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## House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, February 24, 2004, at 2 p.m.

## Senate

MONDAY, FEBRUARY 23, 2004

The Senate met at 12 noon and was called to order by the President pro tempore (Mr. STEVENS).

### PRAYER

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

Let us pray.

God of our silent tears, You have made of one blood all the people on earth. As millions this month celebrate the African American contribution to our history, we thank You for using people of diverse racial backgrounds for Your glory. Thank You for heroes and heroines who gave their lives to carve tunnels of opportunity through mountains of bigotry. Thank You also that our founding forbears like George Washington and others knew that certain inalienable rights can only be conferred by You, our Creator, and they wrote socio-political documents that celebrated the dignity and worth of human personality.

Forgive those sad chapters in our history when our deeds fell far short of our creeds. Use our Senators to make laws that will unite rather than divide us. May they strive to provide models of unity that transform dark yesterdays into bright tomorrows. Hasten the day when justice will roll down like waters and righteousness like a mighty stream. We pray this in Your loving 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 Repub-

lic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### RESERVATION OF LEADER TIME

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

### READING OF WASHINGTON'S FAREWELL ADDRESS

The PRESIDENT pro tempore. Under the previous order, the Senator from Louisiana, Mr. BREAU, will be recognized to deliver George Washington's Farewell Address.

Mr. BREAU at the rostrum read the Farewell Address, as follows:

*To the people of the United States:*

FRIENDS AND FELLOW CITIZENS: The period for a new election of a citizen to administer the executive government of the United States being not far distant, and the time actually arrived when your thoughts must be employed in designating the person who is to be clothed with that important trust, it appears to me proper, especially as it may conduce to a more distinct expression of the public voice, that I should now apprise you of the resolution I have formed, to decline being considered among the number of those out of whom a choice is to be made.

I beg you at the same time to do me the justice to be assured, that this resolution has not been taken without strict regard to all the considerations appertaining to the relation which binds a dutiful citizen to his country—and that, in withdrawing the tender of

service which silence in my situation might imply, I am influenced by no diminution of zeal for your future interest, no deficiency of grateful respect for your past kindness, but am supported by a full conviction that the step is compatible with both.

The acceptance of, and continuance hitherto in the office to which your suffrages have twice called me have been a uniform sacrifice of inclination to the opinion of duty, and to a deference for what appeared to be your desire. I constantly hoped that it would have been much earlier in my power, consistently with motives which I was not at liberty to disregard, to return to that retirement from which I had been reluctantly drawn. The strength of my inclination to do this, previous to the last election, had even led to the preparation of an address to declare it to you; but mature reflection on the then perplexed and critical posture of our affairs with foreign nations, and the unanimous advice of persons entitled to my confidence, impelled me to abandon the idea.

I rejoice that the state of your concerns external as well as internal, no longer renders the pursuit of inclination incompatible with the sentiment of duty or propriety; and am persuaded, whatever partiality may be retained for my services, that in the present circumstances of our country you will not disapprove my determination to retire.

The impressions with which I first undertook the arduous trust were explained on the proper occasion. In the discharge of this trust, I will only say that I have, with good intentions, contributed towards the organization and

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



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administration of the government the best exertions of which a very fallible judgment was capable. Not unconscious in the outset of the inferiority of my qualifications, experience, in my own eyes, perhaps still more in the eyes of others, has strengthened the motives to diffidence of myself; and, every day, the increasing weight of years admonishes me more and more that the shade of retirement is as necessary to me as it will be welcome. Satisfied that if any circumstances have given peculiar value to my services, they were temporary, I have the consolation to believe that, while choice and prudence invite me to quit the political scene, patriotism does not forbid it.

In looking forward to the moment which is intended to terminate the career of my political life, my feelings do not permit me to suspend the deep acknowledgment of that debt of gratitude which I owe to my beloved country for the many honors it has conferred upon me, still more for the steadfast confidence with which it has supported me and for the opportunities I have thence enjoyed of manifesting my inviolable attachment by services faithful and persevering, though in usefulness unequal to my zeal. If benefits have resulted to our country from these services, let it always be remembered to your praise and as an instructive example in our annals, that, under circumstances in which the passions agitated in every direction were liable to mislead, amidst appearances sometimes dubious, vicissitudes of fortune often discouraging, in situations in which not unfrequently, want of success has countenanced the spirit of criticism, the constancy of your support was the essential prop of the efforts and a guarantee of the plans by which they were effected. Profoundly penetrated with this idea, I shall carry it with me to my grave as a strong incitement to unceasing vows that Heaven may continue to you the choicest tokens of its beneficence; that your union and brotherly affection may be perpetual; that the free constitution, which is the work of your hands, may be sacredly maintained; that its administration in every department may be stamped with wisdom and virtue; that, in fine, the happiness of the people of these states, under the auspices of liberty, may be made complete by so careful a preservation and so prudent a use of this blessing as will acquire to them the glory of recommending it to the applause, the affection, and adoption of every nation which is yet a stranger to it.

Here, perhaps, I ought to stop. But a solicitude for your welfare, which cannot end but with my life, and the apprehension of danger natural to that solicitude, urge me on an occasion like the present to offer to your solemn contemplation, and to recommend to your frequent review, some sentiments which are the result of much reflection, of no inconsiderable observation, and which appear to me all important

to the permanency of your felicity as a people. These will be offered to you with the more freedom as you can only see in them the disinterested warnings of a parting friend, who can possibly have no personal motive to bias his counsel. Nor can I forget, as an encouragement to it, your indulgent reception of my sentiments on a former and not dissimilar occasion.

Interwoven as is the love of liberty with every ligament of your hearts, no recommendation of mine is necessary to fortify or confirm the attachment.

The unity of government which constitutes you one people is also now dear to you. It is justly so; for it is a main pillar in the edifice of your real independence, the support of your tranquillity at home, your peace abroad, of your safety, of your prosperity, of that very liberty which you so highly prize. But as it is easy to foresee that, from different causes and from different quarters, much pains will be taken, many artifices employed, to weaken in your minds the conviction of this truth; as this is the point in your political fortress against which the batteries of internal and external enemies will be most constantly and actively (though often covertly and insidiously) directed, it is of infinite moment that you should properly estimate the immense value of your national Union to your collective and individual happiness; that you should cherish a cordial, habitual, and immovable attachment to it; accustoming yourselves to think and speak of it as of the palladium of your political safety and prosperity; watching for its preservation with jealous anxiety; discountenancing whatever may suggest even a suspicion that it can, in any event, be abandoned; and indignantly frowning upon the first dawning of every attempt to alienate any portion of our country from the rest, or to enfeeble the sacred ties which now link together the various parts.

For this you have every inducement of sympathy and interest. Citizens by birth or choice of a common country, that country has a right to concentrate your affections. The name of American, which belongs to you in your national capacity, must always exalt the just pride of patriotism more than any appellation derived from local discriminations. With slight shades of difference, you have the same religion, manners, habits, and political principles. You have in a common cause fought and triumphed together. The independence and liberty you possess, are the work of joint councils and joint efforts—of common dangers, sufferings and successes.

But these considerations, however powerfully they address themselves to your sensibility, are greatly outweighed by those which apply more immediately to your interest. Here every portion of our country finds the most commanding motives for carefully guarding and preserving the Union of the whole.

The *North*, in an unrestrained intercourse with the *South*, protected by the equal laws of a common government, finds in the productions of the latter, great additional resources of maritime and commercial enterprise, and precious materials of manufacturing industry. The *South*, in the same intercourse, benefiting by the same agency of the *North*, sees its agriculture grow and its commerce expand. Turning partly into its own channels the seamen of the *North*, it finds its particular navigation invigorated; and while it contributes, in different ways, to nourish and increase the general mass of the national navigation, it looks forward to the protection of a maritime strength to which itself is unequally adapted. The *East*, in a like intercourse with the *West*, already finds, and in the progressive improvement of interior communications by land and water will more and more find a valuable vent for the commodities which it brings from abroad or manufactures at home. The *West* derives from the *East* supplies requisite to its growth and comfort—and what is perhaps of still greater consequence, it must of necessity owe the secure enjoyment of indispensable outlets for its own productions to the weight, influence, and the future maritime strength of the Atlantic side of the Union, directed by an indissoluble community of interest as *one nation*. Any other tenure by which the *West* can hold this essential advantage, whether derived from its own separate strength or from an apostate and unnatural connection with any foreign power, must be intrinsically precarious.

