less in 21st century America.

While DNA testing freed Mr. Bloodsworth from prison in 1993, the test results did not convince everyone that Kirk Bloodsworth was not guilty. Prosecutors refused to lift the veil of suspicion over him, in effect saying that the DNA tests might be sufficient to undermine his conviction, but not to prove his innocence. Mr. Bloodsworth told the Baltimore Sun that he spent years asking the county to run the DNA found on Dawn Hamilton's clothing through the State DNA database. Finally, last week, the State ran the DNA evidence through its database and the black cloud that had followed Mr. Bloodsworth for 10 years was lifted.

On September 5, 2003, Mr. Bloodsworth was told that the State tests implicated Mr. Kimberly Shay

Ruffner, a convicted sex offender, as the rapist and murderer of Dawn Hamilton. Mr. Ruffner has now been charged with first-degree murder. The prosecutor who previously refused to acknowledge Mr. Bloodsworth's innocence went to his home to apologize to him.

I know that I am joined by many others when I say that I am delighted that Mr. Bloodsworth can finally feel truly free. His fight to prove his own innocence has been won. I am certain that he will continue with his efforts to fix the broken machinery of capital punishment in America and especially to assist others who experienced wrongful conviction.

I ask unanimous consent that a Baltimore Sun article detailing the recent events in Mr. Bloodsworth's case be printed in the RECORD.

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

[From the Baltimore Sun, Sept. 6, 2003]

DNA THAT FREED MAN LEADS TO NEW SUSPECT; KILLING: KIRK BLOODSWORTH, CONVICTED AND THEN CLEARED IN THE RAPE-MURDER OF A CHILD, LEARNS A MAN HE KNEW IN PRISON IS CHARGED WITH THE CRIMES

(By Stephanie Hanes)

The same DNA evidence that freed Kirk Bloodsworth from prison 10 years ago has now implicated another man in the 1984 rape and murder of 9-year-old Dawn Hamilton of Rosedale, quashing any lingering questions about Bloodsworth's involvement in the crime.

Kimberly Shay Ruffner, a 45-year-old convicted sex offender who went to prison for an attempted rape and attempted murder in Fells Point only weeks after Dawn Hamilton was killed, was charged yesterday with first-degree murder.

The Baltimore County state's attorney's office—which has never publicly acknowledged Bloodsworth's innocence—announced the development, and a prosecutor apologized to Bloodsworth in person.

"Even though I was cleared, there were so many people who didn't believe me," said Bloodsworth, 42, who was reached at his home in Cambridge. "This is the proof everyone needs."

Ruffner is still in prison for the Fells Point attack, with a release date of 2020. Baltimore County State's Attorney Sandra A. O'Connor said prosecutors will seek the death penalty in Dawn's killing.

"This was a horrendous rape-murder of a 9-year-old girl," O'Connor said. "Whether or not he is incarcerated, he will be held accountable."

While Bloodsworth's supporters said they were delighted with the outcome, they criticized Baltimore County law enforcement officials for not testing the DNA earlier.

In June, The Sun wrote that the DNA in Bloodsworth's case had not been compared to the state's DNA database of convicted felons. As a convicted sex offender, Ruffner's DNA would have been in the state's database as early as 1994.

Baltimore County police spokesman Bill Toohey said the comparison was made last month.

"I can't tell you how pleased I am for Kirk, but what happened here today should have happened earlier," said Barry C. Scheck, the co-founder of the New York-based Innocence Project, which tries to free the wrongly convicted.

DELAY IN TESTING

Scheck, who helped exonerate Bloodsworth, said he has been asking for this sort of testing for years. It was after Scheck's most recent letter to the Baltimore County State's Attorney's Office that police and prosecutors started moving toward testing the DNA against the database, *The Sun* reported in June.

Yesterday morning, Assistant State's Attorney S. Ann Brobst, who prosecuted Bloodsworth and who had been criticized by his supporters for refusing to admit his innocence, went to Bloodsworth's home to tell him the news.

"She apologized up and down," Bloodsworth said yesterday. "She had to eat a lot of crow to come. You've got to give her something for it."

O'Connor said Dawn's father, Thomas Hamilton, was also told of the new arrest. He was unavailable for comment.

DEATH ROW, THEN LIFE

Bloodsworth was convicted of Dawn's murder in 1985 and sent to death row. Multiple witnesses had testified that they saw him near the crime scene.

The next year, the Maryland Court of Appeals overturned his conviction. But when Bloodsworth was retried, he was again found guilty and this time sentenced to life in prison.

In 1992, prosecutors agreed to run DNA tests on a semen stain found on Dawn's underwear—a stain that law enforcement officials said they had not noticed earlier. Those tests showed that Bloodsworth was not the person who had sexually assaulted the little girl.

Prosecutors agreed to release Bloodsworth immediately but would not apologize or say he was innocent.

"I believe that he is not guilty," O'Connor said at the time. "I'm not prepared to say he's innocent. Only the people who were there know what happened."

LINGERING DOUBTS

Bloodsworth was pardoned by former Gov. William Donald Schaefer and given \$300,000 from the state. But life after prison was a struggle, one that he now talks about openly.

At first, he had trouble holding jobs and grappled with freedom after nine years behind bars. He heard the derogatory whispers and saw the dirty looks. He once wiped the scrawled words "Child Killer" off his car.

"He has confided to me many, many times that people echo what Ann Brobst kept saying: '(The DNA) doesn't mean he's innocent,'" Scheck said.

In recent years, Bloodsworth married and started working as a consultant for the Justice Project, a Washington advocacy group for justice reform. He has testified for lawmakers and spoken in classrooms across the country about the importance of DNA evidence.

In his own case, he said he has pushed for years for county law enforcement to run the preserved DNA evidence through the state's database.

A month after Dawn Hamilton was killed, Kimberly Ruffner was arrested for the Fells Point attack.

He had broken into a woman's house Aug. 28, 1984, and had tried to rape her, police said. When she struggled, he tried to kill her with a pair of scissors. The woman managed to escape, and police found Ruffner hours later.

He was tried and convicted of breaking and entering, assault with intent to murder and attempted rape, said Mark Vernarelli, spokesman for the Maryland Department of Public Safety and Correctional Services. He was sentenced to 45 years in prison.

According to court records, Ruffner had been charged with two other sex offenses in 1983.

In the Maryland Correctional Institution at Jessup, Ruffner slept on the tier below Bloodsworth in the same building.

The two men lifted weights together, and Bloodsworth, who worked in the prison library, would give him books, Bloodsworth said. They both had red hair. But Bloodsworth said they were nothing more than acquaintances.

Not once, Bloodsworth said, did Ruffner indicate that he was responsible for Dawn's murder.

"It's spooky," Bloodsworth said. "The whole time he was there. I just can't get over it."

CASE TIMELINE

July 1984—The body of 9-year-old Dawn Hamilton is found in a wooded area near the Fontana Village apartments in Rosedale, Baltimore County.

August 1984—Police arrest and charge Kirk Noble Bloodsworth, a former waterman from Cambridge, in Dawn Hamilton's death.

Also, Kimberly Shay Ruffner is arrested on charges of breaking and entering, assault with intent to murder and attempted rape after attacking a Fells Point woman with a pair of scissors.

March 1985—A jury convicts Bloodsworth of Dawn Hamilton's murder. Baltimore County Judge J. William Hinkel sentences Bloodsworth to death.

July 1985—Ruffner is convicted on charges in the Fells Point attack and is sentenced to 45 years in prison.

July 1986—The Maryland Court of Appeals overturns Bloodsworth's conviction, saying prosecutors withheld evidence about another suspect.

April 1987—A second jury convicts Bloodsworth of murder. He is sentenced to two consecutive life terms—one for sexual assault and the other for murder.

April 1992—At the request of Bloodsworth's attorney, Baltimore County prosecutors agree to release evidence from Bloodsworth's trial—panties, a shirt and a stick—for DNA testing.

May 1993—A California DNA lab reports that a semen stain on the victim's panties cannot have come from Bloodsworth.

June 25, 1993—The FBI, conducting its own test, agrees the semen found on the panties could not have come from Bloodsworth.

June 28, 1993—Bloodsworth walks out of the House of Correction in Jessup, a free man.

December 1993—Gov. William Donald Schaefer pardons Bloodsworth.

June 22, 1994—Bloodsworth is awarded \$300,000 by the state of Maryland for nine years of wrongful imprisonment.

Sept. 5, 2003—Baltimore County Assistant State's Attorney S. Ann Brobst, who prosecuted Bloodsworth, visits him at his Cambridge home and tells him further DNA tests matched the semen found in Dawn Hamilton's panties to Ruffner, a Maryland prison inmate.

She also apologizes.

ADDITIONAL STATEMENTS

CELEBRATING THE 155TH ANNIVERSARY OF SAINTS PETER AND PAUL CHURCH

• Mr. LEVIN. Mr. President, it is my great pleasure to congratulate Saints Peter and Paul Church for 155 years of dedication and service to the Detroit community. On September 24, 2003,

people will be gathering in my hometown of Detroit, MI to celebrate this important achievement. I am also pleased that Michigan's First Gentleman, Dan Mulhern, husband of Governor Jennifer Granholm, will share in the celebration of Saints Peter and Paul's anniversary.

Completed and dedicated on June 29, 1848, Saints Peter and Paul Church was originally built as the cathedral for the Catholic Church in Detroit. It is the oldest church building in continuous use in the city. In 1877, Saints Peter and Paul Church was given to the Jesuits to be used as a local center for Jesuit ministry and a church for the University of Detroit, then named Detroit College. Toward the end of the 19th century, working class people, many of them recent immigrants, became a large part of the parish population. As a result, Saints Peter and Paul Church refocused its ministry in response to the changing needs of its congregation.

After World War I, the prosperity of the church declined because its neighborhood became more commercial and industrial. In spite of a diminished congregation, loyal community members remained intent on a preserving Saints Peter and Paul Church as a place of worship. A sharp increase in homelessness in the area toward the end of the 20th century strengthened the church's dedication to members of the community in need.

Today, Saints Peter and Paul Church remains committed to serving urban Detroit. One of its most important outreach programs is the Warming Center, which serves nearly 100 guests a day. Most of the visitors are people in need. The Warming Center offers its guests a safe haven, a warm meal, hospitality, and an opportunity to engage in mutual reflection and sharing. The center also offers free use of a telephone, laundry facilities, a shower, and clothing.

I take great pride in recognizing the commitment of Saints Peter and Paul Church to Detroit throughout its 155-year history. The church attends to the physical, emotional, and spiritual needs of the Detroit community. I know my Senate colleagues join me in saluting the ministry of Saints Peter and Paul Church and in wishing the church continued support and success in the future.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

REPORT RELATIVE TO WAIVING THE SUSPENSIONS UNDER SECTION 920(A) OF THE FOREIGN RELATIONS AUTHORIZATIONS ACT, FISCAL YEARS 1990 AND 1991, WITH RESPECT TO THE ISSUANCE OF LICENSES FOR QSR 11 SENSORS—PM 50

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

Consistent with the authority vested in me by section 902(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246) (the "Act"), and as President of the United States, I hereby report to the Congress that it is in the national interest of the United States to waive the suspensions under section 902(a) of the Act with respect to the issuance of licenses for QSR-11 sensors that serve as components of an Inertial Measurement Unit (IMU) used in commercial aircraft and spare IMU for such aircraft. License requirements remain in place for these exports.

GEORGE W. BUSH.

THE WHITE HOUSE, September 20, 2003.

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-4307. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Trifloxysulfuron; Pesticide Tolerance" (FRL#7325-1) received on September 9, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4308. A communication from the White House Liaison, Department of the Treasury, transmitting, the report of a vacancy for the position of Treasurer of the United States, received on September 15, 2003; to the Committee on Finance.

EC-4309. A communication from the White House Liaison, Department of the Treasury, transmitting, the report of a vacancy and designation of acting officer for the position of Assistant General Counsel/Chief Counsel, Internal Revenue Service, received on September 15, 2003; to the Committee on Finance.

EC-4310. A communication from the White House Liaison, Department of the Treasury, transmitting, the report of a nomination for the position of Deputy Secretary, Department of the Treasury, received on September 15, 2003; to the Committee on Finance.

EC-4311. A communication from the White House Liaison, Department of the Treasury, transmitting, the report of a nomination confirmed for the position of Assistant Secretary (Management), received on September 15, 2003; to the Committee on Finance.

EC-4312. A communication from the White House Liaison, Department of the Treasury, transmitting, the report of a discontinuation of service in acting role for the position of Chief Financial Officer, Department of the Treasury, received on September 15, 2003; to the Committee on Finance.

EC-4313. A communication from the White House Liaison, Department of the Treasury, transmitting, the report of a nomination confirmed for the position of Assistant Secretary, Public Affairs, Department of the Treasury, received on September 15, 2003; to the Committee on Finance.

EC-4314. A communication from the Acting Chief, Publications and Regulations Branch, Legal Processing Division, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Split-Dollar Life Insurance Arrangements" (RIN1545-BA44) received on September 15, 2003; to the Committee on Finance.

EC-4315. A communication from the United States Trade Representative, Executive Office of the President, transmitting, pursuant to law, a report relative to the pending accession to the World Trade Organization of the Kingdom of Nepal; to the Committee on Finance.

EC-4316. A communication from the Assistant Secretary of Labor for Mine Safety and Health, Mine Safety and Health Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled "Improving and Eliminating Regulations, Phase 5, Miscellaneous Technology Improvements (Methane Testing)" (RIN1219-AA98) received on September 15, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC-4317. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the interim report on Human Papillomavirus; to the Committee on Health, Education, Labor, and Pensions.

EC-4318. A communication from the Director, Office of Personnel Policy, Office of the Assistant Secretary for Indian Affairs, transmitting, pursuant to law, the report of a discontinuation of service in acting role for the position of Assistant Secretary for Indian Affairs, received on September 15, 2003; to the Committee on Indian Affairs.

EC-4319. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, a report entitled "Fiscal Year 2002 Activities Under the Civil Rights of Institutionalized Persons Act"; to the Committee on the Judiciary.

EC-4320. A communication from the Rules Administrator, Office of General Counsel, Federal Bureau of Prisons, transmitting, pursuant to law, the report of a rule entitled "Over-the-Counter Medications" (RIN1120-AA81) received on September 15, 2003; to the Committee on the Judiciary.

EC-4321. A communication from the Program Manager, Bureau of Alcohol, Tobacco, Firearms and Explosives, transmitting, pursuant to law, the report of a rule entitled "Implementation of the Safe Explosives Act, Title XI, Subtitle C of Public Law 107-296—Delivery of Explosive Materials by Common or Contract Carrier" (RIN1140-AA20) received on September 15, 2003; to the Committee on the Judiciary.

EC-4322. A communication from the Assistant Division Chief, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, transmitting, pursuant to law, the report of a rule entitled "Realignment of the Alexander Valley and Dry Creek Valley Viticultural Areas" (RIN1512-AA07) received on September 15, 2003; to the Committee on the Judiciary.

EC-4323. A communication from the Assistant Division Chief, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, transmitting, pursuant to law, the report of a rule entitled "Organic Claims in Labeling and Advertising of Alcohol Beverages" (RIN1512-AC87) received on September 15, 2003; to the Committee on the Judiciary.

EC-4324. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, the Report of the Attorney General on the Administration of the Foreign Agents Registration Act for the six months ending December 31, 2002; to the Committee on the Judiciary.

EC-4325. A communication from the Staff Director, Commission on Civil Rights, transmitting, pursuant to law, a report that the Commission voted to recharter the Connecticut State Advisory Committee; to the Committee on the Judiciary.

EC-4326. A communication from the Secretary of Veterans Affairs, transmitting, a draft of proposed legislation relative to enhance the ability of the Department of Veterans Affairs to care for veterans, and for other purposes; to the Committee on Veterans' Affairs.

EC-4327. A communication from the Director, Regulations Management, Veterans Benefits Administration, transmitting, pursuant to law, the report of a rule entitled "Effective Dates of Benefits for Disability Caused By Herbicide Exposure: Disposition of Unpaid Benefits After Death of Beneficiary" (RIN2900-AL37) received on September 15, 2003; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CAMPBELL, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 281. A bill to amend the Transportation Equity Act for the 21st Century to make certain amendments with respect to Indian tribes, to provide for training and technical assistance to Native Americans who are interested in commercial vehicle driving careers, and for other purposes (Rept. No. 108-150).

S. 618. A bill to provide for the use and distribution of the funds awarded to the Western Shoshone identifiable group under Indian Claims Commission Docket Numbers 326-A-1, 326-A-3, 326-K, and for other purposes (Rept. No. 108-151).

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. GRASSLEY (for himself and Mr. COCHRAN):

S. 1638. A bill to amend title II of the Higher Education Act of 1965 to increase teacher familiarity with the educational needs of gifted and talented students, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. REID (for himself, Mr. BURNS, and Mr. ENSIGN):

S. 1639. A bill to amend the Petroleum Marketing Practices Act to extend certain protections to franchised refiners or distributors of lubricating oil; to the Committee on Energy and Natural Resources.

By Mr. INHOFE (for himself, Mr. JEFFORDS, Mr. BOND, Mr. WARNER, Mr. VOINOVICH, Mr. CRAPO, Mr. CHAFEE, Mr. CORNYN, Ms. MURKOWSKI, Mr. THOMAS, and Mr. ALLARD):

S. 1640. A bill to provide an extension of highway programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. WYDEN (for himself and Mr. DEWINE):

S. Con. Res. 70. A concurrent resolution supporting National Funeral Service Education Week; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 68

At the request of Mr. INOUE, the name of the Senator from Washington (Ms. CANTWELL) 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. 595

At the request of Mr. HATCH, the names of the Senator from Vermont (Mr. JEFFORDS) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 595, a bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financings to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

S. 950

At the request of Mr. ENZI, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 950, a bill to allow travel between the United States and Cuba.

S. 973

At the request of Mr. NICKLES, the names of the Senator from Georgia (Mr. CHAMBLISS), the Senator from Louisiana (Ms. LANDRIEU), and the Senator from Alabama (Mr. SHELBY) were added as cosponsors of S. 973, a bill to amend the Internal Revenue Code of 1986 to provide a shorter recovery period for the depreciation of certain restaurant buildings.

S. 1010

At the request of Mr. HARKIN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1010, a bill to enhance and further research into paralysis and to improve rehabilitation and the quality of life for persons living with paralysis and other physical disabilities.

S. 1245

At the request of Ms. COLLINS, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 1245, a bill to provide for homeland security grant coordination and simplification, and for other purposes.

S. 1465

At the request of Mr. FRIST, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1465, a bill to authorize the President to award a gold medal on behalf of Congress honoring Wilma G. Ru-

dolph, in recognition of her enduring contributions to humanity and women's athletics in the United States and the world.

S. 1622

At the request of Mr. GRAHAM of Florida, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1622, a bill to amend title 10, United States Code, to exempt certain members of the Armed Forces from the requirement to pay subsistence charges while hospitalized.

S. 1637

At the request of Mr. GRAHAM of Florida, his name was added as a cosponsor of S. 1637, a bill to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes.

S. RES. 222

At the request of Mr. BIDEN, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. Res. 222, a resolution designating October 17, 2003 as "National Mammography Day."

AMENDMENT NO. 1544

At the request of Mr. AKAKA, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of amendment No. 1544 proposed to H.R. 2660, a bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes.

AMENDMENT NO. 1731

At the request of Mr. REID, the names of the Senator from Florida (Mr. GRAHAM), the Senator from Wisconsin (Mr. FEINGOLD) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of amendment No. 1731 proposed to H.R. 2691, a bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes.

AMENDMENT NO. 1737

At the request of Mr. ENSIGN, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of amendment No. 1737 intended to be proposed to H.R. 2691, a bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRASSLEY (for himself and Mr. COCHRAN):

S. 1638. A bill to amend title II of the Higher Education Act of 1965 to increase teacher familiarity with the educational needs of gifted and talented students, and for other purposes;

to the Committee on Health, Education, Labor, and Pensions.

Mr. GRASSLEY. Mr. President, today I am introducing a bill to help prepare new teachers to recognize and meet the needs of gifted and talented students. As many of my colleagues are aware, I have been working for some time to advance a comprehensive approach aimed at improving access to gifted and talented educational services in every State. My proposal has been introduced in this Congress as S. 501. While I will continue to work to enact this needed legislation, the bill I am introducing today addresses the different but related need to raise awareness among all teachers about the unique educational needs of gifted and talented students.

Unfortunately, many misconceptions persist about the needs of gifted children in both the educational community and in public policy circles. There is often a tendency to think of gifted kids as those kids who will succeed with or without help. This is simply not the case and reflects a misunderstanding of giftedness. What makes a child gifted and talented is not how well the child does in school, but how he or she learns. A student may get straight A's and not be a gifted learner, while a gifted and talented student might do poorly on his or her schoolwork. Gifted and talented children actually have a different way of looking at the world. They tend to have distinct approaches to learning and interacting socially, and they frequently learn at a different pace, and to different depths, than others their age. The bottom line is that gifted and talented children have unique learning needs that need to be met in order for them to succeed in school.

Earlier this year, when I re-introduced my bill to expand the availability of gifted education services, I told the Senate about a third grade student from Iowa City names Jose. I would like to remind the Senate about Jose's experience because I think it illustrates some important points about gifted students and their needs. Jose wasn't completing his assignments and his grades were suffering. He had trouble paying attention and would act up in class. He got along with his classmates, but didn't have much social interaction with others. Jose's teacher tried to get him to pay attention and do his work like the other kids, but was left frustrated. Still, Jose's parents recognized in him a real hunger for learning and had his IQ tested over the summer. It turns out that, while Jose's teacher saw him as a problem student, the problems she noticed were really symptoms of a gifted student who was bored because he was not being properly challenged. Jose now leaves his regular classroom a couple of times a week for what Iowa City schools call the "extended learning program." As a result of the added stimulation he now receives, Jose enjoys school more, has made friends

with his gifted peers, and is doing great with his regular school work.

Jose's experience is more than just a success story showing how quality gifted education services can make a real difference for a child. It also illustrates that gifted students have real needs that can all too easily go unrecognized and unmet. Moreover, Jose's experience highlights the need for teachers to understand the characteristics of gifted kids. In Jose's case, he had parents who were able to recognize his gifts and have him assessed privately. Jose's parents were then able to take these findings to the gifted education teacher at Jose's school and have him identified to receive gifted education services. Had his former teacher been able to recognize the indications of giftedness, she could have referred him for services earlier and she would have been better able to help him succeed in the regular classroom.

I would like to cite another real-life example; this time of a 12-year-old girl from Shenandoah, IA named Leah. Leah has two parents with a high school education who work hard to provide for her, but they don't have much discretionary income. Her parents want her to be successful, but they rely on the public school system to meet her educational needs. Leah came to school able to read, but was a very quiet child so no one noticed anything exceptional about her. A year later, the first grade teacher caught Leah reading in the coat closet and realized that she could read exceptionally well. Leah's teacher referred her to the gifted and talented teacher and she has thrived in the gifted and talented program ever since. Leah's experiences have been limited by her circumstances. She lives in a small town in rural south-west Iowa and has not traveled farther than Des Moines or Omaha. Leah hasn't grown up with every advantage, yet she is lucky to have had an astute classroom teacher who recognized her abilities. Leah now has access to a quality gifted education program of services that includes a specially trained teacher available to help Leah develop her gifts.

While Leah is another success story, it is easy to see the important role that teachers played in her experience. It is important to remember that gifted and talented students come from all backgrounds and can be found in any community. A gifted student could be the child of a single mom working three jobs, the child of recent immigrants, or a foster child. I've even heard stories of a gifted child in Iowa who missed school because her parents had her begging for money on the streets. Not all gifted children have parents who are equipped to recognize their child's gifts or have the resources and ability to see that their child gets the services he or she needs to be successful. That is why it is so important that classroom teachers have some understanding of how to identify gifted kids and how to meet their needs while

they are in the regular classroom. It is impossible to know how many gifted students are overlooked because their teachers do not know how to recognize the signs of giftedness or are unprepared to deal with the unique needs that gifted kids have. While Iowa requires school districts to provide gifted and talented services, a great many school districts in many States have little or no programs for gifted kids. Moreover, according to the federally funded National Research Center on the Gifted and Talented, the large majority of gifted and talented students spend at least 80 percent of their time in a regular education classroom. As a result, it is vital that all teachers have at least basic knowledge and skills to address gifted students' learning needs. However, a national survey of third and fourth grade teachers by the National Research Center on the Gifted and Talented found that 61 percent had no training whatsoever in teaching highly able students.

Ultimately, all teachers should have at least some exposure to the characteristics of gifted and talented students and strategies to address their needs. Yet, only one State currently requires regular classroom teachers to have coursework in gifted education. Some of the techniques used in classrooms to accommodate gifted kids include differentiated curriculum, cluster grouping, and accelerated learning. The time to make sure teachers have the necessary knowledge is when prospective teachers are in their pre-service training programs. If teachers aren't exposed to information about the needs of gifted students in their pre-service training, they may never acquire the necessary knowledge. Title II of the Higher Education Act already contains grants designed to enhance the quality of teacher preparation programs. My bill would simply add allowable uses to these existing grants to provide an incentive for States and teacher training programs to incorporate the needs of gifted and talented students into teacher preparation and licensure requirements.

Under current law, Title II State grants are awarded directly to States and are to be used to reform State teacher preparation requirements. The law lists seven potential reforms under the allowable uses for grant funds. The first three allowable uses include: strengthening State requirements for teacher preparation programs to ensure teachers are highly competent in their respective academic content areas, reforming certification and licensure requirements with respect to competency in content areas, and providing alternatives to traditional teacher preparation programs. My legislation would add another allowable use, referencing these three reforms, to encourage States to incorporate a focus on the learning needs of gifted and talented students into reforms of State requirements for teacher preparation programs, reforms of State cer-

tification and licensure requirements, or new alternative teacher preparation programs. In addition, my bill would add a new allowable use so that States could use grant funds to create or expand new-teacher mentoring programs on the needs of gifted and talented students. This way, new teachers could learn from veteran teachers about how to identify classroom indicators of giftedness and provide appropriate instruction to gifted students.

My bill would also add language to the Partnership Grants, which provide funds to partnerships among teacher preparation institutions, school of arts and sciences, and high-need school districts to strengthen new teacher education. These grants come with three required uses, including reforming teacher preparation programs to ensure teachers are highly competent in academic content areas, providing pre-service clinical experience, and creating opportunities for enhanced and ongoing professional development. One allowable use for which a partnership may use funds is preparing teachers to work with diverse populations, including individuals with disabilities and limited English proficient individuals. To this section, my legislation would add gifted and talented students. Recognizing that every teacher will have gifted students in his or her classroom, my bill would also add a new allowable use so that teacher preparation programs could use the funds to infuse teacher coursework with units on the characteristics of high-ability learners. In other words, the idea is not to require additional courses, but rather to discuss how to accommodate for the needs of gifted students throughout the teacher preparation curriculum when new teachers are learning how to present lessons.

My bill does not create a new grant program or require new funds. It simply provides an incentive through existing grant programs that will encourage States and teacher preparation programs to improve the knowledge of new teachers about the unique needs of gifted and talented students. New teachers will encounter gifted and talented students. It is important they know how to recognize them and how to help them succeed. As we have seen with Jose and Leah, having a teacher that understands a child's needs can make a huge difference. In fact, it can mean the difference between a child hating school and a child loving school; a child falling behind, and a child succeeding beyond all expectations. When a gifted child is left behind, the loss of human potential is tragic. We may not know what we are missing, but it is more than we can afford to lose. The legislation I have proposed today is a relatively modest step that could have a tremendous impact. I urge my colleagues to join me in this effort.

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. 1638

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

SECTION 1. AMENDMENT TO TITLE II OF THE HIGHER EDUCATION ACT OF 1965.

(a) STATE GRANTS.—Section 202(d) of the Higher Education Act of 1965 (20 U.S.C. 1022(d)) is amended by adding at the end the following:

“(8) GIFTED AND TALENTED STUDENTS.—Incorporating the learning needs of gifted and talented students into the activity described in paragraph (1), (2), or (3) in order to ensure that new teachers possess basic knowledge and skills necessary to meet the educational needs of gifted and talented students.

“(9) NEW-TEACHER MENTORING ON THE NEEDS OF GIFTED AND TALENTED STUDENTS.—Establishing or expanding new-teacher mentoring and assessment programs (including induction and evaluation programs) that are a part of the licensure process that includes the development of a portfolio produced by the new teacher, under the supervision and guidance of a veteran teacher mentor, which is designed to demonstrate that the new teacher possesses basic knowledge of the classroom indicators of giftedness, is able to identify student learning differences among gifted students, and is able to provide instruction to accommodate such differences.”.

(b) PARTNERSHIP GRANTS.—Section 203(e) of the Higher Education Act of 1965 (20 U.S.C. 1023(e)) is amended—

(1) in paragraph (1), by striking “and limited English proficient individuals” and inserting “, limited English proficient individuals, and gifted and talented students”; and

(2) by adding at the end the following:

“(5) GIFTED AND TALENTED STUDENTS.—Increasing the knowledge and skills of preservice teachers participating in activities under subsection (d) in the educational and related needs of gifted and talented students by, among other strategies, infusing teacher coursework with units on the characteristics of high-ability learners, using assessments to identify preexisting knowledge and skills among students, and developing teaching strategies that are driven by the learner’s progress.”.

By Mr. REID (for himself, Mr. BURNS, and Mr. ENSIGN):

S. 1639. A bill to amend the Petroleum Marketing Practices Act to extend certain protections to franchised refiners or distributors of lubricating oil; to the Committee on Energy and Natural Resources.

Mr. REID. Mr. President, during the 103rd Congress in 1994, the Petroleum Marketing Practices Act, PMPA, was amended to protect independent petroleum wholesalers and retailers from arbitrary and unfair termination or non-renewal of their franchise relationships with major oil companies.

However, this protection was provided only to motor and diesel fuel franchisees.

Franchisees of other petroleum products sold by the major oil companies lack similar protection.

Today, I rise with Senators BURNS and ENSIGN to introduce a bill that extends the same protections enjoyed by the motor fuel industry to the lubricant industry.

I have heard from a constituent in Nevada that his franchise agreement to sell lubricating oils to car dealers in Las Vegas was arbitrarily canceled with 30 days notice.

In essence, he had thirty days to convert all of his customers to a new brand.

This seems grossly unfair and, in fact, if the product sold by my constituent were gasoline or diesel fuel rather than lubricating oil, it would have been illegal.

I have been made aware of similar terminations or non-renewals in other States.

Without equal protection under the law, lubricant franchisees are vulnerable to predatory cancellation by their suppliers. This situation is exacerbated by recent mergers and acquisitions in the petroleum industry.

The merger of oil giants Chevron and Texaco and Shell Oil’s recent acquisition of Penzoil-Quaker State will undoubtedly result in the termination of many independent lubricant franchisees.

In New Mexico, there was a lubricant franchisee who had been promoting and distributing a branded lubricant to his customers for over 30 years, only to be canceled with 30 days notice following a merger of refiners.

This unfair practice stifles competition in the marketplace and invariably results in raising the price of the product, which hurts American consumers and small businesses.

This is especially troublesome in rural areas.

Given the increasingly anti-competitive nature of the petroleum industry, the time has come to extend protections under current law for motor fuel marketers to include lubricant franchisees.

There are approximately 3,500 independent distributors and nearly 25,000 commercial retail lube oil outlets that could be impacted by the increasing frequency of lubricant franchise cancellations.

Refiners have not suffered by complying with PMPA in motor fuels.

Consequently, it is hard to believe it would be much of an imposition to include the much smaller segment of lubricant franchisees.

I introduce this bill today because it protects small businesses, benefits consumers and ensures fair competition in the marketplace.

In short, this bill is the right thing to do and I hope my colleagues will support it.

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. 1639

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

SECTION 1. PROTECTION OF FRANCHISED DISTRIBUTORS OF LUBRICATING OIL.

(a) DEFINITIONS.—Section 101 of the Petroleum Marketing Practices Act (15 U.S.C. 2801) is amended—

(1) in paragraph (1)(B)—

(A) in clause (ii)(II), by striking “and” at the end;

(B) by redesignating clause (iii) as clause (iv); and

(C) by inserting after clause (ii) the following:

“(iii) any contract under which a refiner authorizes or permits a distributor to use, in connection with the sale, consignment, or distribution of lubricating oil, a trademark that is owned or controlled by the refiner; and”;

(2) in paragraphs (2), (5), and (6), by inserting “or lubricating oil” after “motor fuel” each place it appears;

(3) by striking paragraphs (3) and (4) and inserting the following:

“(3) FRANCHISEE.—The term ‘franchisee’ means—

“(A) a retailer or distributor that is authorized or permitted, under a franchise, to use a trademark in connection with the sale, consignment, or distribution of motor fuel; or

“(B) a distributor that is authorized or permitted, under a franchise, to use a trademark in connection with the sale, consignment, or distribution of lubricating oil.