While then every part of our country thus feels an immediate and particular interest in union, all the parts combined cannot fail to find in the united mass of means and efforts greater strength, greater resource, proportionably greater security from external danger, a less frequent interruption of their peace by foreign nations; and, what is of inestimable value! they must derive from union an exemption from those broils and wars between themselves which so frequently afflict neighboring countries not tied together by the same government, which their own rivalships alone would be sufficient to produce, but which opposite foreign alliances, attachments, and intrigues would stimulate and embitter. Hence likewise, they will avoid the necessity of those overgrown military establishments, which under any form of government are inauspicious to liberty, and which are to be regarded as particularly hostile to republican liberty. In this sense it is, that your Union ought to be considered as a main prop of your liberty, and that the love of the one ought to endear to you the preservation of the other.

These considerations speak a persuasive language to every reflecting and virtuous mind, and exhibit the continuance of the Union as a primary object of patriotic desire. Is there a doubt

whether a common government can embrace so large a sphere? Let experience solve it. To listen to mere speculation in such a case were criminal. We are authorized to hope that a proper organization of the whole, with the auxiliary agency of governments for the respective subdivisions, will afford a happy issue to the experiment. It is well worth a fair and full experiment. With such powerful and obvious motives to union, affecting all parts of our country, while experience shall not have demonstrated its impracticability, there will always be reason to distrust the patriotism of those who in any quarter may endeavor to weaken its bands.

In contemplating the causes which may disturb our Union, it occurs as matter of serious concern, that any ground should have been furnished for characterizing parties by *geographical* discriminations—*northern* and *southern*—*Atlantic* and *western*; whence designing men may endeavor to excite a belief that there is a real difference of local interests and views. One of the expedients of party to acquire influence within particular districts, is to misrepresent the opinions and aims of other districts. You cannot shield yourself too much against the jealousies and heart burnings which spring from these misrepresentations. They tend to render alien to each other those who ought to be bound together by fraternal affection. The inhabitants of our western country have lately had a useful lesson on this head. They have seen, in the negotiation by the executive—and in the unanimous ratification by the Senate—of the treaty with Spain, and in the universal satisfaction at that event throughout the United States, a decisive proof how unfounded were the suspicions propagated among them of a policy in the general government and in the Atlantic states, unfriendly to their interests in regard to the Mississippi. They have been witnesses to the formation of two treaties, that with Great Britain and that with Spain, which secure to them everything they could desire, in respect to our foreign relations, towards confirming their prosperity. Will it not be their wisdom to rely for the preservation of these advantages on the Union by which they were procured? Will they not henceforth be deaf to those advisers, if such they are, who would sever them from their brethren and connect them with aliens?

To the efficacy and permanency of your Union, a government for the whole is indispensable. No alliances, however strict, between the parts can be an adequate substitute. They must inevitably experience the infractions and interruptions which all alliances, in all times, have experienced. Sensible of this momentous truth, you have improved upon your first essay, by the adoption of a Constitution of government, better calculated than your former, for an intimate Union and for the efficacious management of your

common concerns. This government, the offspring of our own choice, uninfluenced and unawed, adopted upon full investigation and mature deliberation, completely free in its principles, in the distribution of its powers, uniting security with energy, and containing within itself a provision for its own amendment, has a just claim to your confidence and your support. Respect for its authority, compliance with its laws, acquiescence in its measures, are duties enjoined by the fundamental maxims of true liberty. The basis of our political systems is the right of the people to make and to alter their constitutions of government.—But the Constitution which at any time exists, until changed by an explicit and authentic act of the whole people, is sacredly obligatory upon all. The very idea of the power, and the right of the people to establish government, presupposes the duty of every individual to obey the established government.

All obstructions to the execution of the laws, all combinations and associations under whatever plausible character, with the real design to direct, control, counteract, or awe the regular deliberation and action of the constituted authorities, are destructive of this fundamental principle, and of fatal tendency. They serve to organize faction; to give it an artificial and extraordinary force; to put in the place of the delegated will of the nation the will of a party, often a small but artful and enterprising minority of the community; and, according to the alternate triumphs of different parties, to make the public administration the mirror of the ill concerted and incongruous projects of faction, rather than the organ of consistent and wholesome plans digested by common councils, and modified by mutual interests. However combinations or associations of the above description may now and then answer popular ends, they are likely, in the course of time and things, to become potent engines, by which cunning, ambitious, and unprincipled men will be enabled to subvert the power of the people, and to usurp for themselves the reins of government; destroying afterwards the very engines which have lifted them to unjust dominion.

Towards the preservation of your government and the permanency of your present happy state, it is requisite, not only that you steadily discountenance irregular opposition to its acknowledged authority but also that you resist with care the spirit of innovation upon its principles, however specious the pretext. One method of assault may be to effect, in the forms of the Constitution, alterations which will impair the energy of the system and thus to undermine what cannot be directly overthrown. In all the changes to which you may be invited, remember that time and habit are at least as necessary to fix the true character of governments as of other human insti-

tutions, that experience is the surest standard by which to test the real tendency of the existing constitution of a country, that facility in changes upon the credit of mere hypotheses and opinion exposes to perpetual change from the endless variety of hypotheses and opinion; and remember, especially, that for the efficient management of your common interests in a country so extensive as ours, a government of as much vigor as is consistent with the perfect security of liberty is indispensable; liberty itself will find in such a government, with powers properly distributed and adjusted, its surest guardian. It is indeed little else than a name, where the government is too feeble to withstand the enterprises of faction, to confine each member of the society within the limits prescribed by the laws, and to maintain all in the secure and tranquil enjoyment of the rights of person and property.

I have already intimated to you the danger of parties in the state, with particular reference to the founding of them on geographical discriminations. Let me now take a more comprehensive view and warn you in the most solemn manner against the baneful effects of the spirit of party, generally.

This spirit, unfortunately, is inseparable from our nature, having its root in the strongest passions of the human mind. It exists under different shapes in all governments, more or less stifled, controlled, or repressed; but in those of the popular form it is seen in its greatest rankness, and is truly their worst enemy.

The alternate domination of one faction over another, sharpened by the spirit of revenge natural to party dissension, which in different ages and countries has perpetrated the most horrid enormities, is itself a frightful despotism. But this leads at length to a more formal and permanent despotism. The disorders and miseries which result gradually incline the minds of men to seek security and repose in the absolute power of an individual; and, sooner or later, the chief of some prevailing faction, more able or more fortunate than his competitors, turns this disposition to the purpose of his own elevation on the ruins of public liberty.

Without looking forward to an extremity of this kind, (which nevertheless ought not to be entirely out of sight) the common and continual mischiefs of the spirit of party are sufficient to make it in the interest and duty of a wise people to discourage and restrain it.

It serves always to distract the public councils, and enfeeble the public administration. It agitates the community with ill founded jealousies and false alarms, kindles the animosity of one part against another, forments occasional riot and insurrection. It opens the door to foreign influence and corruption, which finds a facilitated access to the government itself through the channels of party passions. Thus the policy and the will of one country

are subjected to the policy and will of another.

There is an opinion that parties in free countries are useful checks upon the administration of the government, and serve to keep alive the spirit of liberty. This within certain limits is probably true—and in governments of a monarchical cast, patriotism may look with indulgence, if not with favor, upon the spirit of party. But in those of the popular character, in governments purely elective, it is a spirit not to be encouraged. From their natural tendency, it is certain there will always be enough of that spirit for every salutary purpose. And there being constant danger of excess, the effort ought to be by force of public opinion to mitigate and assuage it. A fire not to be quenched, it demands a uniform vigilance to prevent it bursting into a flame, lest instead of warming, it should consume.