“(4) FRANCHISOR.—The term ‘franchisor’ means—

“(A) a refiner or distributor that authorizes or permits, under a franchise, a retailer or distributor to use a trademark in connection with the sale, consignment, or distribution of motor fuel; or

“(B) a refiner that authorizes or permits, under a franchise, a distributor to use a trademark in connection with the sale, consignment, or distribution of motor fuel.”; and

(4) by adding at the end the following:

“(20) LUBRICATING OIL.—The term ‘lubricating oil’ means any grade of paraffinic or naphthenic lubricating oil stock that is refined from crude oil or synthetic lubricants.”.

(b) PROTECTION OF FRANCHISED DISTRIBUTORS OF LUBRICATING OIL.—Section 102(b)(2) of the Petroleum Marketing Practices Act (15 U.S.C. 2802(b)(2)) is amended by inserting after subparagraph (E) the following:

“(F) FRANCHISED DISTRIBUTORS OF LUBRICATING OIL.—In the case of a franchise between a refiner or a distributor for the sale, distribution, or consignment of trademarked lubricating oil, a determination made by the franchisor in good faith and in the normal course of business to withdraw from the marketing of the lubricating oil in the relevant geographic market in which the franchised lubricating oil is distributed, if—

“(i) the determination is made—

“(I) after the date on which the franchise is entered into or renewed; and

“(II) on the basis of a change in relevant facts or circumstances relating to the franchise that occurs after the date specified in subclause (I); and

“(ii) the termination or nonrenewal is not for the purpose of converting any accounts subject to the franchise to the account of the franchisor.”.

By Mr. INHOFE (for himself, Mr. JEFFORDS, Mr. BOND, Mr. WARNER, Mr. VOINOVICH, Mr. CRAPO, Mr. CHAFEE, Mr. CORNYN, Ms. MURKOWSKI, Mr. THOMAS, and Mr. ALLARD):

S. 1640. A bill to provide an extension of highway programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century; to the Committee on Environment and Public Works.

Mr. INHOFE. Mr. President. I am introducing today the Transportation Extension Act of 2003 which will extend the expiring Transportation Equity Act for the 21st Century an additional 5 months. Senators, JEFFORDS, BOND, WARNER, VOINOVICH, CRAPO, CHAFEE, CORNYN, MURKOWSKI, THOMAS, and ALLARD join me as original cosponsors on this short-term extension.

As my colleagues may be aware, we are now 7 days from the expiration of TEA-21. Despite the best efforts of Senator BOND and myself, we have been unable to secure the necessary floor time for consideration of a comprehensive 6-year bill.

This bill provide 5 months worth of the \$35.5 billion allowed under the Budget Resolution and a corresponding amount of obligation limitation. This is a significant, 7-percent increase in highway funding over 2003, which will translate into over 100,000 new jobs.

Of course, the best thing we can do to create economic opportunity is enact a comprehensive, 6-year reauthorization. As we all know, highway bills are jobs bills. A highway bill drafted at \$255 billion over 6 years as proposed by the Environment and Public Works Committee will create about two million new American jobs. This combined with the tax cuts signed by President Bush is the best stimulus the economy can receive.

Let me be very clear that my preference is that we would be completing a 6-year comprehensive bill, not working on a five-month extension, but reality is that the funding needed to do a comprehensive 6-year bill at \$255 billion has not yet been identified. Because of that, I believe the best outcome for the long term program is to do a 5-month extension and continue to work on a comprehensive 6-year bill.

Mr. JEFFORDS. Mr. President, I wish to make some brief remarks about the extension of the Transportation Equity Act, often referred to as TEA-21.

Chairman INHOFE and I, along with subcommittee Chairman BOND and ranking member HARRY REID, have been working together on drafting a comprehensive, bipartisan 6-year transportation reauthorization bill. Unfortunately, that reauthorization effort will not be completed before TEA-21 expires on September 30.

Thus, as with the previous reauthorization of ISTEA by TEA-21, we will need to do a short extension of TEA-21. In the interest of time, and to avoid any concerns about potential disruptions, we have used major portions of the same short-extension language used for ISTEA in 1997 for this extension.

It is important that I clarify some aspects of this short extension with the chairman of the committee, Senator INHOFE.

The purpose of this short extension is to continue the Federal surface transportation programs and transportation investment patterns. For that reason,

we have provided considerable short-term spending flexibility to the States.

However, in a longer term extension, if any were needed, we should be consistent with Congressional goals set forth in TEA-21. Thus, I want to ensure that if there is a need for another extension we more closely adhere to the flexibility provisions set forth in TEA-21. This would require, for example, changes to the text used in this short-term extension regarding section 133(d).

In a short-term extension there is little risk that investment patterns would be altered in a manner inconsistent with TEA-21 and thus the proposed language is acceptable for the short term.

Senator INHOFE do you agree with my understanding that the bipartisan extension we have proposed works well in the short term but would require some modification to its flexibility provisions if it were to apply for a longer period of time? In addition, will you agree to work with me to make changes to the language if we have to do another extension to address the concerns I have raised?

Mr. INHOFE. Yes, I will work with the Senator on his concerns if we have to do a longer term extension.

SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 70—SUPPORTING NATIONAL FUNERAL SERVICE EDUCATION WEEK

Mr. WYDEN (for himself and Mr. DEWINE) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 70

Whereas the death of a family member, friend, or loved one is a devastating emotional event;

Whereas people must have all of the information necessary to make informed funeral service choices and to maintain total trust in their funeral service provider;

Whereas memorialization and celebration of life are the fabric of the modern funeral service;

Whereas the memorialization of a loved one is important to grieving families and is beneficial to the healing process;

Whereas families have traditionally looked to funeral directors and morticians for consolation, strength, and guidance in the planning and implementation of meaningful funeral ceremonies; and

Whereas national funeral service organizations have designated the week of September 21 through 27, 2003, as National Funeral Service Education Week, a week which reflects the efforts of funeral directors to meet the needs of families who want a meaningful service that celebrates the lives of their loved ones: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress supports efforts to establish National Funeral Service Education Week as a week during which funeral service professionals and consumer advocates work together to provide consumers with timely and detailed information about choices in the planning of a mean-

ingful funeral and the selection of funeral goods and services.

Mr. WYDEN. Mr. President, today my colleague Senator DEWINE and I are submitting a concurrent resolution to support the consumer education efforts of the National Funeral Directors Association during National Funeral Services Education Week, September 21 through 27, 2003.

When we are called upon to make funeral arrangements it is often at an emotional time when making important funeral-related decisions are confusing and difficult. In order to help remove confusion and concerns about funeral service planning, the National Funeral Directors Association is beginning a nationwide consumer education effort the week of September 21. The theme of the educational effort is "For a Life Worth Celebrating" which reflects funeral directors efforts to meet the needs of families who want a meaningful service that celebrates their loved one's life.

This important week will provide consumers an opportunity to ask questions, obtain information about how to make informed funeral-related decisions. Funeral directors across the country will hold special community events including "open houses" and events in local malls, schools or community centers.

I would encourage the public to participate in these activities so they can become informed consumers and I urge the Congress to support this educational effort.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1740. Mr. BINGAMAN (for himself, Mr. DORGAN, and Mr. REID) proposed an amendment to the bill H.R. 2691, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes.

SA 1741. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 2691, supra; which was ordered to lie on the table.

SA 1742. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 2691, supra; which was ordered to lie on the table.

SA 1743. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 2691, supra; which was ordered to lie on the table.

SA 1744. Mr. VOINOVICH (for himself and Mr. DEWINE) submitted an amendment intended to be proposed by him to the bill H.R. 2691, supra; which was ordered to lie on the table.

SA 1745. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill H.R. 2691, supra; which was ordered to lie on the table.

SA 1746. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill H.R. 2691, supra; which was ordered to lie on the table.

SA 1747. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill H.R. 2691, supra; which was ordered to lie on the table.

SA 1748. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 2691, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1740. Mr. BINGAMAN (for himself, Mr. DORGAN, and Mr. REID) proposed an amendment to the bill H.R. 2691, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. . None of the funds appropriated or otherwise made available by this or any other Act, hereafter enacted, may be used to permit the use of the National Mall for a special event, unless the permit expressly prohibits the erection, placement, or use of structures and signs bearing commercial advertising. The Secretary may allow for recognition of sponsors of special events, provided that the size and form of the recognition shall be consistent with the special nature and sanctity of the Mall and any lettering or design identifying the sponsor shall be no larger than one-third the size of the lettering or design identifying the special event. In approving special events, the Secretary shall ensure, to the maximum extent practicable, that public use of, and access to the Mall is not restricted. For purposes of this section, the term "special event" shall have the meaning given to it by section 7.96(g)(1)(ii) of title 36, Code of Federal Regulations.

SA 1741. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 2691, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . (a) The Secretary of Agriculture may request up to \$250 million in a fiscal year from the Secretary of the Treasury to cover fire suppression costs that exceed the amount of funding available to the Forest Service for fire suppression in a fiscal year.

(b) Upon such request, the Secretary of the Treasury shall make such sums available to the Secretary of Agriculture, without further appropriation.

(c) Upon amounts being appropriated by Congress to reimburse funds transferred to the Secretary of Agriculture pursuant to this section, such amounts shall be deposited in the Treasury.

SA 1742. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 2691, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

After Section 334, insert the following:

SEC. 335. (a) IN GENERAL.—The boundaries of the Green Mountain National Forest are modified to include all parcels of land depicted on the forest maps entitled 'Green Mountain Expansion Area Map I' and 'Green Mountain Expansion Area Map II', each dated February 20, 2002, which shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Washington, District of Columbia.

(b) MANAGEMENT.—Federally owned land delineated on the maps acquired for National Forest purposes shall continue to be managed in accordance with the laws (including

regulations) applicable to the National Forest System.

(c) LAND AND WATER CONSERVATION FUND.—For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460-9), the boundaries of the Green Mountain National Forest, as adjusted by this Act, shall be considered to be the boundaries of the national forest as of January 1, 1965.

SA 1743. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 2691, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

Funds appropriated for the Green Mountain National Forest previously or in this report may be used for the acquisition of lands in the Blueberry Lake area.

SA 1744. Mr. VOINOVICH (for himself and Mr. DEWINE) submitted an amendment intended to be proposed by him to the bill H.R. 2691, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 23, line 13, after "expended," insert the following: "of which \$4,000,000 shall be available for the rehabilitation of Cuyahoga Valley National Park, Ohio, and".

SA 1745. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill H.R. 2691, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 85, line 4, after "expended" insert the following: "of which \$5,300,000 shall be available for the Metal Casting Industry of the Future program".

SA 1746. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill H.R. 2691, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 22, line 9, after "2005" insert the following: "of which \$1,000,000 shall be available to the Dayton/Montgomery Port Authority for the restoration and development of buildings in the West Third St. National Historic District in Dayton, Ohio".

SA 1747. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill H.R. 2691, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 137, between lines 23 and 24 insert the following:

SEC. 3 . PROHIBITION OF USE OF FUNDS FOR INDIAN GAMING IN THE STATE OF OHIO.

None of the funds made available by this Act may be used by the Secretary of the In-

terior to allow any Indian tribe to conduct gaming in the State of Ohio.

SA 1748. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 2691, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 27, line 24, after "Units" insert the following: "and of which \$950,000 shall be available for a United States-Mexico binational groundwater study of transborder aquifers".

NOTICES OF HEARINGS/MEETINGS

SUBCOMMITTEE ON NATIONAL PARKS

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that the following hearing has been scheduled before the Subcommittee on National Parks of the Committee on Energy and Natural Resources:

The hearing will be held on Thursday, October 2, 2003 at 10 a.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the following bills: S. 524, to expand the boundaries of the Fort Donelson National Battlefield to authorize the acquisition and interpretation of lands associated with the campaign that resulted in the capture of the fort in 1862, and for other purposes; S. 1313, to establish the Congaree Swamp National Park in the State of South Carolina, and other purposes; S. 1472, to authorize the Secretary of the Interior to provide for the construction of a statue of Harry S. Truman at Union Station in Kansas City, Missouri; and S. 1576, to revise the boundary of Harpers Ferry National Historic Park, and for other purposes.

Because of the limited time available for the hearings, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD-364 Dirksen Senate Office Building, Washington, DC 20510-6150.

For further information, please contact Tom Lillie at (202) 224-5161 or Pete Lucero at (202) 224-6293.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2004

(On Tuesday, September 16, 2003, the Senate passed H.R. 2754, as follows:)

H.R. 2754

Resolved, That the bill from the House of Representatives (H.R. 2754) entitled "An Act making appropriations for energy and water development for the fiscal year ending September 30, 2004, and for other purposes," do pass with the following amendment:

Strike out all after the enacting clause and insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September

30, 2004, for energy and water development, and for other purposes, namely:

TITLE I

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, shore protection, and related purposes.

GENERAL INVESTIGATIONS

For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection, and related projects, restudy of authorized projects, miscellaneous investigations, and, when authorized by laws, surveys and detailed studies and plans and specifications of projects prior to construction, \$131,700,000, to remain available until expended, of which \$500,000, along with \$500,000 of the unobligated balance of funds made available under this heading in the Energy and Water Appropriations Act, 2003, may be transferred to the Bureau of Reclamation to conduct a feasibility study for the purposes of providing water to Park City and the Snyderville Basin, Utah: Provided, That in conducting the Southwest Valley Flood Damage Reduction Study, Albuquerque, New Mexico, the Secretary of the Army, acting through the Chief of Engineers, shall include an evaluation of flood damage reduction measures that would otherwise be excluded from the feasibility analysis based on policies regarding the frequency of flooding, the drainage areas, and the amount of runoff: Provided further, That the Secretary of the Army, acting through the Chief of Engineers is directed to use \$250,000 for preconstruction engineering and design of Waikiki Beach, Oahu, Hawaii, the project to be designed and evaluated, as authorized: Provided further, That the Secretary of the Army, acting through the Chief of Engineers is directed to use \$250,000 for the continuation and completion of feasibility studies of Kihei Beach, Maui, Hawaii. Any recommendations for a National Economic Development Plan shall be accepted notwithstanding the extent of recreation benefits supporting the project features, in view of the fact that recreation is extremely important in sustaining and increasing the economic well-being of the State of Hawaii and the nation.

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by laws; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such studies shall not constitute a commitment of the Government to construction), \$1,538,000,000, to remain available until expended, of which such sums as are necessary for the Federal share of construction costs for facilities under the Dredged Material Disposal Facilities program shall be derived from the Harbor Maintenance Trust Fund, as authorized by Public Law 104-303; and of which such sums as are necessary pursuant to Public Law 99-662 shall be derived from the Inland Waterways Trust Fund, for one-half of the costs of construction and rehabilitation of inland waterways projects, including rehabilitation costs for the Lock and Dam 11, Mississippi River, Iowa; Lock and Dam 12, Mississippi River, Iowa; Lock and Dam 19, Mississippi River, Iowa; Lock and Dam 24, Mississippi River, Illinois and Missouri; Lock and Dam 3, Mississippi River, Minnesota; and London Locks and Dam, Kanawha River, West Virginia, projects; and of which funds are provided for the following projects in the amounts speci-

fied: Provided, That using \$9,280,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue construction of the Dallas Floodway Extension, Texas, project, including the Cadillac Heights feature, generally in accordance with the Chief of Engineers report dated December 7, 1999: Provided further, That the Secretary of the Army is directed to accept advance funds, pursuant to section 11 of the River and Harbor Act of 1925, from the non-Federal sponsor of the Los Angeles Harbor, California, project authorized by section 101(b)(5) of Public Law 106-541: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use \$1,000,000 of the funds provided herein to continue construction of the Hawaii Water Management Project: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use \$2,500,000 of the funds appropriated herein to continue construction of the navigation project at Kaunapau Harbor, Hawaii: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use \$6,000,000 of the funds provided herein for Dam Safety and Seepage/Stability Correction Program to continue construction of seepage control features and to design and construct repairs to the tainter gates at Waterbury Dam, Vermont: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use \$17,000,000 of the funds appropriated herein to proceed with planning, engineering, design or construction of the Grundy, Buchanan County, and Dickenson County, Virginia elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River Project: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use \$6,400,000 of the funds appropriated herein to proceed with the planning, engineering, design or construction of the Lower Mingo County, Upper Mingo County, Wayne County, McDowell County, West Virginia elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River Project: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the Dickenson County Detailed Project Report as generally defined in Plan 4 of the Huntington District Engineer's Draft Supplement to the Section 202 General Plan for Flood Damage Reduction dated April 1997, including all Russell Fork tributary streams within the County and special considerations as may be appropriate to address the unique relocations and resettlement needs for the flood prone communities within the County: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed with the construction of the Seward Harbor, Alaska, project, in accordance with the Report of the Chief of Engineers, dated June 8, 1999, and the economic justification contained therein: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed and authorized to continue the work to replace and upgrade the dam and all connections to the existing system at Kake, Alaska: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed with the construction of the Wrangell Harbor, Alaska, project in accordance with the Chief of Engineer's report dated December 23, 1999: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed with construction of the Breckenridge, Minnesota, project in accordance with the Breckenridge, Minnesota Feasibility Report and Environmental Impact Statement dated September 2000, approved April 8, 2002: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed with construction of repairs to the Bois Brule, Missouri, project in accordance with the Bois Brule Deficiency Cor-