It is important likewise, that the habits of thinking in a free country should inspire caution in those entrusted with its administration to confine themselves within their respective constitutional spheres, avoiding in the exercise of the powers of one department to encroach upon another. The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create, whatever the form of government, a real despotism. A just estimate of that love of power and proneness to abuse it which predominates in the human heart is sufficient to satisfy us of the truth of this position. The necessity of reciprocal checks in the exercise of political power, by dividing and distributing it into different depositories, and constituting each the guardian of the public weal against invasions of the others, has been evinced by experiments ancient and modern, some of them in our country and under our own eyes. To preserve them must be as necessary as to institute them. If, in the opinion of the people, the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance in permanent evil any partial or transient benefit which the use can at any time yield.

Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute of patriotism, who should labor to subvert these great pillars of human happiness, these firmest props of the duties of men and citizens. The mere politician, equally with the pious man, ought to respect and to cherish them. A volume could not trace all their connections with private and public felicity. Let it simply be asked where is the security for property, for

reputation, for life, if the sense of religious obligation *desert* the oaths, which are the instruments of investigation in courts of justice? And let us with caution indulge the supposition that morality can be maintained without religion. Whatever may be conceded to the influence of refined education on minds of peculiar structure, reason and experience both forbid us to expect that national morality can prevail in exclusion of religious principle.

It is substantially true, that virtue or morality is a necessary spring of popular government. The rule, indeed, extends with more or less force to every species of free government. Who that is a sincere friend to it can look with indifference upon attempts to shake the foundation of the fabric?

Promote, then, as an object of primary importance, institutions for the general diffusion of knowledge. In proportion as the structure of a government gives force to public opinion, it is essential that the public opinion should be enlightened.

As a very important source of strength and security, cherish public credit. One method of preserving it is to use it as sparingly as possible, avoiding occasions of expense by cultivating peace, but remembering, also, that timely disbursements, to prepare for danger, frequently prevent much greater disbursements to repel it; avoiding likewise the accumulation of debt, not only by shunning occasions of expense, but by vigorous exertions in time of peace to discharge the debts which unavoidable wars may have occasioned, not ungenerously throwing upon posterity the burden which we ourselves ought to bear. The execution of these maxims belongs to your representatives, but it is necessary that public opinion should cooperate. To facilitate to them the performance of their duty, it is essential that you should practically bear in mind that towards the payment of debts there must be revenue; that to have revenue there must be taxes; that no taxes can be devised which are not more or less inconvenient and unpleasant; that the intrinsic embarrassment inseparable from the selection of the proper objects (which is always a choice of difficulties) ought to be a decisive motive for a candid construction of the conduct of the government in making it, and for a spirit of acquiescence in the measures for obtaining revenue, which the public exigencies may at any time dictate.

Observe good faith and justice towards all nations; cultivate peace and harmony with all; religion and morality enjoin this conduct, and can it be that good policy does not equally enjoin it? It will be worthy of a free, enlightened, and, at no distant period, a great nation, to give to mankind the magnanimous and too novel example of a people always guided by an exalted justice and benevolence. Who can doubt but, in the course of time and things the fruits of such a plan would richly repay any temporary advantages which

might be lost by a steady adherence to it? Can it be that Providence has not connected the permanent felicity of a nation with its virtue? The experiment, at least, is recommended by every sentiment which ennobles human nature. Alas! is it rendered impossible by its vices?

In the execution of such a plan nothing is more essential than that permanent, inveterate antipathies against particular nations and passionate attachment for others should be excluded and that in place of them just and amicable feelings towards all should be cultivated. The nation which indulges towards another an habitual hatred, or an habitual fondness, is in some degree a slave. It is a slave to its animosity, or to its affection, either of which is sufficient to lead it astray from its duty and its interest. Antipathy in one nation against another disposes each more readily to offer insult and injury, to lay hold of slight causes of umbrage, and to be haughty and intractable when accidental or trifling occasions of dispute occur. Hence frequent collisions, obstinate, envenomed, and bloody contests. The nation, prompted by ill will and resentment, sometimes impels to war the government, contrary to the best calculations of policy. The government sometimes participates in the national propensity and adopts through passion what reason would reject; at other times, it makes the animosity of the nation's subservient to projects of hostility, instigated by pride, ambition and other sinister and pernicious motives. The peace often, sometimes perhaps the liberty of nations, has been the victim.

So likewise, a passionate attachment of one nation for another produces a variety of evils. Sympathy for the favorite nation, facilitating the illusion of an imaginary common interest in cases where no real common interest exists and infusing into one the enmities of the other, betrays the former into a participation in the quarrels and wars of the latter, without adequate inducements or justifications. It leads also to concessions, to the favorite nation of privileges denied to others, which is apt doubly to injure the nation making the concessions, by unnecessarily parting with what ought to have been retained and by exciting jealousy, ill will, and a disposition to retaliate in the parties from whom equal privileges are withheld. And it gives to ambitious, corrupted or deluded citizens (who devote themselves to the favorite nation) facility to betray or sacrifice the interests of their own country, without odium, sometimes even with popularity gilding with the appearances of a virtuous sense of obligation, a commendable deference for public opinion, or a laudable zeal for public good, the base or foolish compliances of ambition, corruption, or infatuation.

As avenues to foreign influence in innumerable ways, such attachments are particularly alarming to the truly enlightened and independent patriot. How

many opportunities do they afford to tamper with domestic factions, to practice the arts of seduction, to mislead public opinion, to influence or awe the public councils! Such an attachment of a small or weak towards a great and powerful nation, dooms the former to be the satellite of the latter.

Against the insidious wiles of foreign influence (I conjure you to believe me, fellow citizens) the jealousy of a free people ought to be constantly awake, since history and experience prove, that foreign influence is one of the most baneful foes of republican government. But that jealousy to be useful must be impartial; else it becomes the instrument of the very influence to be avoided, instead of a defense against it. Excessive partiality for one foreign nation and excessive dislike for another cause those whom they actuate to see danger only on one side, and serve to veil and even second the arts of influence on the other. Real patriots, who may resist the intrigues of the favorite, are liable to become suspected and odious, while its tools and dupes usurp the applause and confidence of the people to surrender their interests.

The great rule of conduct for us in regard to foreign nations is, in extending our commercial relations, to have with them as little political connection as possible. So far as we have already formed engagements, let them be fulfilled with perfect good faith. Here let us stop.

Europe has a set of primary interests, which to us have none or a very remote relation. Hence, she must be engaged in frequent controversies, the causes of which are essentially foreign to our concerns. Hence therefore it must be unwise in us to implicate ourselves, by artificial ties, in the ordinary vicissitudes of her politics or the ordinary combinations and collisions of her friendships or enmities.

Our detached and distant situation invites and enables us to pursue a different course. If we remain one people, under an efficient government, the period is not far off when we may defy material injury from external annoyance; when we may take such an attitude as will cause the neutrality we may at any time resolve upon to be scrupulously respected; when belligerent nations, under the impossibility of making acquisitions upon us, will not lightly hazard the giving us provocation, when we may choose peace or war, as our interest guided by justice shall counsel.

Why forgo the advantages of so peculiar a situation? Why quit our own to stand upon foreign ground? Why, by interweaving our destiny with that of any part of Europe, entangle our peace and prosperity in the toils of European ambition, rivalry, interest, humor, or caprice?

It is our true policy to steer clear of permanent alliance with any portion of the foreign world—so far, I mean, as we are now at liberty to do it, for let me not be understood as capable of patron-

izing infidelity to existing engagements. (I hold the maxim no less applicable to public than private affairs, that honesty is always the best policy)—I repeat it, therefore, let those engagements be observed in their genuine sense. But in my opinion, it is unnecessary, and would be unwise to extend them.

Taking care always to keep ourselves, by suitable establishments, on a respectable defensive posture, we may safely trust to temporary alliances for extraordinary emergencies.

Harmony, liberal intercourse with all nations, are recommended by policy, humanity, and interest. But even our commercial policy should hold an equal and impartial hand; neither seeking nor granting exclusive favors or preferences; consulting the natural course of things; diffusing and diversifying by gentle means the streams of commerce but forcing nothing; establishing with powers so disposed, in order to give trade a stable course—in order to give to trade a stable course, to define the rights of our merchants, and to enable the government to support them, conventional rules of intercourse, the best that present circumstances and mutual opinion will permit, but temporary, and liable to be from time to time abandoned or varied as experience and circumstances shall dictate; constantly keeping in view, that it is folly in one nation to look for disinterested favors from another—that is must pay with a portion of its independence for whatever it may accept under that character—that by such acceptance, it may place itself in the condition of having given equivalents for nominal favors and yet of being reproached with ingratitude for not giving more. There can be no greater error than to expect or calculate upon real favors from nation to nation. It is an illusion which experience must cure, which a just pride ought to discard.

In offering to you, my countrymen, these counsels of an old and affectionate friend, I dare not hope they will make the strong and lasting impression I could wish—that they will control the usual current of the passions or prevent our nation from running the course which has hitherto marked the destiny of nations. But if I may even flatter myself that they may be productive of some partial benefit, some occasional good, that they may now and then recur to moderate the fury of party spirit, to warn against the mischiefs of foreign intrigue, to guard against the impostures of pretended patriotism—this hope will be a full recompense for the solicitude for your welfare by which they have been dictated.

How far in the discharge of my official duties, I have been guided by the principles which have been delineated, the public records and other evidences of my conduct must witness to you and to the world. To myself, the assurance of my own conscience is, that I have, at

least, believed myself to be guided by them.

In relation to the still subsisting war in Europe, my proclamation of the 22d of April 1793 is the index to my plan. Sanctioned by your approving voice and by that of your representatives in both houses of Congress, the spirit of that measure has continually governed me, uninfluenced by any attempts to deter or divert me from it.

After deliberate examination with the aid of the best lights I could obtain, I was well satisfied that our country, under all the circumstances of the case, had a right to take, and was bound in duty and interest to take—a neutral position. Having taken it, I determined, as far as should depend upon me, to maintain it with moderation, perseverance and firmness.

The considerations which respect the right to hold this conduct it is not necessary on this occasion to detail. I will only observe that, according to my understanding of the matter, that right, so far from being denied by any of the belligerent powers, has been virtually admitted by all.

The duty of holding a neutral conduct may be inferred, without anything more, from the obligation which justice and humanity impose on every nation, in cases in which it is free to act, to maintain inviolate the relations of peace and amity towards other nations.

The inducements of interest for observing that conduct will best be referred to your own reflections and experience. With me, a predominant motive has been to endeavor to gain time to our country to settle and mature its yet recent institutions and to progress, without interruption to that degree of strength and consistency which is necessary to give it, humanly speaking, the command of its own fortunes.

Though in reviewing the incidents of my administration I am unconscious of intentional error, I am nevertheless too sensible of my defects not to think it probable that I may have committed many errors. Whatever they may be, I fervently beseech the Almighty to avert or mitigate the evils to which they may tend. I shall also carry with me the hope that my country will never cease to view them with indulgence and that, after forty-five years of my life dedicated to its service with an upright zeal, the faults of incompetent abilities will be consigned to oblivion, as myself must soon be to the mansions of rest.

Relying on its kindness in this as in other things, and actuated by that fervent love towards it which is so natural to a man who views in it the native soil of himself and his progenitors for several generations, I anticipate with pleasing expectation that retreat, in which I promise myself to realize without alloy the sweet enjoyment of partaking in the midst of my fellow citizens the benign influence of good laws under a free government—the ever favorite object of my heart, and the

happy reward, as I trust, of our mutual cares, labors and dangers.

GEO. WASHINGTON.

# HEALTHY MOTHERS AND HEALTHY BABIES ACCESS TO CARE ACT OF 2003—MOTION TO PROCEED

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the motion to proceed to the consideration of S. 2061.

Mr. FRIST. 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. FRIST. 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. FRIST. Mr. President, let me welcome everybody back from the Presidents Day recess. I also thank Senator BREAUX and congratulate him on the delivery of George Washington's Farewell Address. He is the 112th Senator to give the address. The first reading of George Washington's address actually occurred on February 22, 1862, during a joint session of Congress and was given by the Secretary of the Senate. Beginning in 1893, the Senate made the reading of the address an annual tradition. And since that time, each year, in an alternating fashion between the parties, George Washington's birthday is observed by the reading of the 7,641-word address. I commend Senator BREAUX for his contribution today.

Today the Senate will begin consideration of the motion to proceed to S. 2061, the OB/GYN medical liability bill. Chairman GREGG is here to manage debate, and I encourage Senators to come to the floor to debate this sorely needed women's health access issue.

Due to objections on the other side of the aisle, it was necessary to file a cloture motion on this pending motion to proceed. That cloture vote on proceeding to the OB/GYN medical malpractice bill is scheduled for tomorrow at 5 p.m. Therefore, there will be additional debate time tomorrow before the vote. However, I know many Members are interested in this bill and hopefully are prepared to speak today. We will have no rollcall votes today. The cloture vote will be the first vote tomorrow.

Over the next few minutes I would like to make a statement on the Healthy Mothers and Healthy Babies Access to Care Act.

Mr. President, our medical litigation system is failing the American public. It is failing our communities, our hospitals, our doctors, and our families. Most importantly, it is failing our patients. Its purpose should be to promote the common good and improve the health care of all Americans through the fair and efficient resolution of meritorious medical negligence

claims. But instead of accomplishing this noble goal, our litigation system is out of control. It is broken. It is causing a health care crisis. Due to this broken system of medical justice, medical liability premiums are skyrocketing. The result: The system is in crisis.

The ultimate victims are the patients who see that their access to care being threatened and in some cases their access to care is disappearing altogether. In addition, this ailing system hurts our Nation even more by directly and indirectly costing us billions of dollars. The situation is grave. It is being brought to the Senate floor because it is grave, because the system is broken, and because the crisis is getting worse by the day. Every day that we talk without acting is a day of continued decline.

We have all seen the headlines of the horror stories of hospitals closing obstetric wards; of trauma centers having to shut their doors because of the liability crisis; of expectant mothers unable to find obstetricians, having to switch from obstetrician to obstetrician because their obstetrician is having to leave town or leave their practice; the stories of doctors dropping services of specialized care; the stories of doctors having to move from a State where the liability premiums are so high that they can't afford it to other States where effective liability reform may have already taken place and they have lower premiums. The headlines go on and on and on. Almost daily there are fresh stories and new victims.

The problems are so severe that Time magazine, in its June 9 cover article, devoted the article and the front page to this very problem. The American Medical Association lists 19 States where access to quality care is in serious jeopardy right now. As a physician, as a doctor, this crisis and the worsening of this crisis really strikes home to me personally. When I go back home or travel around the country and talk to my physician colleagues, they tell me of personal stories that are causing changes in the way they practice medicine. Many doctors consider the current medical litigation system as the single greatest threat to providing patients today with affordable, high-quality health care.

At first, the problem of skyrocketing medical liability costs presents doctors with uncomfortable choices. But in the end, it is the patients who are hurt. It is the patients who suffer. Skills of physicians are redirected. They leave their practice. They are no longer available to give care and patients receive less care. No longer is this a problem of an additional expense of doctors or for doctors all across the country; it is now an issue of health care for all.

What makes this situation so tragic is that highly qualified and committed doctors are literally being forced from their fields of medicine, fields they have devoted their lives to, fields they cherish. We are not talking about a few

bad doctors who are leaving. Rather, we are talking about the very best men and women in the health care field today who have devoted their entire professional lives to healing others. These good men and women don't want to drop these specialized services such as trauma care, delivering babies, working in emergency rooms. They don't want to move from already underserved areas, either urban or rural. They don't want to stop seeing those expectant mothers. They don't want to be unavailable if somebody comes to a trauma center or to an emergency room.