rection Report including applicable NEPA compliance submitted to the Mississippi Valley Division in June 2003: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to continue with construction of the DeSoto County Regional Wastewater System Project in accordance with the DeSoto County, Mississippi Environmental Infrastructure-Letter Reports prepared pursuant to guidance for Section 219 projects: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to continue with construction of the Des Moines Recreational River and Greenbelt, Iowa, project in accordance with the Des Moines Recreation River and Greenbelt, Iowa, General Design Memorandum with Programmatic Environmental Impact Statement dated September 1987, as amended by the Annual Program Management Reports which serve as the Master Plan for the overall project, and site specific decision documents for the added work: Provided further, That the Secretary of the Army, acting through the Chief of Engineers is directed to continue with construction of the Rio de Flag, Flagstaff, Arizona, project generally in accordance with the Chief of Engineers report dated December 29, 2000: Provided further, That the Secretary of the Army, acting through the Chief of Engineers is directed to continue with construction of the Tucson Drainage Area, Arizona, generally in accordance with the Chief of Engineers report dated May 20, 1998: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed with the construction of the Zuni and Sun Valley Reaches, South Platte River, Denver County, Colorado, project, in accordance with the Report of the Chief of Engineers, dated May 16, 2003, and the economic justification contained therein: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed with construction of the Delaware Bay Coastline, Point Mahon, Delaware, project, in accordance with the Report of the Chief of Engineers, dated September 28, 1998, and the economic justification contained therein: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed with the construction of the Delaware Coast from Cape Henlopen to Fenwick Island, Fenwick Island, Delaware, project, in accordance with the Report of the Chief of Engineers, dated December 29, 2000, and the economic justification contained therein: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to continue preparation of the General Re-evaluation Report (GRR) to determine the feasibility of additional deepening and widening of the Federal Project at Gulfport Harbor, Mississippi: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to continue construction for the Sand Creek Watershed, Nebraska, project in accordance with the Report of the Chief of Engineers, dated December 29, 2000: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is to proceed with the construction of the Brigantine Inlet to Great Egg Harbor, Brigantine Island, New Jersey, project, in accordance with the Report of the Chief of Engineers, dated December 1999, and the economic justification contained therein: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed with planning, engineering, and design and initiate floodway buy outs for the Passaic River Management, New Jersey, project, generally in accordance with the Corps of Engineers Passaic River Floodway Buy-out Report, dated October 1995: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, may use \$1,000,000 of the funds made available under this heading to continue construction of the project for Passaic River Streambank Restoration, Minish Park, New Jersey, and

\$6,500,000 of the funds made available under this heading to carry out the project for the Raritan River Basin, Green Brook Sub-Basin, New Jersey: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to continue engineering and design for the Ramapo and Mahwah Rivers, Mahwah, New Jersey and Suffern, New York, project: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to continue construction of the Dare County Beaches, North Carolina (Bodie Island), project, in accordance with the Report of the Chief of Engineers, dated December 29, 2000, and the economic justification contained therein: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to continue construction of the Holes Creek, Ohio, project including the additional floodwall and relocations, generally in accordance with the Chief of Engineers report dated December 23, 1981 and the Supplement to the Reevaluation Report, dated 2003: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to continue with the design and construction of the Canton Lake, Oklahoma (Dam Safety) project, in accordance with the Corps of Engineer's Dam Safety Assurance Report, dated March 22, 2002: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to continue with design and construction of the Lawton, Oklahoma, Waste Water Infrastructure Rehabilitation project, in accordance with the requirements identified in the City of Lawton's Sewer Rehabilitation Program in conjunction with the Oklahoma Department of Environmental Quality's consent order: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed with the construction of the Columbia River Channel Improvements, Oregon and Washington, project in accordance with the Report of the Chief of Engineers, dated December 23, 1999 and the economic justification and environmental features stated therein, as amended by the Final Supplemental Integrated Feasibility Report and Environmental Impact Statement dated January 28, 2003: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed with the construction of the Schuylkill River Park, Philadelphia, Pennsylvania, project, in accordance with the Letter Report, dated February 2003, and the economic justification contained therein: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed with the preparation of plans and specifications for periodic nourishment of the Folly Beach, South Carolina, project, in accordance with the General Design Memorandum, dated May 1991 and approved by the Chief of Engineers on July 22, 1992, and the economic justification contained therein: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed to construction of the Missouri River, South Dakota, project, in accordance with the provisions contained in Title IX of WRDA 2000: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed with the Puget Sound Adjacent Waters Restoration, Washington project, as directed by Section 544 of Public Law 106-541: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed with the Shoalwater Bay Shoreline Erosion, Washington, project as directed by Section 545 of Public Law 106-541: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed with the construction of the Jackson Hole, Wyoming, project, in accordance with Public Law 106-541, and the economic justification contained therein: Provided further, That the Secretary of the Army is directed to use funds appropriated for the navigation project, Tampa

Harbor, Florida to carry out, as part of the project, construction of passing lanes in an area approximately 3.5 miles long, centered on Tampa Bay Cut B, if the Secretary determines that such construction is technically sound, environmentally acceptable, and cost effective: Provided further, That no funds appropriated in this Act for the purpose of construction of the projects for the Everglades and South Florida Ecosystem Restoration shall be available for expenditure unless the Administrator of the Environmental Protection Agency certifies that the projects meet all applicable state water quality standards and numeric criteria adopted for phosphorus as well as water quality requirements set forth in the Consent Decree by September 30, 2003 and every 12 months thereafter until September 30, 2006: Provided further, That within funds provided herein, \$500,000 may be used for completion of design and initiation of construction of the McCarran Ranch, NV, environmental restoration project: Provided further, That within funds provided herein, \$100,000 may be used for initiation of feasibility studies to address erosion along Bayou Teche, LA within the Chitimacha Reservation: Provided further, That the Secretary of the Army may use at least \$1,000,000 of the funds provided under this heading for the Great Lakes fishery and ecosystem restoration program: Provided further, That using \$200,000 appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, may develop an environmental impact statement for introducing non-native oyster species into the Chesapeake Bay. During preparation of the environmental impact statement, the Secretary may establish a scientific advisory body consisting of the Virginia Institute of Marine Science, the University of Maryland, and other appropriate research institutions to review the sufficiency of the environmental impact statement. In addition, the Secretary shall give consideration to the findings and recommendations of the National Academy of Sciences report on the introduction of non-native oyster species into the Chesapeake Bay in the preparation of the environmental impact statement. Notwithstanding the cost sharing provisions of section 510(d) of the Water Resources Development Act of 1996 (110 Stat. 3760), the preparation of the environmental impact statement shall be cost shared 50 percent Federal and 50 percent non-Federal, for an estimated cost of \$2,000,000. The non-Federal sponsors may meet their 50 percent matching cost share through in-kind services: Provided, That the Secretary determines that work performed by the non-Federal sponsors is reasonable, allowable, allocable, and integral to the development of the environmental impact statement.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

For expenses necessary for prosecuting work of flood control, rescue work, repair, restoration, or maintenance of flood control projects threatened or destroyed by flood, as authorized by law (33 U.S.C. 702a and 702g-1), \$329,000,000, to remain available until expended: Provided, That the Secretary of the Army, acting through the Chief of Engineers, using \$12,000,000 of the funds provided herein, is directed to continue design and real estate activities and to initiate the pump supply contract for the Yazoo Basin, Yazoo Backwater Pumping Plant, Mississippi: Provided further, That the pump supply contract shall be performed by awarding continuing contracts in accordance with 33 U.S.C. 621: Provided further, That the Secretary of the Army, acting through the Chief of Engineers is directed, with funds previously appropriated, to continue construction of water withdrawal features of the Grand Prairie, Arkansas, project.

OPERATION AND MAINTENANCE, GENERAL

For expenses necessary for the preservation, operation, maintenance, and care of existing river and harbor, flood control, and related

works, including such sums as may be necessary for the maintenance of harbor channels provided by a State, municipality or other public agency, outside of harbor lines, and serving essential needs of general commerce and navigation; surveys and charting of northern and northwestern lakes and connecting waters; clearing and straightening channels; and removal of obstructions to navigation, \$2,014,000,000, to remain available until expended, of which such sums as become available in the Harbor Maintenance Trust Fund, pursuant to Public Law 99-662, may be derived from that Fund, and of which such sums as become available from the special account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 4601), may be derived from that account for construction, operation, and maintenance of outdoor recreation facilities; and of which \$500,000 may be available for dredging and other operation and maintenance of the Rogue River, Gold Beach, Oregon; and of which \$500,000 may be available for dredging and other operation and maintenance of the Umpqua River, Oregon: Provided, That of funds appropriated herein, for the Intracoastal Waterway, Delaware River to Chesapeake Bay, Delaware and Maryland, the Secretary of the Army, acting through the Chief of Engineers, is directed to reimburse the State of Delaware for normal operation and maintenance costs incurred by the State of Delaware for the SR1 Bridge from station 58+00 to station 293+00 between October 1, 2003, and September 30, 2004: Provided further, That none of the funds appropriated under this heading may be used for the Great Lakes Sediment Transport Models: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, may use not less than \$5,461,000 of the funds made available under this heading for the Alabama-Coosa River, Alabama (including for routine operations and maintenance work at Swift Creek Park), of which not less than \$2,500,000 may be used for annual maintenance dredging of navigational channels of the Alabama-Coosa River: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use funds appropriated herein to rehabilitate the existing dredged material disposal site for the project for navigation, Bodega Bay Harbor, California, and to continue maintenance dredging of the Federal channel: Provided further, That the Secretary shall make suitable material excavated from the site as part of the rehabilitation effort available to the non-Federal sponsor, at no cost to the Federal Government, for use by the non-Federal sponsor in the development of public facilities: Provided further, That the Corps of Engineers shall not allocate any funds, to deposit dredge material, without the consent of the landowners, on private property located along Reach 1, Reach 2, Reach 4, Reach 5, and Reach 6 of the Gulf Coast Intracoastal Waterway as defined by the Draft Laguna Madre GIWW Dredged Material Management Plan prepared by the Corps of Engineers and the Interagency Coordination Team dated October 11, 2002: Provided further, That the Secretary is directed to use \$5,000,000 of the funds appropriated herein to undertake the restoration of Tar Creek and Vicinity, Oklahoma project: Provided further, That the Secretary of the Army may use \$3,000,000 of the funds provided under this heading to undertake, in connection with the harbor of Morehead City, North Carolina, a project to disperse sand along Bogue Banks: Provided further, That \$65,000,000 is provided to be used by the Secretary of the Army, acting through the Chief of Engineers, to repair, restore, and clean up projects and facilities of the Corps of Engineers and dredge navigation channels, restore and clean out area streams, provide emergency stream bank protection, restore other crucial public infrastructure (including water and sewer facilities), document

flood impacts, and undertake other flood recovery efforts considered necessary by the Chief of Engineers.

FLOOD CONTROL AND COASTAL EMERGENCIES

For expenses necessary for emergency flood control, hurricane response, and emergency shore protection and related activities, \$40,000,000, to remain available until expended.

REGULATORY PROGRAM

For expenses necessary for administration of laws pertaining to regulation of navigable waters and wetlands, \$139,000,000, to remain available until expended.

FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM

For expenses necessary to clean up contamination from sites throughout the United States resulting from work performed as part of the Nation's early atomic energy program, \$140,000,000, to remain available until expended.

GENERAL EXPENSES

For expenses necessary for general administration and related functions in the Office of the Chief of Engineers and offices of the Division Engineers, activities of the Humphreys Engineer Center Support Activity, the Institute for Water Resources, and headquarters support functions at the USACE Finance Center, \$160,000,000, to remain available until expended: Provided, That no part of any other appropriation provided in title I of this Act shall be available to fund the activities of the Office of the Chief of Engineers or the executive direction and management activities of the division offices: Provided further, That none of these funds shall be available to support an office of congressional affairs within the executive office of the Chief of Engineers.

ADMINISTRATIVE PROVISIONS

Appropriations in this title shall be available for official reception and representation expenses (not to exceed \$5,000); and during the current fiscal year the Revolving Fund, Corps of Engineers, shall be available for purchase (not to exceed 100 for replacement only) and hire of passenger motor vehicles.

GENERAL PROVISIONS

CORPS OF ENGINEERS—CIVIL

SEC. 101. Agreements proposed for execution by the Assistant Secretary of the Army for Civil Works or the United States Army Corps of Engineers after the date of the enactment of this Act pursuant to section 4 of the Rivers and Harbor Act of 1915, Public Law 64-291; section 11 of the River and Harbor Act of 1925, Public Law 68-585; the Civil Functions Appropriations Act, 1936, Public Law 75-208; section 215 of the Flood Control Act of 1968, as amended, Public Law 90-483; sections 104, 203, and 204 of the Water Resources Development Act of 1986, as amended, Public Law 99-662; section 206 of the Water Resources Development Act of 1992, as amended, Public Law 102-580; section 211 of the Water Resources Development Act of 1996, Public Law 104-303; and any other specific project authority, shall be limited to credits and reimbursements per project not to exceed \$10,000,000 in each fiscal year, and total credits and reimbursements for all applicable projects not to exceed \$50,000,000 in each fiscal year.

SEC. 102. None of the funds appropriated in this Act, or any other Act, shall be used to demonstrate or implement any plans divesting or transferring of any Civil Works missions, functions, or responsibilities for the United States Army Corps of Engineers to other government agencies without specific direction in a subsequent Act of Congress.

SEC. 103. ALAMOGORDO, NEW MEXICO. The project for flood protection at Alamogordo, New Mexico, authorized by the Flood Control Act of 1962 (Public Law 87-874), is modified to authorize and direct the Secretary to construct a flood detention basin to protect the north side of the City of Alamogordo, New Mexico, from flooding. The flood detention basin shall be constructed

to provide protection from a 100-year flood event. The project cost share for the flood detention basin shall be consistent with Section 103(a) of the Water Resources Development Act of 1986, notwithstanding Section 202(a) of the Water Resources Development Act of 1996.

SEC. 104. Section 10 of the Rivers and Harbors Act of 1922, 42 Stat. 1043, 33 U.S.C. 621, is amended by inserting a comma after the word "Congress" and inserting immediately thereafter "to include any and all pre-authorization planning, engineering, design, construction, and operation and maintenance."

SEC. 105. The Secretary is authorized and may design, remove and dispose of oil bollards and associated debris in Burlington Harbor, Vermont, at full Federal expense.

SEC. 106. KAKE DAM REPLACEMENT, KAKE, ALASKA TECHNICAL CORRECTIONS. Section 105, Public Law 106-377, is amended by striking "\$7,000,000" and inserting in lieu thereof "\$11,000,000 at full Federal expense".