Tragically, and all too often, the current liability system leaves them with no choice. The current system doesn't single out bad doctors or negligent acts or poor quality of medicine. Our medical litigation system has not made medical care in the United States safer or better. In fact, in many cases it has made care just the opposite—less safe.

How? By discouraging doctors from sharing information that could prevent medical errors and by encouraging doctors to order unnecessary and costly tests that sometimes do more harm than good. The exploding costs hit almost all doctors and hurt patients by driving up unnecessarily the cost of medical care of everyone who is listening to me right now. Your health care costs are higher because of these unnecessary and frivolous lawsuits. You are being affected. Our current medical litigation system is the root cause of this crisis. It is an inefficient system that is full of perverse incentives. The current system hurts everyone seeking access to quality and affordable health care, and it hurts the very negligently injured patients it is supposed to be helping.

The system encourages lawsuit abuse by rewarding trial lawyers who file huge claims in friendly venues in search of the big payout. These lawyers often pocket up to 40 percent of any settlement or any payment the injured patients receive. That is 40 cents on the dollar that the trial lawyer pockets that does not get to that injured patient.

At the same time, many of the negligently injured patients—those who deserve to be compensated—never receive any compensation at all because their legitimate claims are too small for that personal injury lawyer who is out there looking for his or her big payday.

(Mr. ROBERTS assumed the Chair.)

The system compensates a few at the expense of the many. The effects of these massive suits are staggering. Between 1995 and 2002, the average claim payout for medical malpractice jumped 83 percent. Between 1997 and 2002, the percentage of medical malpractice payments of a million dollars or more more than doubled.

The mere threat of huge jury awards forces many doctors and insurance companies to settle cases for large amounts, even if they are not guilty.

The current system encourages frivolous lawsuits, unnecessary lawsuits. Most of the cases filed in U.S. courts are without merit, with almost two-thirds being dropped or dismissed; that is, two out of three are being dropped or dismissed. Only 1 out of 20, or 5 percent of cases, actually go on to trial, and a staggering 80 percent of those cases are won by the defendant. These numbers are clear evidence of the rampant abuse of the current system, and the system must be reformed.

It should be no surprise that this excessive litigation is forcing malpractice premiums to rise dramatically. In 2002, physicians in many States saw their premium rates rise by 30 percent or more. In some States, for some specialties, malpractice insurance is rising by as much as 300 percent per year.

We debated this issue last July with a comprehensive bill, S. 11, the Patients First Act. That broad, comprehensive reform measure was designed to put our medical litigation system back to work for all Americans. Bringing the bill forward in July was the first time that the Senate had ever considered comprehensive medical litigation reform as its own freestanding bill. Unfortunately, the measure was never fully debated, as opponents of reform blocked it by filibustering the motion to proceed.

Since that time, the horror stories have not stopped. In fact, they have increased. Because this issue is so critical to the health of Americans, and because this crisis continues to escalate, we will try once again to address it on the floor of the Senate.

This time, instead of bringing up a broad, comprehensive bill and letting it suffer from the same political attacks as before, we have narrowed our focus on one of the groups most severely hurt by the crisis, obstetricians and gynecologists. More importantly, we want to focus specifically on the health care needs of women and children and babies. The underlying bill, the Healthy Mothers and Healthy Access to Care Act of 2003, is narrowly tailored to focus on obstetricians, gynecologists, and other doctors who perform these services. In the more narrow scope, the reform measures are almost identical to the ones in the more comprehensive bill, S. 11.

OB/GYNs, by the very nature of their work, are a higher risk specialty group, so it is understandable that their liability premiums would be somewhat higher than lower risk doctors. However, the amounts that OB/GYNs are paying throughout the country for liability insurance today are staggering. For example, locally, in Virginia, OB/GYNs are paying up to \$84,000 in medical liability premiums per year. At the outset, I will say all OB/GYNs have to have liability insurance. Today, all physicians have to buy medical liability malpractice insurance to practice. Locally, it is \$84,000. In New York, they are paying up to \$124,000 per year. In

Pennsylvania, they are paying up to \$153,000 per year. In Florida, OB/GYNs are now paying up to an astonishing \$250,000 in premiums each and every year to stay in the practice of delivering babies. That is a quarter of a million dollars every year that obstetricians are paying in Florida.

I wish to stress once again that these are payments the doctors are making merely to purchase the liability insurance. Whether or not they have ever had a case brought against them, whether or not there has ever been a medical error or mistake made at all, this is what many obstetricians are having to pay in these States. There is no added value in that \$250,000 to health care. These payments are not helping the patients live better lives or receive higher quality of health care, and these amounts are not being paid just by a few bad doctors. They are being paid by doctors who have never been sued, who are the best in their profession, who have dedicated their lives to helping women and children.

Because of these skyrocketing premiums and the constant threat of litigation, many obstetricians are leaving their practice because they simply cannot afford it. Who can blame them? If an obstetrician delivers 100 babies a year, and let's say just in Florida they are paying \$250,000 for that opportunity to deliver babies, that is a tax of over \$2,000 each time that obstetrician delivers a baby. If you are a mother listening, or an expectant mother who is getting ready to go in the hospital, I am saying that there is an additional \$2,000 tax that the doctor is paying, which may well be passed on to you because somebody has to pay it. That is money that doesn't add to the care of your baby, or to the care of the delivery, or to the safety of the delivery, or to health care itself.

Women living in rural areas have an additional problem. They are finding now that there are too few doctors to deliver the babies in these rural communities. By now, most of my colleagues have heard the horror stories of women having to drive hours just to see an obstetrician, or in the course of a 9-month pregnancy, having two, three, four, or five obstetricians because many doctors are having to leave either a region or the practice altogether. A June 9 *Time* magazine article tells the tragic story of an expectant mother in rural Arizona having to drive 2 hours on a desolate highway just to see a doctor.

This should not happen in America. We should be encouraging physicians to practice in rural, underserved areas, not chasing them away with the threat of frivolous lawsuits. It should be no surprise that the American College of Obstetricians and Gynecologists is one of the strongest supporters of meaningful medical liability reform. Of course, they support this narrowly tailored bill. Their primary concern is women's access to affordable, quality health care. They are uniquely situated to un-

derstand the threat the current system has placed on women's health and babies' health, and they are demanding action by Congress. They will not tolerate filibusters or blocking this issue. I urge my colleagues to listen to their unique concerns.

In a statement to the Senate Judiciary and HELP Committees last year, the American College of Obstetricians and Gynecologists very clearly outlined the problem facing women. They said:

An ailing civil justice system is severely jeopardizing patient care for women and their newborns. Across the country, liability insurance for obstetricians-gynecologists has become prohibitively expensive. Premiums have tripled and quadrupled practically overnight. In some areas, OB/GYNs can no longer obtain liability insurance at all, as insurance companies fold or abruptly stop insuring doctors.

When OB/GYNs cannot find or afford liability insurance, they are forced to stop delivering babies, curtail surgical services, or close their doors. The shortage of care affects hospitals, public health clinics, and medical facilities in rural areas, inner cities, and communities across the country.

These are the words of the American College of Obstetricians and Gynecologists, the ones on the front line in women's health care today.

The system is broken. The system is hurting women and babies today. This was very clearly spelled to the Senate Judiciary and HELP Committees last year.

I have a series of letters from doctors in Tennessee and, indeed, from around the country. At the appropriate time, I will enter several of these letters into the RECORD rather than take the time now because there are Senators in the Chamber who wish to debate this particular issue. Let me simply say that as a physician, as majority leader, as a representative of the people of the great State of Tennessee, I have letters from Paris, TN, from Athens, TN, Shelbyville, TN, from Memphis, TN, from obstetricians who are basically saying there is a crisis going on and asking that we do something about it.

I do hope the opponents of reform at least acknowledge the severity and gravity of the problem and don't run from it once again. We must acknowledge the symptoms of the crisis before we start to address its cause. Unfortunately, these horror stories are truly just the tip of the iceberg of the problems caused by our broken litigation system. The system costs our country directly and indirectly billions of dollars—wasted dollars, I would argue—each year. These costs are the sort of costs that don't find their way into letters to us as elected officials or into newspaper articles, but they hurt the American people.

The fear of these outrageous lawsuits forces doctors, for example, to practice defensive medicine. Slowly, but surely, people are understanding what defensive medicine is. As a doctor, I know these pressures all too well.

In order to avoid lawsuits—frivolous lawsuits—and to make sure they would



be fully protected in the event they were called into question by an unnecessary or frivolous lawsuit, we find extra tests and procedures are ordered. They are unnecessary to the care of that particular patient or that particular patient's problem. It is a waste. Yet the system we have today incentivizes those unnecessary tests.

These extra steps add little, if anything, to the quality of health care, but they add a lot to the bottom line of health care costs because hundreds of thousands of doctors actually order these unnecessary tests. The cost adds up.

We all hear of the \$700 CAT scan or MRI scan for a routine headache that an emergency physician orders simply out of practicing defensive medicine. It is no surprise to me that surveys show 75 percent or more of doctors acknowledge practicing defensive medicine.

The exact number is hard to calculate, but reports have put the cost of defensive medicine at tens of billions of dollars per year. When you realize that three out of four doctors frequently order tests or procedures, these total dollar figures, indeed, are realistic. In fact, a recent Government report estimated reasonable liability reform would save the country health care costs of \$70 billion to \$126 billion per year in defensive medicine expenditures.

In addition to these massive indirect costs, the Federal Government would save over \$14 billion directly over 10 years with comprehensive liability reform, according to the Congressional Budget Office. The CBO attributes most of these savings to the Medicare and Medicaid programs which would experience lower health care costs. The Federal Government would also realize savings from lower costs of health care benefits for Federal employees.

The current medical litigation system also impedes our ability to improve patient safety. The threat of excessive litigation by unscrupulous lawyers discourages doctors from openly discussing medical errors in ways that, if that discussion could take place, would dramatically improve health care delivery in this country.

These facts were outlined and well documented in the 1999 Institute of Medicine report "To Err Is Human." That is why in addition to the reforms in this bill which hopefully we will be considering on the floor of the Senate, most of us are strong supporters—or we should be—of S. 720, the Patient Safety and Quality Improvement Act. This is vital legislation that will encourage a culture of safety and quality by providing for voluntary reporting of patient safety data without the fear of being sued.

Some of the opponents of the legislation we are debating today will try to confuse the medical malpractice issue with patient safety. If you listen closely, you will hear them say, in effect, that we need to maintain our broken medical liability system in order to re-

duce medical mistakes. Do not be misled. This argument amounts to nothing more than defending the status quo. In fact, as the IOM has said, and as we know from adopting voluntary reporting and learning systems in other contexts, such as in general aviation—more lawsuits don't improve quality—they make matters worse.

Our health care system must put a greater emphasis on preventing medical errors, not hiding or suppressing these errors due to fear of lawsuits. To create such a system, we must pass both patient safety legislation and litigation reform. And I am committed to passing patient safety legislation too. It is now being blocked by at least one Senator on the other side of the aisle despite the fact that it has passed the HELP committee unanimously.

Fortunately, we know how to address the cause of the crisis because reform measures have already succeeded at the state level. The Healthy Mothers, Healthy Babies Access to Care Act is based on these reforms. It is a common sense measure that will restore balance to our broken litigation system in the narrow area of OB/GYN services. It will protect the right of the negligently injured patient to sue for just compensation while curtailing lawsuit abuse. Though this bill has a narrow scope, it is comprehensive reform with several critical components. Let me briefly mention just a few key provisions.

The bill ensures that injured patients will receive a larger percentage of their award by limiting attorneys contingency fee to a reasonable sliding scale. For awards over \$600,000, lawyers can keep 15 percent of any payment. Currently, lawyers in many states can take up to 40 percent of all awards and settlements, leaving the injured patient grossly undercompensated.

The bill places a statute of limitations of three years on bringing a suit. This ensures that a suit will be brought in a timely manner and evidence preserved.

The bill controls excessive awards for noneconomic damages by placing a \$250,000 cap on these types of awards. Noneconomic damages are subjective awards for pain and suffering that cannot be easily quantified. They contribute greatly to the personal injury lawyers' lawsuit abuse. Of note, the caps contained in this bill are "flexible" and do not preempt state law. Thus, if a state has already defined a different cap on noneconomic damages or subsequently passes a different cap—whether higher or lower—that State designated cap prevails.

At the same time, the bill ensures that negligently injured patients will receive full economic damages. Economic damages are the out-of-pocket expenses that a victim might suffer due to a doctor's negligence, such as hospital costs, doctor bills, long-term care, other medical expenses, and lost wages. When a patient is negligently injured, they deserve full economic recovery.

Experience at the State level clearly shows that comprehensive medical liability reform works. The Healthy Mothers, Healthy Babies Access to Care Act is modeled after California's Medical Injury and Compensation Reform Act, or MICRA, which became law in the mid 70's. Thanks to MICRA, California doctors and patients have been spared the medical liability crisis that other states are facing. You simply don't hear the horror stories about OB/GYNs quitting their practice or women unable to find an obstetrician in California. This is true despite the fact that it is a big State with a high cost of living. In fact, since MICRA passed, total insurance premiums paid in California have risen by only 167 percent while total insurance premiums paid for the rest of the country have risen by 505 percent—more than three times as much.

Over the next day or two as we discuss this bill, opponents of reform will likely go to great lengths to blame the current crisis on insurance companies, the stock market, the bond market, doctors, hospitals and on and on. I fear we will hear this crisis blamed on just about everyone and everything except for the true cause—the current litigation system. The system is broken. This broken system is hurting patients and now is the time to fix it.

I urge my colleagues to support the Healthy Babies, Healthy Mothers Access to Care Act. This narrowly tailored, commonsense reform of our broken and inefficient medical litigation system will be a big step in improving our health care system for all Americans. Passage of this measure will help ensure access to quality health care for women and babies, protect negligently injured patients, and save our country billions of dollars in health care costs every year.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The highly competent clerk will now report the motion to proceed.

The legislative clerk read as follows:

Motion to proceed to the consideration of S. 2061, a bill to improve women's access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the delivery of obstetrical and gynecological services.

The PRESIDING OFFICER. The distinguished Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business for up to 4 minutes.

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

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

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

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

Mr. GREGG. Mr. President, I join with my colleague from Alaska in congratulating Senator John Glenn on the honor he received.



I am rising today, however, to speak about the bill which is hopefully going to come before the Senate and on which the majority leader has been so eloquent, as he often is. Especially when there are issues concerning the care for other people, the majority leader has truly established a record that is unique, certainly in the Senate, with the hands-on experience of physically saving lives as a result of his skills as a surgeon and a doctor. He has decided to bring to the Senate the issue of how we make sure women in this country have adequate access to doctors, especially during that period in their lives when they are delivering children.

I personally cannot think of anything more important to our culture than babies. If we were to pick one event in the life of a citizen of this country—or I suspect anywhere in the world—that really is an event of great wonder and alters a person's view of the world and how they work with the world, it is when one has a child. Certainly they want to make sure their children are delivered in a safe way and with the best medical help that can be obtained.

This is why this bill is so important, because trial lawyers do not deliver babies. Doctors deliver babies. If we do not have enough good doctors dealing with women who are about to deliver or who are becoming pregnant or who believe they wish to have a child, and to deal with them in a manner which allows women to have ready access so that they do not have to drive miles in order to see their doctor or they do not have to wait days in order to see a doctor because there are not any available, if we do not have that structure in our society then we put at risk our ability as a society to have healthy children and to have mothers who are comfortable and feel safe about the experience of childbirth. That is something that is serious.