SEC. 107. DEAUTHORIZATION OF INACTIVE CORPS PROJECTS. The following projects, with a total estimated authorized cost of \$404,000,000, are not authorized after the date of enactment of this Act, except with respect to any portion of such a project which portion has been completed before such date or is under construction on such date:

(1) The project for flood control, Green Bay Levee & Drainage District No. 2, Iowa, authorized by the Water Resources Development Act of 1986, deauthorized in fiscal year 1991, and reauthorized by the Water Resources Development Act of 1992;

(2) The project for navigation, Illinois Waterway Cal-Sag Part III, Illinois, authorized by the River and Harbor Act of 1946;

(3) The project for flood control, Lake George, Hobart, Indiana, authorized by the Water Resources Development Act of 1986;

(4) The project for flood control, Hazard, Kentucky, authorized by the Water Resources Development Act of 1988 (Public Law 100-876) and the Water Resources Development Act of 1990 (Public Law 101-640);

(5) The project for recreation, Taylorsville Lake (Uncompleted Recreation), Kentucky, authorized by the Flood Control Act of 1966;

(6) The project for flood control, Vanceburg, Kentucky, LPP, authorized by the Flood Control Act of 1937;

(7) The project for flood control, Libby Dam (Units 6-8), Montana, authorized by the Water Resources Development Act of 1996;

(8) The project for flood control, Epping, New Hampshire, authorized by the Water Resources Development Act of 1992;

(9) The project for flood control, Manchester, New Hampshire, authorized by the Water Resources Development Act of 1992;

(10) The project for flood control, Rochester, New Hampshire, authorized by the Water Resources Development Act of 1992;

(11) The project for multiple purposes, Fort Gibson Lake, Oklahoma (Units 5 and 6), authorized by the Water Resources Development Act of 1986;

(12) The project for flood control, Parker Lake, Muddy Boggy Creek, Oklahoma, authorized by the Water Resources Development Act of 1986;

(13) The project for flood control, Tamaqua, Pennsylvania, authorized by the Water Resources Development Act of 1974;

(14) The project for shoreline protection, Cliff Walk, Newport, Rhode Island, authorized by the River and Harbor Act of 1956 and amended by the Water Resources Development Act of 1992;

(15) The project for navigation, Narragansett Town Beach, Narragansett, Rhode Island, authorized by the Water Resources Development Act of 1992 and amended by the Water Resources Development Act of 1996;

(16) The project for navigation, Quonset Point-Davisville, Rhode Island (Bulkhead Repairs), authorized by the Water Resources Development Act of 1996;

(17) The project for flood control, Arroyo Colorado, Texas, authorized by the Water Resources Development Act of 1986;

(18) The project for flood control, Cypress Creek-Structural, Texas, authorized by the Water Resources Development Act of 1988; and

(19) The project for flood control, Cache County, Utah, authorized by the Water Resources Development Act of 1992 and amended by the Water Resources Development Act of 1999.

SEC. 108. DEAUTHORIZATION OF PROJECT FOR NAVIGATION, PAWTUXET COVE, RHODE ISLAND.

(a) IN GENERAL.—The portions of the project for navigation, Pawtuxet Cove, Rhode Island, authorized by section 101 of the River and Harbor Act of 1962 (76 Stat. 1173) and described in subsection (b) shall no longer be authorized after the date of enactment of this Act.

(b) DESCRIPTIONS.—The portions of the project referred to in subsection (a) are the following:

(1) Beginning at a point along the western edge of the 6-foot channel just south of the 6-foot turning basin: N247,856.00, E530,338.00, thence running north 51 degrees 44 minutes 12.5 seconds west 214.77 feet to a point N247,989.00, E530,169.37, thence running north 13 degrees 14 minutes 48.8 seconds west 149.99 feet to a point N248,135.00, E530,135.00, thence running north 44 degrees 11 minutes 7.4 seconds east 137.77 feet to a point N248,233.79, E530,231.02, thence running north 3 degrees 58 minutes 18.8 seconds west 300.00 feet to a point N248,533.07, E530,210.24 thence running north 86 degrees 1 minute 34.3 seconds east 35.00 feet to a point N248,535.50, E530,245.16, thence running south 3 degrees 58 minutes 21.0 seconds east 342.49 feet to a point N248,193.83, E530,268.88, thence running south 44 degrees 11 minutes 7.4 seconds west 135.04 feet to a point N248,097.00, E530,174.77, thence running south 13 degrees 14 minutes 48.8 seconds east 85.38 feet to a point N248,013.89, E530,194.33, thence running south 51 degrees 44 minutes 12.5 seconds east 166.56 feet to a point N247,910.74, E530,325.11 thence running south 13 degrees 14 minutes 49.2 seconds east 56.24 feet to the point of origin.

(2) Beginning at a point along the eastern edge of the 6-foot channel opposite the 6-foot turning basin: N248,180.00, E530,335.00, thence running south 32 degrees 12 minutes 35.3 seconds east 88.25 feet to a point N248,105.33, E530,382.04, thence running south 13 degrees 14 minutes 49.2 seconds east 138.48 feet to a point N247,970.53, E530,413.77, thence running north 32 degrees 12 minutes 35.3 seconds west 135.42 feet to a point N248,085.12, E530,341.59, thence running north 3 degrees 58 minutes 21.0 seconds west 95.11 feet to the point of origin.

(3) Beginning at a point along the eastern edge of the channel adjacent to the 6-foot entrance channel: N246,630.77, E530,729.17, thence running south 13 degrees 14 minutes 49.2 seconds east 35.55 feet to a point N246,596.16, E530,737.32, thence running south 51 degrees 31 minutes 38.6 seconds east 283.15 feet to a point N246,420.00, E530,959.00, thence running north 47 degrees 28 minutes 37.2 seconds west 311.84 feet returning to a point N246,630.77, E530,729.17.

SEC. 109. (a) The Secretary of the Army is authorized to provide technical, planning, design and construction assistance to non-Federal interests to remedy adverse environmental and human health impacts in Ottawa County, Oklahoma. In providing assistance, the Secretary shall coordinate with the State, Tribal, and local interests. The Secretary may undertake implementation of such activities as the Secretary determines to be necessary or advisable to demonstrate practicable alternatives, such activities shall include measures to address lead exposure and other environmental problems related to historical mining activities in the area.

(b) In carrying out subsection (a), the Secretary may utilize, through contracts or other

means, the services of the University of Oklahoma, the Oklahoma Department of Environmental Quality, or such other entities as the Secretary determines to be appropriate.

(c) Notwithstanding any other provision of law, the Secretary shall not incur liability under the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601, et seq.) for activities undertaken pursuant to this section.

(d) Non-Federal interests shall be responsible for providing any necessary lands, easements or rights-of-way required for implementation of activities authorized by this section and shall be responsible for operating and maintaining any restoration alternatives constructed or carried out pursuant to this section. All other costs shall be borne by the Federal Government.

(e) There is authorized to be appropriated \$15,000,000 to carry out the purposes of this section.

SEC. 110. The amount of \$2,000,000 previously provided under the heading "Construction, General" in Title I of the Energy and Water Development Appropriations Act, 2003, Division D of Public Law 108-7, is to be used to provide technical assistance at full Federal expense, to Alaskan communities to address the serious impacts of coastal erosion.

SEC. 111. The project for flood control for the American and Sacramento Rivers, California, authorized by Section 101(a)(1) of the Water Resources Development Act of 1996 (Public Law 104-303) and Section 366 of the Water Resources Development Act of 1999, is modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to construct the project at a total cost of \$205,000,000, with an estimated Federal share of \$153,840,000 and an estimated non-Federal share of \$51,160,000. For purposes of section 103 of the Water Resources Development Act of 1986 (33 U.S.C. 2213), the modifications authorized by this section shall be subject to the same cost sharing in effect for the project authorized by 101(a)(1) of the Water Resources Development Act of 1996.

SEC. 112. ST. GEORGES BRIDGE, DELAWARE. None of the funds made available in this Act may be used to carry out any activity relating to closure or removal of the St. Georges Bridge across the Intracoastal Waterway, Delaware River to Chesapeake Bay, Delaware and Maryland, including a hearing or any other activity relating to preparation of an environmental impact statement concerning the closure or removal.

SEC. 113. Section 214(a) of Public Law 106-541 is amended by striking "2003" and inserting in lieu thereof "2005".

SEC. 114. The Secretary of the Army, acting through the Chief of Engineers, shall direct construction of Alternative 1 (Northeast Corner) for the project authorized in section 353 of Public Law 105-277 notwithstanding any other provision of law.

SEC. 115. The Secretary of the Army, acting through the Chief of Engineers, is authorized to undertake appropriate planning, design, and construction measures for wildfire prevention and restoration in the Middle Rio Grande bosque in and around the City of Albuquerque. Work shall be directed toward those portions of the bosque which have been damaged by wildfire or are in imminent danger of damage from wildfire due to heavy fuel loads and impediments to emergency vehicle access. This work shall be undertaken at full Federal expense.

SEC. 116. Section 595 of the Water Resources Development Act of 1999 (113 Stat. 383; 117 Stat. 142) is amended—

(1) by striking the section heading and inserting the following:

"SEC. 595. IDAHO, MONTANA, RURAL NEVADA, NEW MEXICO, AND RURAL UTAH.";

(2) in subsection (a)—

(A) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively;

(B) by striking (a) and all that follows through "means—" and inserting the following:

"(a) DEFINITIONS.—In this section:

"(1) RURAL NEVADA.—The term 'rural Nevada' means"; and

(C) by adding at the end the following:

"(2) RURAL UTAH.—The term 'rural Utah' means—

"(A) the counties of Box Elder, Cache, Rich, Tooele, Morgan, Summit, Dagett, Wasatch, Duchesne, Uintah, Juab, Sanpete, Carbon, Millard, Sevier, Emery, Grand, Beaver, Piute, Wayne, Iron, Garfield, San Juan, and Kane, Utah; and

"(B) the portions of Washington County, Utah, that are located outside the city of St. George, Utah.";

(3) in subsections (b) and (c), by striking "Nevada, Montana, and Idaho" and inserting "Idaho, Montana, rural Nevada, New Mexico, and rural Utah"; and

(4) in subsection (h), by striking "2001—" and all that follows and inserting "2001 \$25,000,000 for each of Idaho, Montana, New Mexico, and rural Utah, to remain available until expended.";

SEC. 117. Of the amounts provided in section 312, the Secretary of Energy shall make the funds available to "Department of Defense—Civil, Department of the Army, Corps of Engineers—Civil, Construction, General" account, to remain available until expended, for the following: \$5,000,000 for the Walter F. George Powerhouse, AL; \$3,400,000 for the Rio Salado, Phoenix and Tempe Reaches, AZ project; \$3,000,000 for the Montgomery Point Lock and Dam, AR project; \$2,250,000 for the Red River Below Denison Dam, AR and LA and TX project; \$3,750,000 for the Red River Emergency Bank, AR and LA project; \$5,000,000 for the Napa River, CA project; \$5,000,000 for the Oakland Harbor, CA project; \$5,000,000 for the Port of Los Angeles project; \$4,300,000 for the Santa Ana River Mainstem, CA project; \$2,900,000 for the South Sacramento Streams, CA project; \$1,286,000 for the Delaware Coast from Cape Henlopen to Fenwick Island, DE project; \$1,000,000 for the Delaware Bay Coastline, Port Mahon, DE project; \$1,250,000 for the Martin County, FL project; \$3,000,000 for the Brunswick Harbor, GA project; \$5,000,000 for the McCook and Thornton, IL project; \$15,000,000 for the Olmsted Locks and Dam, Ohio River, IL and KY project; \$600,000 for the Des Moines Recreational River and Greenbelt, IA project; \$250,000 for the Lock and Dam 19, IA project; \$800,000 for the Perry Creek, IA project; \$10,134,000 for the Kentucky Lock and Dam, KY project; \$4,565,000 for the Inner Harbor Navigation Canal Lock, LA project; \$3,000,000 for the J Bennett Johnston Waterway, LA project; \$10,000,000 for the Southeast Louisiana project; \$262,000 for the Genesee County, MI project; \$287,000 for the Negaunee, MI project; \$1,000,000 for the Breckenridge, MN project; \$1,500,000 for the Blue River Basin, Kansas City, MO project; \$3,000,000 for the Meramec River Basin, Valley Park Levee, MO project; \$5,000,000 for the Mississippi River Between the Ohio and Missouri Rivers, MO project; \$2,000,000 for the Fort Peck Fish Hatchery, MT project; \$2,000,000 for the Rural Montana, MT project; \$1,000,000 for the Western Sarpy and Clear Creek, NE project; \$1,000,000 for the Great Egg Harbor Inlet and Peck Beach, NJ project; \$1,000,000 for the Hackensack-Meadowlands, Environmental Improvement, NJ project; \$500,000 for the Passaic River Preservation of Natural Storage Areas, NJ project; \$1,000,000 for the Passaic River Streambank Restoration, (Minish Park), NJ project; \$500,000 for the Dare County Beaches, Bodie Island, NC project; \$5,000,000 for the Wilmington Harbor, NC project; \$3,000,000 for the Grand Forks, ND-East Grand Forks, MN project; \$1,600,000 for the Tenkiller Ferry Lake, OK (Dam Safety) project; \$5,000,000 for the Columbia River Channel Improvements, OR project; \$5,000,000 for the Locks and Dams 2, 3,

and 4, PA project; \$3,000,000 for the Chief Joseph Dam Gas Abatement, WA project; \$4,000,000 for the Marmet Lock, Kanawa River, WV project; and \$2,366,000 for the Jackson Hole, WY project.

SEC. 118. Section 560(f) of Public Law 106-53 is amended by striking "\$5,000,000" and inserting in lieu thereof "\$7,500,000".

SEC. 119. Section 219(f) of the Water Resources Development Act of 1992 (Public Law 102-580; 106 Stat. 4835), as amended by section 502(b) of the Water Resources Development Act of 1999 (Public Law 106-53; 113 Stat. 335) and section 108(d) of title I of division B of the Miscellaneous Appropriations Act, 2001 (as enacted by Public Law 106-554; 114 Stat. 2763A-220), is further amended by adding at the end the following:

"(71) CORONADO, CALIFORNIA.—\$10,000,000 may be authorized for wastewater infrastructure, Coronado, California.";

SEC. 120. GREAT LAKES REMEDIAL ACTION PLANS AND SEDIMENT REMEDIATION PROGRAMS. Of the amounts made available by this title under the heading "GENERAL INVESTIGATIONS", not less than \$1,500,000 may be available for Great Lakes remedial action plans and sediment remediation programs under section 401 of the Water Resources Development Act of 1990 (33 U.S.C. 1268 note; Public Law 101-640).

SEC. 121. Section 592(g) of the Water Resources Development Act of 1999 (Public Law 106-53; 113 Stat. 380) is amended by striking "\$25,000,000 for the period beginning with fiscal year 2000" and inserting "\$100,000,000".

SEC. 122. Of the funds made available under Operation and Maintenance, General, an additional \$500,000 may be made available to the Recreation Management Support Program to work with the International Mountain Bicycling Association to design, build, and maintain trails at Corps of Engineers projects.

SEC. 123. PARK RIVER, GRAFTON, NORTH DAKOTA. Section 364(5) of the Water Resources Development Act of 1999 (113 Stat. 314) is amended—

(1) by striking "\$18,265,000" and inserting "\$21,075,000"; and

(2) by striking "\$9,835,000" and inserting "\$7,025,000".

SEC. 124. SCHUYLKILL RIVER PARK, PHILADELPHIA, PENNSYLVANIA. The Secretary of the Army may provide technical, planning, design, and construction assistance for Schuylkill River Park, Philadelphia, Pennsylvania, in accordance with section 564(c) of the Water Resources Development Act of 1996 (Public Law 104-303; 110 Stat. 3785), as contained in the May 2000 report of the Philadelphia District based on regional economic development benefits, at a Federal share of 50 percent and a non-Federal share of 50 percent.

SEC. 125. GWYNNS FALLS WATERSHED, BALTIMORE, MARYLAND. The Secretary of the Army may implement the project for ecosystem restoration, Gwynns Falls, Maryland, in accordance with the Baltimore Metropolitan Water Resources-Gwynns Falls Watershed Feasibility Report prepared by the Corps of Engineers and the city of Baltimore, Maryland.

SEC. 126. SNAKE RIVER CONFLUENCE INTERPRETATIVE CENTER, CLARKSTON, WASHINGTON. (a) IN GENERAL.—The Secretary of the Army, acting through the Chief of Engineers (referred to in this section as the "Secretary") is authorized and may carry out a project to plan, design, construct, furnish, and landscape a federally owned and operated Collocated Civil Works Administrative Building and Snake River Confluence Interpretative Center, as described in the Snake River Confluence Center Project Management Plan.

(b) LOCATION.—The project—

(1) shall be located on Federal property at the confluence of the Snake River and the Clearwater River, near Clarkston, Washington; and

(2) shall be considered to be a capital improvement of the Clarkston office of the Lower Granite Project.

(c) **EXISTING STRUCTURES.**—In carrying out the project, the Secretary may demolish or relocate existing structures.

(d) **COST SHARING.**—

(1) **TOTAL COST.**—The total cost of the project shall not exceed \$3,500,000 (excluding interpretative displays).

(2) **FEDERAL SHARE.**—The Federal share of the cost of the project shall be \$3,000,000.

(3) **NON-FEDERAL SHARE.**—

(A) **IN GENERAL.**—The non-Federal share of the cost of the project—

(i) shall be \$500,000; and

(ii) may be provided—

(I) in cash; or

(II) in kind, with credit accorded to the non-Federal sponsor for provision of all necessary services, replacement facilities, replacement land (not to exceed 4 acres), easements, and rights-of-way acceptable to the Secretary and the non-Federal sponsor.

(B) **INTERPRETIVE EXHIBITS.**—In addition to the non-Federal share described in subparagraph (A), the non-Federal sponsor shall fund, operate, and maintain all interpretative exhibits under the project.