Regrettably, that is where we have arrived as a society. Whether we like it or not, we have arrived at a time where women in this country are at significant risk of not being able to see a baby doctor because the baby doctors in this country are being driven out of the business by the cost of their errors and omissions insurance. That insurance has skyrocketed dramatically in the last few years as a result of lawsuits, and further in my statement I will get into some specific statistics that will show why these lawsuits are occurring and what their impact has been on the actual ability of doctors to practice, in a statistical term.

All of us who work in this area of trying to address the concerns of getting women decent access to doctors so they can have children safely have heard stories and anecdotes which are so regrettably consistent in the sadness of the tales that there has to be a great deal of truth to them. It is also supported by the numbers and statistics.

Last week I had the chance to meet with four obstetricians in New Hampshire. Two of them had to get out of the business of delivering babies. It was the favorite part of their practice. They were OB/GYNs. The cost of their insurance had increased so dramatically they could no longer afford to go into the operating room and deliver a child. Neither of those two doctors had ever had a claim against them relative to the children they had delivered before they gave up the practice, and they delivered quite a few.

Two of the other doctors were still delivering babies, but they had significantly curtailed their practice or their practice had been dramatically impacted by the cost of their insurance. One doctor told us everything he earned in the first 5 months of his practice every year went to pay his insurance premiums relative to a potential claim against him, and he never had a claim against him personally. There had never been a claim. Yet his premiums had jumped over 100 percent in the last 3 years. He was finding it very difficult to stay in the business of delivering children, but because he was the only doctor in that part of our State who was really doing that, he felt a social obligation to continue delivering babies, as well as the fact that he personally loved the practice of delivering babies. It was getting to a point where he was not sure how much longer he could do this.

Also at this meeting there were two doctors who should have been there but were not because they had left the practice. They were two doctors from northern New Hampshire, which is a rural part of our State. They are no longer practicing and delivering our children. As a result, there is no doctor in northern New Hampshire today who delivers babies. There is no OB/GYN because they have been driven out of the practice of medicine. Those two doctors have left the practice in that area. One moved to another State and the other simply dropped the business of delivering babies.

The stories go on. They are real and they impact real people. In order to see a doctor, a woman in northern New Hampshire today who is pregnant has to now drive from Colebrook, NH, probably down to Hanover, NH, or at least down to Littleton at the closest, which is a long drive. It is a curvy road and in the winter it is a difficult drive. Even though people are comfortable driving in the winter in New England and in New Hampshire, we can get some serious snow and ice and it can be very testy and sometimes one cannot even get through because the snow cannot get removed in time or it is too heavy. So that woman is at risk, and it is not just in New Hampshire.

This is a photograph of a woman from Arizona named Melinda Sallard. She was forced to drive about 45 miles in order to deliver her child. In the first 2 blocks, they drove by the hospital that was next door to their house,

but there was no OB/GYN doctor there because they had given up the practice, so she had to drive 45 miles to the hospital. On the way, she had the baby in Arizona. The baby's heartbeat had actually stopped while she delivered it in the car, and while her husband kept driving to the hospital, she was able to start the baby's heartbeat again and the baby survived. Now we see the photograph, but it was risky and it was traumatic. She should have had a doctor in the hospital that was almost next door to her house, but she did not. She did not because the doctors in that hospital had to give up the practice.

We have Dr. Schmitt, one of the best doctors in North Carolina, according to the patients who saw him deliver babies, who loved the practice, but because the cost of his insurance went up so much as a result of the potential of a suit, of which I understand he had never had any, he had to give up the practice. This is a picture of the doctor and I think just about the last child he delivered. The child is not very happy about being the last child he delivered. He does not have a smile on his face. He wanted the doctor to deliver other children. Dr. Schmitt had to give up the practice. He actually moved because he could not maintain the premiums that were driving up costs so extraordinarily.

What is causing this? Essentially, it is being caused by lawsuits, many of them frivolous. In fact, there is a statistic that says only 4 percent of the lawsuits against OB/GYNs have a recovery. The rest are frivolous—not all frivolous, maybe, but the majority are. The rest don't lead to any recovery at all. But as a result of those 4 percent of lawsuits getting astronomical recoveries, the whole pool of coverage costs for all baby doctors has increased so dramatically that they have been driven out of the business or they have been put in a position where they can no longer deliver children in a manner which is either fair or accessible for many women.

We are at serious risk of having this discipline so contracted that we will end up rationing care in this area, which could be very serious and unfortunate for women. It is a function of the fact that our legal system has run amok relative to baby doctors and the women who need to see those baby doctors. I have heard our candidates from the other side of the aisle, both of whom are Members of this body—I have heard Senator KERRY say: I have spent my career fighting against special interests. I think he has said that almost every day, but that is a direct quote from the newspaper where he said it in Boston. "I spent my career fighting against special interests."

Where is he fighting for these women? Where is he when these women want to see a OB/GYN and they can't? I suggest maybe he is fighting for the special interests on the other side of the coin, those who are the trial lawyers. For some reason the trial lawyers

appear to have the ear of the majority—not the majority but of enough so we cannot even hear about this bill on the floor much less vote on it. We should at least be able to take up the bill. But, no, no, the trial lawyers aren't going to let us take up this bill. We are not even going to be allowed to debate it on the floor and have votes on amendments.

Maybe some who spent their career fighting special interests could come down to this floor and explain that one to me. Explain to me why Dr. Schmitt isn't practicing medicine anymore. There is somebody who needs someone to fight for him. Explain to me why Mrs. Sallard had to drive 45 miles and have her baby in the car. Explain to me why we don't have a doctor in Colebrook, NH, who will deliver babies or see people when they want to have babies. Explain that to me if you want to talk about fighting special interests or maybe come down and explain to me why trial lawyers are right. Then you say you fight against special interests. There is an irony there.

I have heard Senator EDWARDS say: "I want to make health care a birth-right for every single child born in this country." That is Senator EDWARDS in the Des Moines Register—"every single child born in this country." Senator, come down and explain to us how children are going to be born if their mother cannot see a doctor. What type of risk is that child going to be at when they are born if the mother cannot see a doctor in Colebrook?

This bill is being held up because there are interests out there that do not want to bring this issue to the floor of the Senate even for debate. They just want to stiff-arm it on behalf of an interest in this country which believes that it should have the right to bring these suits but has, as I said, 96 percent of them thrown out of court and in the same manner throws out of the delivery room the doctors, throws out the women to be on their own to look for a doctor miles away, at great inconvenience.

This is a battle of special interests. My special interest in this one happens to be babies and mothers. Somebody else's special interest happens to be the trial bar. I am happy to defend this special interest, babies and mothers, on the Senate floor today. I would like to know why the other side is not willing to let us have this bill come forward.

Let's get into some specifics about the size of the problem. The next chart we have shows the cover of Newsweek, which ran a very good piece on "Law-suit Hell, How Fear of Litigation is Paralyzing Our Professionals." Right in the middle is a doctor. It could be a midwife. Remember, midwives are as much affected by this as doctors. But essentially it is those people you see when you most need them, and especially if you are a woman and you want to have children. That person's career is paralyzed, and as a result of their career being paralyzed, our ability to get

adequate health care is paralyzed. It is a good story. I recommend it to everybody.

I want to make the point this is about women and it is about women's right to access decent health care. So speaking on behalf of that special interest—I know Senator KERRY is fighting against special interests, and he is probably fighting against this special interest, but I want to put something on the record. I don't want to put it in the RECORD because we will ruin the RECORD, but I want to mention that we have 85,000 petitions. Eighty-five thousand women have signed petitions asking that we at least consider this bill, where we at least get a vote on whether or not their doctors can have some protection. Eighty-five thousand women want to see a doctor, want to be safe when they get into those child-bearing years. They want to have the opportunity to have safe medical care.

So we have brought those petitions here today. I am obviously not going to put them in the RECORD. I don't want the American taxpayer to have the expense of printing this. But I want to make it clear this is about real people, women who need health care, and especially need it when they are about to have children.