SEC. 127. FLOOD DAMAGE REDUCTION, MILL CREEK, CINCINNATI, OHIO. Not later than 1 year after the date of enactment of this Act, the Secretary of the Army, acting through the Chief of Engineers, shall complete the general reevaluation report for the project for flood damage reduction, Mill Creek, Cincinnati, Ohio.

SEC. 128. Of the funds made available under Construction, General, \$1,500,000 may be made available for work to be carried out under section 560 of the Water Resources Development Act of 1999 (Public Law 106-53).

TITLE II

DEPARTMENT OF THE INTERIOR

CENTRAL UTAH PROJECT

CENTRAL UTAH PROJECT COMPLETION ACCOUNT

For carrying out activities authorized by the Central Utah Project Completion Act, \$36,463,000, to remain available until expended, of which \$9,423,000 shall be deposited into the Utah Reclamation Mitigation and Conservation Account for use by the Utah Reclamation Mitigation and Conservation Commission.

In addition, for necessary expenses incurred in carrying out related responsibilities of the Secretary of the Interior, \$1,728,000, to remain available until expended.

BUREAU OF RECLAMATION

The following appropriations shall be expended to execute authorized functions of the Bureau of Reclamation:

WATER AND RELATED RESOURCES

(INCLUDING TRANSFER OF FUNDS)

For management, development, and restoration of water and related natural resources and for related activities, including the operation, maintenance, and rehabilitation of reclamation and other facilities, participation in fulfilling related Federal responsibilities to Native Americans, and related grants to, and cooperative and other agreements with, State and local governments, Indian tribes, and others, \$859,517,000, to remain available until expended, of which \$56,330,000 shall be available for transfer to the Upper Colorado River Basin Fund and \$33,570,000 shall be available for transfer to the Lower Colorado River Basin Development Fund; of which such amounts as may be necessary may be advanced to the Colorado River Dam Fund; and of which not more than \$500,000 is for high priority projects which shall be carried out by the Youth Conservation Corps, as authorized by 16 U.S.C. 1706: Provided, That such transfers may be increased or decreased within the overall appropriation under this heading: Provided further, That of the total appropriated, the amount for program activities that can be financed by the Reclamation Fund or the Bureau of Reclamation special fee account established by 16 U.S.C. 4601-6a(i) shall be derived

from that Fund or account: Provided further, That funds contributed under 43 U.S.C. 395 are available until expended for the purposes for which contributed: Provided further, That funds advanced under 43 U.S.C. 397a shall be credited to this account and are available until expended for the same purposes as the sums appropriated under this heading: Provided further, That funds available for expenditure for the Departmental Irrigation Drainage Program may be expended by the Bureau of Reclamation for site remediation on a non-reimbursable basis: Provided further, That section 301 of Public Law 102-250, Reclamation States Emergency Drought Relief Act of 1991, as amended, is amended further by inserting "2003, and 2004" in lieu of "and 2003": Provided further, That of the funds provided under this heading, an additional \$5,000,000 may be available for the Mni Wiconi project, South Dakota.

BUREAU OF RECLAMATION LOAN PROGRAM ACCOUNT

For administrative expenses necessary to carry out the program for direct loans and/or grants, \$200,000, to remain available until expended, of which the amount that can be financed by the Reclamation Fund shall be derived from that fund.

CENTRAL VALLEY PROJECT RESTORATION FUND

For carrying out the programs, projects, plans, and habitat restoration, improvement, and acquisition provisions of the Central Valley Project Improvement Act, \$39,600,000, to be derived from such sums as may be collected in the Central Valley Project Restoration Fund pursuant to sections 3407(d), 3404(c)(3), 3405(f), and 3406(c)(1) of Public Law 102-575, to remain available until expended: Provided, That the Bureau of Reclamation is directed to assess and collect the full amount of the additional mitigation and restoration payments authorized by section 3407(d) of Public Law 102-575.

POLICY AND ADMINISTRATION

For necessary expenses of policy, administration, and related functions in the Office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, to remain available until expended, \$54,425,000, to be derived from the Reclamation Fund and be nonreimbursable as provided in 43 U.S.C. 377: Provided, That no part of any other appropriation in this Act shall be available for activities or functions budgeted as policy and administration expenses: Provided further, That of this amount, sufficient funds may be available for the Secretary of the Interior, not later than 60 days after the last day of the fiscal year, to submit to Congress a report on the amount of acquisitions made by the Department of the Interior during such fiscal year of articles, materials, or supplies that were manufactured outside the United States. Such report shall separately indicate the dollar value of any articles, materials, or supplies purchased by the Department of the Interior that were manufactured outside the United States, an itemized list of all waivers under the Buy American Act (41 U.S.C. 10a et seq.) that were granted with respect to such articles, materials, or supplies, and a summary of total procurement funds spent on goods manufactured in the United States versus funds spent on goods manufactured outside of the United States. The Secretary of the Interior shall make the report publicly available by posting the report on an Internet website.

WORKING CAPITAL FUND

(RESCISSION)

From unobligated balances under this heading \$4,525,000 are rescinded.

ADMINISTRATIVE PROVISION

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed 14 passenger motor vehicles, of which 12 are for replacement only.

GENERAL PROVISIONS

DEPARTMENT OF THE INTERIOR

SEC. 201. In order to increase opportunities for Indian tribes to develop, manage, and protect their water resources, in fiscal year 2003 and thereafter, the Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, is authorized to enter into grants and cooperative agreements with any Indian tribe, institution of higher education, national Indian organization, or tribal organization pursuant to 31 U.S.C. 6301-6308. Nothing in this Act is intended to modify or limit the provisions of the Indian Self Determination Act (25 U.S.C. 45 et seq.).

SEC. 202. (a) None of the funds appropriated or otherwise made available by this Act may be used to determine the final point of discharge for the interceptor drain for the San Luis Unit until development by the Secretary of the Interior and the State of California of a plan, which shall conform to the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters.

(b) The costs of the Kesterson Reservoir Cleanup Program and the costs of the San Joaquin Valley Drainage Program shall be classified by the Secretary of the Interior as reimbursable or nonreimbursable and collected until fully repaid pursuant to the "Cleanup Program—Alternative Repayment Plan" and the "SJVD—Alternative Repayment Plan" described in the report entitled "Repayment Report, Kesterson Reservoir Cleanup Program and San Joaquin Valley Drainage Program, February 1995", prepared by the Department of the Interior, Bureau of Reclamation. Any future obligations of funds by the United States relating to, or providing for, drainage service or drainage studies for the San Luis Unit shall be fully reimbursable by San Luis Unit beneficiaries of such service or studies pursuant to Federal reclamation law.

SEC. 203. None of the funds appropriated or otherwise made available by this or any other Act may be used to pay the salaries and expenses of personnel to purchase or lease water in the Middle Rio Grande or the Carlsbad Projects in New Mexico unless said purchase or lease is in compliance with the purchase requirements of section 202 of Public Law 106-60.

SEC. 204. Funds under this title for Drought Emergency Assistance shall be made available primarily for leasing of water for specified drought related purposes from willing lessors, in compliance with existing State laws and administered under State water priority allocation. Such leases may be entered into with an option to purchase: Provided, That such purchase is approved by the State in which the purchase takes place and the purchase does not cause economic harm within the State in which the purchase is made.

SEC. 205. (a) Notwithstanding any other provision of law, the Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, may not obligate funds appropriated for the current fiscal year or any prior Energy and Water Development Appropriations Act, or funds otherwise made available to the Commissioner of the Bureau of Reclamation, and may not use discretion, if any, to reduce or reallocate water to be delivered pursuant to San Juan-Chama Project contracts, including execution of said contracts facilitated by the Middle Rio Grande Project, to meet the requirements of the Endangered Species Act, unless such water is acquired or otherwise made available from a willing seller or lessor and the use is in compliance with the laws of the State of New Mexico, including but not limited to, permitting requirements.

(b) Complying with the reasonable and prudent alternatives and the incidental take limits defined in the Biological Opinion released by

the United States Fish and Wildlife Service dated March 17, 2003 combined with efforts carried out pursuant to Public Law 106-377, Public Law 107-66, and Public Law 108-7 fully meet all requirements of the Endangered Species Act (16 U.S.C. 1531 et seq.) for the conservation of the Rio Grande Silvery Minnow (*Hybognathus amarus*) and the Southwestern Willow Flycatcher (*Empidonax trailii extimus*) on the Middle Rio Grande in New Mexico.

SEC. 206. ENDANGERED SPECIES COLLABORATIVE PROGRAM. (a) Using funds previously appropriated, the Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation and the Director of the Fish and Wildlife Service, for purposes of improving the efficiency and expediting the efforts of the Endangered Species Act Collaborative Program Workgroup, is directed to establish an executive committee of seven members consisting of—

(1) one member from the Bureau of Reclamation;

(2) one member from the Fish and Wildlife Service; and

(3) one member at large representing each of the following six entities (selected at the discretion of the entity in consultation with the Bureau of Reclamation and the Fish and Wildlife Service) currently participating as signatories to the existing Memorandum of Understanding:

(A) other Federal agencies;

(B) State agencies;

(C) municipalities;

(D) universities and environmental groups; and

(E) business and industrial interests.

(b) Formation of this committee shall occur not later than 45 days after enactment of this Act.

(c) Fiscal year 2004 appropriations shall not be obligated or expended prior to approval by the Committee of a detailed spending plan.

SEC. 207. TULAROSA BASIN NATIONAL DESALINATION RESEARCH FACILITY. (a) DESALINATION DEMONSTRATION AND DEVELOPMENT.—Pursuant to section 4(a) of Public Law 104-298, 110 Stat. 3622 (October 11, 1996), the Secretary may hereafter conduct or contract for the design, construction, testing and operation of the Tularosa Basin National Desalination Research Facility.

(b) The Tularosa Basin National Desalination Research Facility is hereafter exempt from all provisions of section 7 of Public Law 104-298, 110 Stat. 3622 (October 11, 1996). The Federal share of the cost of the Tularosa Basin National Desalination Research Facility may be up to 100 percent, including the cost of design, construction, operation, maintenance, repair and rehabilitation.

SEC. 208. The Secretary of the Interior, in carrying out CALFED-related activities, may undertake feasibility studies for Sites Reservoir, Los Vaqueros Reservoir Enlargement, and Upper San Joaquin Storage projects, hereafter. These storage studies should be pursued along with ongoing environmental and other projects in a balanced manner.

SEC. 209. The Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, is authorized to enter into grants, cooperative agreements, and other agreements with irrigation or water districts to fund up to 50 percent of the cost of planning, designing, and constructing improvements that will conserve water, increase water use efficiency, or enhance water management through measurement or automation, at existing water supply projects within the states identified in the Act of June 17, 1902, as amended, and supplemented: Provided, That when such improvements are to Federally owned facilities, such funds may be provided in advance on a non-reimbursable basis to an entity operating affected transferred works or may be deemed non-reimbursable for non-transferred works: Provided further, That the calculation of the non-Federal contribution shall provide for consideration of the value of any in-kind contributions, but shall not include

funds received from other Federal agencies: Provided further, That the cost of operating and maintaining such improvements shall be the responsibility of the non-Federal entity: Provided further, That this section shall not supercede any existing project-specific funding authority. The Secretary is also authorized to enter into grants or cooperative agreements with universities or non-profit research institutions to fund water use efficiency research.

SEC. 210. HAWAII WATER RESOURCES STUDY. The Hawaii Water Resources Act of 2000 (Public Law 106-566, 114 Stat. 2818) is amended—

(1) in section 103—

(A) in subsection (b)(1), by striking “Not” and all that follows through “the Secretary” and inserting “The Secretary” and

(B) in subsection (e), by striking “\$300,000” and all that follows and inserting “\$2,000,000 for the Federal share of the activities authorized under this section”; and

(2) in section 104(b), by striking “cost-effective,” and all that follows and inserting “cost-effective.”.

SEC. 211. Notwithstanding the provisions of Title IV of Public Law 102-575 (106 STAT. 4648), the contributions of the Western Area Power Administration to the Utah Reclamation Mitigation and Conservation Account shall expire ten fiscal years from the date of enactment of this Act. Such contributions shall be from an account established by the Western Area Power Administration for this purpose and such contributions shall be made available to the Utah Reclamation Mitigation and Conservation Account subject to appropriations. After ten fiscal years from the date of enactment of this Act, the Utah Reclamation Mitigation and Conservation Commission is hereby authorized to utilize interest earned and accrued to the Utah Reclamation Mitigation and Conservation Account.

SEC. 212. That of the funds provided, an additional \$3,000,000 shall be available for the Middle Rio Grande, New Mexico project and an additional \$3,000,000 shall be available for the Lake Tahoe Regional Wetlands Development project.

SEC. 213. LOWER COLORADO RIVER BASIN DEVELOPMENT. (a) IN GENERAL.—Notwithstanding section 403(f) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)), no amount from the Lower Colorado River Basin Development Fund shall be paid to the general fund of the Treasury until each provision of the revised Stipulation Regarding a Stay and for Ultimate Judgment Upon the Satisfaction of Conditions, filed in United States district court on April 24, 2003, in Central Arizona Water Conservation District v. United States (No. CIV 95-625-TUC-WDB (EHC), No. CIV 95-1720-OHX-EHC (Consolidated Action)), and any amendment or revision thereof, is met.

(b) PAYMENT TO GENERAL FUND.—If any of the provisions of the stipulation referred to in subsection (a) are not met by the date that is 10 years after the date of enactment of this Act, payments to the general fund of the Treasury shall resume in accordance with section 403(f) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)).

(c) AUTHORIZATION.—Amounts in the Lower Colorado River Basin Development Fund that but for this section would be returned to the general fund of the Treasury may not be expended until further Act of Congress.

SEC. 214. TUALATIN RIVER BASIN, OREGON. (a) AUTHORIZATION TO CONDUCT FEASIBILITY STUDY.—The Secretary of the Interior may conduct a Tualatin River Basin water supply feasibility study—

(1) to identify ways to meet future water supply needs for agricultural, municipal, and industrial uses;

(2) to identify water conservation and water storage measures;

(3) to identify measures that would—

(A) improve water quality; and

(B) enable environmental and species protection; and

(4) as appropriate, to evaluate integrated water resource management and supply needs in the Tualatin River Basin, Oregon.

(b) FEDERAL SHARE.—The Federal share of the cost of the study conducted under subsection (a)—

(1) shall not exceed 50 percent; and

(2) shall be nonreimbursable and nonreturnable.

(c) ACTIVITIES.—No activity carried out under this section shall be considered a supplemental or additional benefit under Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.)).

(d) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$2,900,000, to remain available until expended.

SEC. 215. FACILITATION OF INDIAN WATER RIGHTS. The Secretary of the Interior may extend, on an annual basis, the repayment schedule of debt incurred under section 9(d) of the Act of August 4, 1939 (43 U.S.C. 485h(d)) to facilitate Indian water rights settlements in the State of Arizona.

SEC. 216. RESTORATION OF FISH AND WILDLIFE HABITAT AND PROVISION OF BOTTLED WATER FOR FALLON SCHOOLCHILDREN. (a) IN GENERAL.—In carrying out section 2507 of Public Law 101-171, the Secretary of the Interior, acting through the Commissioner of Reclamation, shall—

(1) notwithstanding section 2507(b) of Public Law 101-171, provide \$2,500,000 to the State of Nevada to purchase water rights from willing sellers and make necessary improvements for Carson Lake and Pasture;

(2) provide \$100,000 to Families in Search of Truth, Fallon, Nevada, for the purchase of bottled water for schoolchildren in Fallon-area schools.

(b) LIMITATION.—The funds specified to be provided in subsection (a)(1) shall only be provided by the Bureau of Reclamation when the title to Carson Lake and Pasture is conveyed to the State of Nevada; the waiver of section 2507(b) of Public Law 101-171 shall only apply to water purchases for Carson Lake and Pasture.

(c) ADMINISTRATION.—The Secretary of the Interior, acting through the Commissioner of Reclamation, may provide financial assistance to State and local public agencies, Indian tribes, nonprofit organizations, and individuals to carry out this section and section 2507 of Public Law 101-171.

TITLE III

DEPARTMENT OF ENERGY

ENERGY PROGRAMS

ENERGY SUPPLY

For Department of Energy expenses including the purchase, construction, and acquisition of plant and capital equipment, and other expenses necessary for energy supply activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, and the purchase of not to exceed 12 passenger motor vehicles for replacement only, including two buses; \$920,357,000, to remain available until expended, of which \$400,000 may be made available to the Office of International Market Development to carry out a program to implement, and serve as an administrative center in support of, the multi-agency Clean Energy Technology Exports Initiative, of which \$3,000,000 may be available for the Navajo electrification demonstration program under section 602 of Public Law 106-511 (114 Stat. 2376): Provided, That of the funds made available for the Office of Electricity and Energy Assurance, the Office may provide grants to States and regional

organizations to work with system operators, including regional transmission organizations and independent system operators, on transmission system planning. The Office may require that grantees consider a full range of technology and policy options for transmission system planning, including energy efficiency at customer facilities and in transmission equipment, customer demand response, distributed generation and advanced communications and controls: Provided further, That of the funds made available for the Office of Electricity and Energy Assurance, the Office may develop regional training and technical assistance programs for State regulators and system operators to improve operation of the electricity grid.

NON-DEFENSE SITE ACCELERATION COMPLETION

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other expenses necessary for non-defense environmental management site acceleration activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, \$171,875,000, to remain available until expended.

URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING FUND

For necessary expenses in carrying out uranium enrichment facility decontamination and decommissioning, remedial actions, and other activities of title II of the Atomic Energy Act of 1954 and title X, subtitle A, of the Energy Policy Act of 1992, \$396,124,000, to be derived from the Fund, to remain available until expended, of which \$26,000,000 shall be available in accordance with title X, subtitle A, of the Energy Policy Act of 1992.

NON-DEFENSE ENVIRONMENTAL SERVICES

For Department of Energy expenses necessary for non-defense environmental services activities conducted as a result of nuclear energy research and development activities that indirectly support the accelerated cleanup and closure mission at environmental management sites, as well as new work scope transferred to the Environmental Management program, including the purchase, construction, and acquisition of plant and capital equipment and other necessary expenses, \$302,121,000, to remain available until expended.

SCIENCE

For Department of Energy expenses including the purchase, construction and acquisition of plant and capital equipment, and other expenses necessary for science activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or facility or for plant or facility acquisition, construction, or expansion, and purchase of not to exceed 15 passenger motor vehicles for replacement only, including not to exceed one ambulance, \$3,360,435,000, to remain available until expended, of which \$3,000,000 may be available for a defense and security research center.

NUCLEAR WASTE DISPOSAL

For nuclear waste disposal activities to carry out the purposes of Public Law 97-425, as amended, including the acquisition of real property or facility construction or expansion, \$140,000,000, to remain available until expended and to be derived from the Nuclear Waste Fund: Provided, That not to exceed \$2,500,000 shall be provided to the State of Nevada solely for expenditures, other than salaries and expenses of State employees, to conduct scientific oversight responsibilities and participate in licensing activities pursuant to the Nuclear Waste Policy Act of 1982, Public Law 97-425, as amended: Provided further, That \$7,000,000 shall be provided to affected units of local governments, as

defined in Public Law 97-425, to conduct appropriate activities pursuant to the Act: Provided further, That the distribution of the funds as determined by the units of local government shall be approved by the Department of Energy: Provided further, That the funds for the State of Nevada shall be made available solely to the Nevada Division of Emergency Management by direct payment and units of local government by direct payment: Provided further, That within 90 days of the completion of each Federal fiscal year, the Nevada Division of Emergency Management and the Governor of the State of Nevada and each local entity shall provide certification to the Department of Energy that all funds expended from such payments have been expended for activities authorized by Public Law 97-425 and this Act. Failure to provide such certification shall cause such entity to be prohibited from any further funding provided for similar activities: Provided further, That none of the funds herein appropriated may be: (1) used directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for lobbying activity as provided in 18 U.S.C. 1913; (2) used for litigation expenses; or (3) used to support multi-State efforts or other coalition building activities inconsistent with the restrictions contained in this Act: Provided further, That all proceeds and recoveries realized by the Secretary in carrying out activities authorized by the Nuclear Waste Policy Act of 1982, Public Law 97-425, as amended, including but not limited to, any proceeds from the sale of assets, shall be available without further appropriation and shall remain available until expended.

DEPARTMENTAL ADMINISTRATION

DEPARTMENTAL ADMINISTRATION (INCLUDING TRANSFER OF FUNDS)

For salaries and expenses of the Department of Energy necessary for departmental administration in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the hire of passenger motor vehicles and official reception and representation expenses (not to exceed \$35,000), \$309,564,000, to remain available until expended, plus such additional amounts as necessary to cover increases in the estimated amount of cost of work for others notwithstanding the provisions of the Anti-Deficiency Act (31 U.S.C. 1511 et seq.): Provided, That such increases in cost of work are offset by revenue increases of the same or greater amount, to remain available until expended: Provided further, That moneys received by the Department for miscellaneous revenues estimated to total \$146,668,000 in fiscal year 2004 may be retained and used for operating expenses within this account, and may remain available until expended, as authorized by section 201 of Public Law 95-238, notwithstanding the provisions of 31 U.S.C. 3302: Provided further, That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during fiscal year 2004, and any related unappropriated receipt account balances remaining from prior years' miscellaneous revenues, so as to result in a final fiscal year 2004 appropriation from the General Fund estimated at not more than \$162,896,000: Provided further, That of this amount, sufficient funds shall be available for the Secretary of Energy, not later than 60 days after the last day of the fiscal year, to submit to Congress a report on the amount of acquisitions made by the Department of Energy during such fiscal year of articles, materials, or supplies that were manufactured outside the United States. Such report shall separately indicate the dollar value of any articles, materials, or supplies purchased by the Department of Energy that were manufactured outside the United States, an itemized list of all waivers under the Buy American Act (41 U.S.C. 10a et seq.) that were granted with respect to such articles, materials, or supplies, and a summary of total procurement funds spent on goods manufactured in the

United States versus funds spent on goods manufactured outside of the United States. The Secretary of Energy shall make the report publicly available by posting the report on an Internet website.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$39,462,000, to remain available until expended.

ATOMIC ENERGY DEFENSE ACTIVITIES

NATIONAL NUCLEAR SECURITY ADMINISTRATION WEAPONS ACTIVITIES

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense weapons activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; one fixed wing aircraft for replacement only; and the purchase of not to exceed six passenger motor vehicles, of which four shall be for replacement only, including not to exceed two buses; \$6,473,814,000, to remain available until expended: Provided, That the Secretary of Energy may use \$1,000,000 of available funds to preserve historical sites associated with, and other aspects of the history of, the Manhattan Project: Provided further, That \$105,000,000 is authorized to be appropriated for Project 01-D-108, Microsystems and engineering sciences applications (MESA), Sandia National Laboratories, Albuquerque, New Mexico: Provided further, That \$3,564,000 is authorized to be appropriated for Project 04-D-103, Project engineering and design (PED), various locations: Provided further, That a plant or construction project for which amounts are made available under this heading in this fiscal year with a current estimated cost of less than \$10,000,000 is considered for purposes of section 3622 of Public Law 107-314 as a plant project for which the approved total estimated cost does not exceed the minor construction threshold and for purposes of section 3623 of Public Law 107-314 as a construction project with a current estimated cost of less than the minor construction threshold.

DEFENSE NUCLEAR NONPROLIFERATION

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense, defense nuclear nonproliferation activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, \$1,340,195,000, to remain available until expended.

NAVAL REACTORS

For Department of Energy expenses necessary for naval reactors activities to carry out the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition (by purchase, condemnation, construction, or otherwise) of real property, plant, and capital equipment, facilities, and facility expansion, and the purchase of not to exceed one bus; \$768,400,000, to remain available until expended.

OFFICE OF THE ADMINISTRATOR

For necessary expenses of the Office of the Administrator in the National Nuclear Security Administration, including official reception and representation expenses (not to exceed \$12,000), \$337,980,000, to remain available until expended.

ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES

DEFENSE SITE ACCELERATION COMPLETION

For Department of Energy expenses, including the purchase, construction, and acquisition of

plant and capital equipment and other expenses necessary for atomic energy defense site acceleration completion activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; \$5,770,695,000, to remain available until expended: Provided, That the Secretary of Energy is directed to use \$1,000,000 of the funds provided for regulatory and technical assistance to the State of New Mexico, to amend the existing WIPP Hazardous Waste Permit to comply with the provisions of section 310 of this Act.

DEFENSE ENVIRONMENTAL SERVICES

For Department of Energy expenses necessary for defense-related environmental services activities that indirectly support the accelerated cleanup and closure mission at environmental management sites, including the purchase, construction, and acquisition of plant and capital equipment and other necessary expenses, and the purchase of not to exceed one ambulance for replacement only, \$987,679,000, to remain available until expended.

OTHER DEFENSE ACTIVITIES

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense, other defense activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, \$492,209,000, to remain available until expended: Provided, That from the funds made available under this heading for transfer to the National Institute for Occupational Safety and Health for epidemiological research, \$7,500,000 shall be transferred to include projects to conduct epidemiological research and carry out other activities to establish the scientific link between radiation exposure and the occurrence of chronic lymphocytic leukemia.

DEFENSE NUCLEAR WASTE DISPOSAL

For nuclear waste disposal activities to carry out the purposes of Public Law 97-425, as amended, including the acquisition of real property or facility construction or expansion, \$285,000,000, to remain available until expended.

POWER MARKETING ADMINISTRATIONS

BONNEVILLE POWER ADMINISTRATION FUND

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93-454, are approved for official reception and representation expenses in an amount not to exceed \$1,500.

During fiscal year 2004, no new direct loan obligations may be made.

OPERATION AND MAINTENANCE, SOUTHEASTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, including transmission wheeling and ancillary services, pursuant to the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, \$5,100,000, to remain available until expended; in addition, notwithstanding the provision of 31 U.S.C. 3302, up to \$34,400,000 collected by the Southeastern Power Administration pursuant to the Flood Control Act to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures.

OPERATION AND MAINTENANCE, SOUTHWESTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities

and of marketing electric power and energy, for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses, including official reception and representation expenses in an amount not to exceed \$1,500 in carrying out the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power area, \$28,600,000, to remain available until expended; in addition, notwithstanding 31 U.S.C. 3302, beginning in fiscal year 2004 and thereafter, such funds as are received by the Southwestern Power Administration from any State, municipality, corporation, association, firm, district, or individual as advance payment for work that is associated with Southwestern's transmission facilities, consistent with that authorized in section 5 of the Flood Control Act, shall be credited to this account and be available until expended: Provided, That notwithstanding the provision of 31 U.S.C. 3302, up to \$2,800,000 collected by the Southwestern Power Administration pursuant to the Flood Control Act to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures.

CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (42 U.S.C. 7152), and other related activities including conservation and renewable resources programs as authorized, including official reception and representation expenses in an amount not to exceed \$1,500, \$177,950,000, to remain available until expended, of which \$167,236,000 shall be derived from the Department of the Interior Reclamation Fund: Provided, That of the amount herein appropriated, \$6,200,000 is for deposit into the Utah Reclamation Mitigation and Conservation Account pursuant to title IV of the Reclamation Projects Authorization and Adjustment Act of 1992: Provided further, That notwithstanding the provision of 31 U.S.C. 3302, up to \$186,100,000 collected by the Western Area Power Administration pursuant to the Flood Control Act of 1944 and the Reclamation Project Act of 1939 to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures: Provided further, That the \$750,000 that is made available under this heading for a transmission study on the placement of 500 megawatt wind energy in North Dakota and South Dakota may be nonreimbursable: Provided further, That, in accordance with section 203 of the Colorado River Basin Salinity Control Act (43 U.S.C. 1593), electrical power supply and delivery assistance may be provided to the local distribution utility as required to maintain proper voltage levels at the Big Sandy River Diffuse Source Control Unit.

FALCON AND AMISTAD OPERATING AND MAINTENANCE FUND

For operation, maintenance, and emergency costs for the hydroelectric facilities at the Falcon and Amistad Dams, \$2,640,000, to remain available until expended, and to be derived from the Falcon and Amistad Operating and Maintenance Fund of the Western Area Power Administration, as provided in section 423 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995.

FEDERAL ENERGY REGULATORY COMMISSION SALARIES AND EXPENSES

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including services as authorized by 5 U.S.C. 3109, the hire of pas-

senger motor vehicles, and official reception and representation expenses (not to exceed \$3,000), \$199,400,000, to remain available until expended: Provided, That notwithstanding any other provision of law, not to exceed \$199,400,000 of revenues from fees and annual charges, and other services and collections in fiscal year 2004 shall be retained and used for necessary expenses in this account, and shall remain available until expended: Provided further, That the sum herein appropriated from the General Fund shall be reduced as revenues are received during fiscal year 2004 so as to result in a final fiscal year 2004 appropriation from the General Fund estimated at not more than \$0.

DEFENSE ENVIRONMENTAL MANAGEMENT PRIVATIZATION (RESCISSION)

Of the funds appropriated in prior Energy and Water Development Appropriation Acts, \$15,329,000 of unexpended balances of prior appropriations are rescinded: Provided, That \$13,329,000 shall be derived from the Paducah Disposal Facility Privatization (OR-574) and \$2,000,000 shall be derived from the Portsmouth Disposal Facility Privatization (OR-674).

GENERAL PROVISIONS

SEC. 301. (a) None of the funds appropriated by this Act may be used to award a management and operating contract, or a contract for environmental remediation or waste management in excess of \$100,000,000 in annual funding at a current or former management and operating contract site or facility, or award a significant extension or expansion to an existing management and operating contract, or other contract covered by this section, unless such contract is awarded using competitive procedures or the Secretary of Energy grants, on a case-by-case basis, a waiver to allow for such a deviation. The Secretary may not delegate the authority to grant such a waiver.

(b) Within 30 days of formally notifying an incumbent contractor that the Secretary intends to grant such a waiver, the Secretary shall submit to the Subcommittees on Energy and Water Development of the Committees on Appropriations of the House of Representatives and the Senate a report notifying the Subcommittees of the waiver and setting forth, in specificity, the substantive reasons why the Secretary believes the requirement for competition should be waived for this particular award.

SEC. 302. None of the funds appropriated by this Act may be used to—

(1) develop or implement a workforce restructuring plan that covers employees of the Department of Energy; or

(2) provide enhanced severance payments or other benefits for employees of the Department of Energy, under section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 42 U.S.C. 7274h).

SEC. 303. None of the funds appropriated by this Act may be used to augment the \$12,321,000 made available for obligation by this Act for severance payments and other benefits and community assistance grants under section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 42 U.S.C. 7274h) unless the Department of Energy submits a reprogramming request subject to approval by the appropriate congressional committees.

SEC. 304. None of the funds appropriated by this Act may be used to prepare or initiate Requests For Proposals (RFPs) for a program if the program has not been funded by Congress.

(TRANSFERS OF UNEXPENDED BALANCES)

SEC. 305. The unexpended balances of prior appropriations provided for activities in this Act may be transferred to appropriation accounts for such activities established pursuant to this title. Balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as

one fund for the same time period as originally enacted.

SEC. 306. None of the funds in this or any other Act for the Administrator of the Bonneville Power Administration may be used to enter into any agreement to perform energy efficiency services outside the legally defined Bonneville service territory, with the exception of services provided internationally, including services provided on a reimbursable basis, unless the Administrator certifies in advance that such services are not available from private sector businesses.

SEC. 307. The Administrator of the National Nuclear Security Administration may authorize the plant manager of a covered nuclear weapons production plant to engage in research, development, and demonstration activities with respect to the engineering and manufacturing capabilities at such plant in order to maintain and enhance such capabilities at such plant: Provided, That of the amount allocated to a covered nuclear weapons production plant each fiscal year from amounts available to the Department of Energy for such fiscal year for national security programs, not more than an amount equal to 2 percent of such amount may be used for these activities: Provided further, That for purposes of this section, the term "covered nuclear weapons production plant" means the following:

- (1) the Kansas City Plant, Kansas City, Missouri;
- (2) the Y-12 Plant, Oak Ridge, Tennessee;
- (3) the Pantex Plant, Amarillo, Texas;
- (4) the Savannah River Plant, South Carolina; and
- (5) the Nevada Test Site.

SEC. 308. Funds appropriated by this or any other Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2004 until the enactment of the Intelligence Authorization Act for fiscal year 2004.

SEC. 309. None of the funds in this Act may be used to dispose of transuranic waste in the Waste Isolation Pilot Plant which contains concentrations of plutonium in excess of 20 percent by weight for the aggregate of any material category on the date of enactment of this Act, or is generated after such date. For the purposes of this section, the material categories of transuranic waste at the Rocky Flats Environmental Technology Site include: (1) ash residues; (2) salt residues; (3) wet residues; (4) direct repackaging residues; and (5) scrub alloy as referenced in the "Final Environmental Impact Statement on Management of Certain Plutonium Residues and Scrub Alloy Stored at the Rocky Flats Environmental Technology Site".

SEC. 310. (a) The Secretary of Energy is directed to file a permit modification to the Waste Analysis Plan (WAP) and associated provisions contained in the Hazardous Waste Facility Permit for the Waste Isolation Pilot Plant (WIPP). For purposes of determining compliance of the modifications to the WAP with the hazardous waste analysis requirements of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), or other applicable laws waste confirmation for all waste received for storage and disposal shall be limited to (1) confirmation that the waste contains no ignitable, corrosive, or reactive waste through the use of either radiography or visual examination of a statistically representative subpopulation of the waste; and (2) review of the Waste Stream Profile Form to verify that the waste contains no ignitable, corrosive, or reactive waste and that assigned Environmental Protection Agency hazardous waste numbers are allowed for storage and disposal by the WIPP Hazardous Waste Facility Permit.

(b) Compliance with the disposal room performance standards of the WAP shall be demonstrated exclusively by monitoring airborne volatile organic compounds in underground disposal rooms in which waste has been emplaced until panel closure.

SEC. 311. Notwithstanding any other provision of law, the material in the concrete silos at the Fernald uranium processing facility currently managed by the Department of Energy shall be considered "byproduct material" as defined by section 11e.(2) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014(e)(2)). The Nuclear Regulatory Commission or an Agreement State, as appropriate, shall regulate the material as "11e.(2) by-product material" in the event that the Department of Energy proposes to dispose of the material in an NRC-regulated or Agreement State-regulated facility.

SEC. 312. CORPS OF ENGINEERS HYDROPOWER OPERATION AND MAINTENANCE FUNDING. (a) Notwithstanding 31 U.S.C. 3302 and the last sentence of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s) and subject to (d), the Secretary of Energy shall collect fees, as offsetting collections, in the amount of \$145,000,000, pursuant to those acts which authorize Southeastern Power Administration, Southwestern Power Administration, and Western Power Administration to collect revenues for power provided. The Secretary of Energy shall make the collection available to the Secretary of the Army hereafter referred to as "the Secretary".

(b) The Secretary shall accept funds made available pursuant to subsection (a) and shall use such funds for Construction, General. The funds provided under this section shall remain available until expended.

(c) Subsection (b) of this section shall be carried out in consultation with preference customers under Federal law to the marketing of power.

(d) This section shall become effective only upon the enactment of authorizing legislation changing the nature of receipts collected by Southeastern Power Administration, Southwestern Power Administration, and the Western Area Power Administration by making the collection of not less than \$145,000,000 of such receipts in fiscal year 2004 subject to approval in an annual appropriations Act.

SEC. 313. No funds appropriated or otherwise made available to the Department of Energy by this Act may be available for activities at the engineering development phases, phase 3 or 6.3, or beyond, in support of advanced nuclear weapons concepts, including the robust nuclear earth penetrator.

SEC. 314. No funds appropriated or otherwise made available under this title under the heading "ATOMIC ENERGY DEFENSE ACTIVITIES" may be obligated or expended for additional and exploratory studies under the Advanced Concepts Initiative until 30 days after the date on which the Administrator for Nuclear Security submits to Congress a detailed report on the planned activities for additional and exploratory studies under the initiative for fiscal year 2004. The report shall be submitted in unclassified form, but may include a classified annex.

SEC. 315. MARTIN'S COVE LEASE. (a) DEFINITIONS.—In this section:

(1) BUREAU OF LAND MANAGEMENT.—The term "Bureau of Land Management", hereafter referred to as the "BLM", means an agency of the Department of the Interior.

(2) CORPORATION.—The term "Corporation" means the Corporation of the Presiding Bishop of The Church of Jesus Christ of Latter-day Saints, located at 50 East North Temple Street, Salt Lake City, Utah.

(3) MARTIN'S COVE.—The term "Martin's Cove" means the area, consisting of approximately 940 acres of public lands in Natrona County, Wyoming as depicted on the Martin's Cove map numbered MC-001.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(b) LEASE.—

(1) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Secretary may enter into an agreement with the Corporation to lease, for a term of 25 years, approxi-

mately 940 acres of Federal land depicted on the Martin's Cove map MC-001. The Corporation shall retain the right of ingress and egress in, from and to any part of the leasehold for its use and management as an important historical site.

(2) TERMS AND CONDITIONS.—

(A) SURVEY.—As a condition of the agreement under paragraph (1), the Corporation shall provide a boundary survey to the Secretary, acceptable to the Corporation and the Secretary, of the parcels of land to be leased under paragraph (1).

(B) ACCESS.—

(i) IN GENERAL.—The Secretary and the Corporation shall enter into a lease covenant, binding on any successor or assignee that ensures that, consistent with the historic purposes of the site, public access will be provided across private land owned by the Corporation to Martin's Cove and Devil's Gate. Access shall—

(I) ensure public visitation for historic, educational and scenic purposes through private lands owned by the Corporation to Martin's Cove and Devil's Gate;

(II) provide for public education, ecologic and preservation at the Martin's Cove site;

(III) be provided to the public without charge; and

(IV) permit the Corporation, in consultation with the BLM, to regulate entry as may be required to protect the environmental and historic values of the resource at Martin's Cove or at such times as necessitated by weather conditions, matters of public safety and nighttime hours.

(C) IMPROVEMENTS.—The Corporation may, upon approval of the BLM, improve the leasehold as may become necessary from time to time in order to accommodate visitors to the leasehold.

(D) ARCHAEOLOGICAL PRESERVATION.—The Corporation shall have the obligation to protect and maintain any historical or archaeological artifacts discovered or otherwise identified at Martin's Cove.

(E) VISITATION GUIDELINES.—The Corporation may establish, in consultation with the BLM, visitation guidelines with respect to such issues as firearms, alcoholic beverages, and controlled substances and conduct consistent with the historic nature of the resource, and to protect public health and safety.

(F) NO ABRIDGEMENT.—The lease shall not be subject to abridgement, modification, termination, or other taking in the event any surrounding area is subsequently designated as a wilderness or other protected areas. The lease shall contain a provision limiting the ability of the Secretary from administratively placing Martin's Cove in a restricted land management status such as a Wilderness Study Area.

(G) RIGHT OF FIRST REFUSAL.—The Corporation shall be granted a right of first refusal to lease or otherwise manage Martin's Cove in the event the Secretary proposes to lease or transfer control or title of the land to another party.

(H) FAIR MARKET VALUE LEASE PAYMENTS.—The Corporation shall make lease payments which reflect the fair market rental value of the public lands to be leased, provided however, such lease payments shall be offset by value of the public easements granted by the Corporation to the Secretary across private lands owned by the Corporation for access to Martin's Cove and Devil's Gate.

(I) RENEWAL.—The Secretary may offer to renew such lease on terms which are mutually acceptable to the parties.

(c) MINERAL WITHDRAWAL.—The Secretary shall retain the subsurface mineral estate under the leasehold, provided that the leased lands shall be withdrawn from all forms of entry, appropriations, or disposal under the public land laws and disposition under all laws relating to oil and gas leasing.

(d) NO PRECEDENT SET.—This Act does not set a precedent for the terms and conditions of leases between or among private entities and the United States.

(e) **VALID AND EXISTING RIGHTS.**—The Lease provided for under this section shall be subject to valid existing rights with respect to any lease, right-of-way, permit, or other valid existing rights to which the property is subject.

(f) **AVAILABILITY OF MAP.**—The Secretary shall keep the map identified in this section on file and available for public inspection in the Casper District Office of the BLM in Wyoming and the State Office of the BLM, Cheyenne, Wyoming.

(g) **NEPA COMPLIANCE.**—The Secretary shall comply with the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in carrying out this section.

SEC. 316. (a) MEMORANDUM OF AGREEMENT.—Not later than 45 days after the date of enactment of this Act, the Secretary of Energy and the Secretary of Labor shall enter into a Memorandum of Agreement (referred to in this section as the “MOA”) under which the Secretary of Labor shall agree to provide technical and managerial assistance pursuant to subtitle D of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7385o et seq.).

(b) **REQUIREMENT.**—Under the MOA entered into under subsection (a), the Secretary of Labor shall, not later than 90 days after the date of enactment of this Act, assume management and operational responsibility for the development and preparation of claims filed with the Department of Energy under subtitle D of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7385o et seq.), consistent with the regulations under part 852 of title 10, Code of Federal Regulations, including the development of information necessary for the informed consideration of such claims by a physicians panel (which shall include work histories, medical records, and exposure assessments with respect to toxic substances).

(c) **PROCUREMENT OF SERVICES.**—The Secretary of Labor may procure temporary services in carrying out the duties of the Secretary under the MOA.

(d) **DUTIES OF SECRETARY OF ENERGY.**—Under the MOA entered into under subsection (a), the Secretary of Energy shall—

(1) consistent with subtitle D of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7385o et seq.), manage physician panels and secure necessary records in response to requests from the Secretary of Labor; and

(2) subject to the availability of appropriations, transfer funds pursuant to requests by the Secretary of Labor.

(e) **SUBMISSION TO CONGRESS.**—The MOA entered into under subsection (a) shall be submitted to the appropriate committees of Congress and made available to the general public in both printed and electronic forms.

SEC. 317. REINSTATEMENT AND TRANSFER OF THE FEDERAL LICENSE FOR PROJECT NO. 2696. (a) DEFINITIONS.—

(1) **COMMISSION.**—The term “Commission” means the Federal Energy Regulatory Commission.

(2) **TOWN.**—The term “town” means the town of Stuyvesant, New York, the holder of Federal Energy Regulatory Commission Preliminary Permit No. 11787.

(b) **REINSTATEMENT AND TRANSFER.**—Notwithstanding section 8 of the Federal Power Act (16 U.S.C. 801) or any other provision of that Act, the Commission shall, not later than 30 days after the date of enactment of this Act—

(1) reinstate the license for Project No. 2696; and

(2) transfer the license to the town.

(c) **HYDROELECTRIC INCENTIVES.**—Project No. 2696 shall be entitled to the full benefit of any Federal law that—

(1) promotes hydroelectric development; and

(2) that is enacted within 2 years before or after the date of enactment of this Act.

(d) **CO-LICENSEE.**—Notwithstanding the issuance of a preliminary permit to the town and any consideration of municipal preference, the town may at any time add as a co-licensee to the reinstated license a private or public entity.

(e) **PROJECT FINANCING.**—The town may receive loans under sections 402 and 403 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2702, 2703) or similar programs for the reimbursement of the costs of any feasibility studies and project costs incurred during the period beginning on January 1, 2001 and ending on December 31, 2006.

(f) **ENERGY CREDITS.**—Any power produced by the project shall be deemed to be incremental hydropower for purposes of qualifying for energy credits or similar benefits.

SEC. 318. REPORT ON EXPENDITURES FOR THE ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION ACT. Not later than 180 days after the date of enactment of this Act, the Secretary of Energy shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on administrative expenditures of the Secretary for the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384 et seq.).

TITLE IV INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, for necessary expenses for the Federal Co-Chairman and the alternate on the Appalachian Regional Commission, for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by 5 U.S.C. 3109, and hire of passenger motor vehicles, \$71,145,000, to remain available until expended.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the Defense Nuclear Facilities Safety Board in carrying out activities authorized by the Atomic Energy Act of 1954, as amended by Public Law 100-456, section 1441, \$19,559,000, to remain available until expended.

DELTA REGIONAL AUTHORITY

SALARIES AND EXPENSES

For necessary expenses of the Delta Regional Authority and to carry out its activities, as authorized by the Delta Regional Authority Act of 2000, as amended, notwithstanding sections 382C(b)(2), 382F(d), and 382M(b) of said Act, \$7,000,000, to remain available until expended.

DENALI COMMISSION

For expenses of the Denali Commission including the purchase, construction and acquisition of plant and capital equipment as necessary and other expenses, \$48,500,000, to remain available until expended.

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act of 1954, as amended, including official representation expenses (not to exceed \$15,000), and purchase of promotional items for use in the recruitment of individuals for employment, \$618,800,000, to remain available until expended: Provided, That of the amount appropriated herein, \$33,100,000 shall be derived from the Nuclear Waste Fund: Provided further, That revenues from licensing fees, inspection services, and other services and collections estimated at \$538,844,000 in fiscal year 2004 shall be retained and used for necessary salaries and expenses in this account, notwithstanding 31 U.S.C. 3302, and shall remain available until expended: Provided further, That the sum herein appropriated

shall be reduced by the amount of revenues received during fiscal year 2004 so as to result in a final fiscal year 2004 appropriation estimated at not more than \$79,956,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$7,300,000, to remain available until expended: Provided, That revenues from licensing fees, inspection services, and other services and collections estimated at \$6,716,000 in fiscal year 2004 shall be retained and be available until expended, for necessary salaries and expenses in this account notwithstanding 31 U.S.C. 3302: Provided further, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 2004 so as to result in a final fiscal year 2004 appropriation estimated at not more than \$584,000.

NUCLEAR WASTE TECHNICAL REVIEW BOARD

SALARIES AND EXPENSES

For necessary expenses of the Nuclear Waste Technical Review Board, as authorized by Public Law 100-203, section 5051, \$3,177,000, to be derived from the Nuclear Waste Fund, and to remain available until expended.

TITLE V

GENERAL PROVISIONS

SEC. 501. None of the funds appropriated by this Act may be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. 1913.

SEC. 502. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) **NOTICE REQUIREMENT.**—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

(c) **PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.**—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a “Made in America” inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 503. CLARIFICATION OF INDEMNIFICATION TO PROMOTE ECONOMIC DEVELOPMENT. (a) Subsection (b)(2) of section 3158 of the National Defense Authorization Act for Fiscal Year 1998 (42 U.S.C. 7274q(b)(2)) is amended by adding the following after subparagraph (C):

“(D) Any successor, assignee, transferee, lender, or lessee of a person or entity described in subparagraphs (A) through (C).”

(b) The amendment made by section 506, as amended by this section, is effective as of the date of enactment of the National Defense Authorization Act for Fiscal Year 1998.

This Act may be cited as the “Energy and Water Development Appropriations Act, 2004”.

APPOINTMENT OF CONFEREES— S. 3

The PRESIDING OFFICER. Under a previous order, the Chair is authorized to appoint conferees on S. 3.

The PRESIDING OFFICER appointed Mr. HATCH, Mr. DEWINE, Mr. SANTORUM, Mrs. FEINSTEIN, and Mrs. BOXER conferees on the part of the Senate.

The PRESIDING OFFICER. The Senator from Pennsylvania.

ORDERS FOR TUESDAY,
SEPTEMBER 23, 2003

Mr. SANTORUM. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Tuesday, September 23. I further ask that following the prayer and the 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 begin a period of morning business for 60 minutes, with the first 30 minutes under the control of the minority leader or his designee and the remaining 30 minutes under the control of Senator HUTCHISON or her designee, provided that following morning business, the Senate resume consideration of H.R. 2691, the Interior appropriations bill, as provided under the previous order.

I further ask unanimous consent that the Senate recess from 12:30 p.m. until 2:15 p.m. for the weekly party lunches.

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

PROGRAM

Mr. SANTORUM. For the information of all Senators, tomorrow following morning business, the Senate will resume debate on H.R. 2691, the Interior appropriations bill. Under a previous order, the Senate will vote on or in relation to the Daschle amendment No. 1734 regarding Indian health care. The vote in relation to the Daschle amendment will be the first vote of tomorrow's session.

For the remainder of the day, the Senate will continue to work through amendments to the Interior appropriations bill. There are several pending amendments that will require votes, and several Senators have indicated they will offer additional amendments. On behalf of the leader, I encourage all Senators who wish to offer an amendment to contact the bill managers as soon as possible. It is the leader's intention to complete action on the Interior appropriations bill during tomorrow's session. Therefore, Senators should expect rollcall votes throughout the day and into the evening tomorrow.

ADJOURNMENT UNTIL 9:30 A.M.
TOMORROW

Mr. SANTORUM. Mr. President, if there is no further business to come before the Senate, I ask unanimous con-

sent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:36 p.m., adjourned until Tuesday, September 23, 2003, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 22, 2003:

DEPARTMENT OF EDUCATION

RAYMOND SIMON, OF ARKANSAS, TO BE ASSISTANT SECRETARY FOR ELEMENTARY AND SECONDARY EDUCATION, DEPARTMENT OF EDUCATION, VICE SUSAN B. NEUMAN, RESIGNED.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS VICE CHIEF OF STAFF, UNITED STATES ARMY, AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 601 AND 3034:

To be general

LT. GEN. GEORGE W. CASEY JR., 0000

CONFIRMATIONS

Executive nominations confirmed by the Senate September 22, 2003:

THE JUDICIARY

GLEN E. CONRAD, OF VIRGINIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF VIRGINIA.

HENRY F. FLOYD, OF SOUTH CAROLINA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF SOUTH CAROLINA.