The extent of this crisis is significant. It is not limited to New Hampshire, although New Hampshire has a very definite problem. The American Medical Association has developed this chart which basically color-codes States on the effect of the medical liability crisis on the availability of doctors. There are a number of States in this country where it is getting to be critical, where you are in a crisis mode if you want to see a doctor because you may not be able to see one. Those are the States in red.

If you recall, in West Virginia the doctors actually weren't available for some time because of that issue. In Pennsylvania the same problem arose. It arose in State after State, large States with large populations: Florida, Texas, Pennsylvania, Ohio, Missouri, and smaller States, too, such as Wyoming. Every one of those red States is in crisis. That means there is a real problem, that you may not be able to see a doctor when you want to have a child or getting to see that doctor will be difficult.

The yellow States are the ones moving toward crisis. This is not an abating problem; it is a growing problem. Only the white States, and there are very few of them, have been able to get their acts together, and we will find out why in a few minutes when we start talking about what States have passed limitations on liability insurance, and that being the issue.

I want to take a specific look at a specific State which is in crisis: New York. New York State—I just picked New York out arbitrarily—is in crisis. This is for baby doctors. There are seven counties in New York where there are no obstetricians, where, if

you are an expectant mother and you want to go see a doctor, you cannot stay in the county you are in. Some of those counties have a fairly high delivery rate: 200 in this county, 289, 215, 322 children. This is on an annual basis.

Then there are a number of other counties which only have one obstetrician, and some of those counties have even larger numbers of delivery rates. So you are dealing with some people who are having to drive a heck of a long way in order to see a doctor. And New York State can get pretty cold and snowy, especially around Buffalo and Syracuse, where, as far as I can tell, it always snows except for in June and July. In any event, it can be hard to drive if you are an expectant mother. You can be under a lot of pressure to get to those doctors.

It is not that they can't practice in those counties; it is that they cannot afford to practice in those counties. Why can't they? This problem is a uniquely rural problem in some ways. In order to pay that insurance premium, which is so high and has gotten so extraordinarily high over the last few years—in order to pay that premium you basically have to deliver a lot of babies.

If a doctor has a practice in a rural area, not generating a huge amount of births, then you cannot work hard enough or deliver enough births to pay your premium. The doctor I mentioned from Laconia, NH—by our standards a fairly populous area of our State; not overly populated but a fairly decent community—has to work 5 months to pay just his insurance premium. If he were working in Colebrook, obviously, he would have had to work all year to pay the insurance premium and then he would not have earned enough to pay the premium. That is why we have no OB/GYN in Colebrook, NH. There are not enough babies being delivered. The premiums have gone up so radically they cannot afford to continue to practice.

I am sure there are a lot of places in the Presiding Officer's State of Kansas which have the exact problem. I know parts of Kansas are reasonably rural. Those folks probably have to drive a long way to see a doctor. Kansas is a big State compared to New Hampshire. It is flat, so it is an easy drive, but still it is a long drive.

Let's talk about some of the statistics so this is not just anecdotal: 72 percent of the OB/GYN doctors in Pennsylvania surveyed have changed their practice to reduce their liability—that means they have stopped delivering babies; 75 percent of the OB/GYN doctors in West Virginia, as well; 71 percent in Kentucky. There are dramatic drops in doctors willing to deliver babies or do any high-risk procedures at all.

OB/GYN doctors in New Hampshire experienced a 100-percent increase in premiums within 3 years. That is a staggering number. As I mentioned earlier, only 4 percent of the lawsuits

brought relative to OB/GYN practices actually lead to recovery. That is staggering because it shows there are a lot of frivolous lawsuits.

What is the way to resolve this? There are a lot of moving parts in the health care question. I am not saying the only issue that affects costs that the OB/GYN doctor incurs during their practice is the liability issue, the insurance issue, the issue driven by lawsuits which have no relationship to a doctor's practice because the doctor has never been sued. There are other factors. There is technology, hospital associations, all sorts of factors. Obviously, the insurance industry has gone through some significant adjustments, especially in the rate of return on investments as a result. But we know the single most significant factor by far is the increase in costs of the insurance policy. That is the item that is most affecting the ability of the doctors to continue to practice.

We also know those States which have taken action in this area have actually been able to control the costs so the doctors are no longer feeling pressure at that level. The best example is California. Liability reform occurred in California, with caps, in 1977. As a result, in the California cost increase experience, premiums have gone up 182 percent compared with the rest of the United States, which has gone up 573 percent. The chart shows the difference. It reflects the fact that if you put in a responsible approach to premiums to liability insurance, you can control the rate of growth of the cost and, as a result, you can create more availability of doctors and more affordable health care.

This chart shows that reform works. The bottom line reflects obstetrics. The first two areas, Los Angeles and Denver, have in place laws which limit recovery in the area of pain and suffering. Their basic premium for a policy of \$1 million/\$3 million is \$54,000 and \$33,000. The next four jurisdictions do not have those laws: New York, Las Vegas, Chicago, and Miami. Premiums in Miami are almost four times higher than Los Angeles, which would be a comparable city, and about seven times higher than Colorado; Chicago, two times higher; Las Vegas, two times higher; New York, 1½ times higher than Los Angeles; two times higher than Denver. That reflects the fact that if you put in responsible reform in the area of liability insurance you can control those premium costs.

What is responsible reform? It is reform that addresses the primary concerns of a person who is injured but also addresses the fact that we have a large number of frivolous lawsuits being brought and a large number of lawsuits leading to extraordinary recoveries, which costs are being passed on to all the OB/GYN baby doctors in this country. As a result, baby doctors who have absolutely no history of malpractice are forced out of practice and mothers are not able to see their doctors and are being limited in access.

This bill tries to address that. First, it says right off the top that a State has the right to make a decision on what the cap will be. We have essentially addressed this issue of States rights. We put in a cap that if a State wants to go above it they can go above it; if they want to go below it, they can go below. We also say there is no limitation on recovery for medical costs.

There was a recent decision where, unfortunately, there was a severe injury and the child would need medical care for years. The bill came to something like \$18 million. That would be an award that could occur if that was the child's medical costs; that could be recovered—whether \$18 million, \$10 million, \$5 million, even more, \$20 million. Hopefully, that will not happen too often but if it does the parents have a right to that recovery.

As to lost compensation, if the mother is injured and there is a loss of compensation, if she has a job that she can no longer go back to or is limited in her ability to get a job, there is absolutely no limit as to what the recovery is relative to her compensation. If she is going to have a lifetime expectancy earning of \$10 million, discounted to whatever that is, she gets that recovery.

What we do not have in this bill, or what we try to cap because this is where the costs have gone out of control, this is what is driving the premium rates, is a limit on pain and suffering, which is basically the money that is thrown on top. Pain and suffering is what a jury feels when they hear a sad story that they think deserves an extra bonus award. That is limited to \$250,000 under this bill. That is a reasonable limit. Most States are at that number that have acted in this area. But if a State wants to go above that area, it can step out of that and pass a higher amount.

The practical effect of this bill, should it pass, is that the 85,000 women who have written to us, the literally hundreds of thousands of women who are worried whether they will have a good doctor to see or even whether they will be able to see a doctor or whether they will have to drive many, many miles to see a doctor, putting themselves at risk, those women's concerns will be addressed to some degree because we will make practicing medicine in the area of delivering babies affordable again. We can get a doctor back in Colebrook. A doctor will not have to work 4 or 5 months of the year just to pay his or her premium. Doctors who love to deliver babies in Dover, NH, will be able to get back into the business of delivering babies because they will be able to afford the premium.

That is what this is all about. It is about giving women the opportunity to have access to good doctors who can deliver babies and have those babies be healthy. Why we are not even going to be allowed to vote on going to this bill is beyond me, but that, I understand, is

a position the Democratic leadership has taken. It seems ironic in the face of Senator EDWARDS' statement, which I will read again, as the potential standard bearer of his party: "I want to make health care a birthright for every single child born in the country."

It is going to be hard for children to be born if they cannot see baby doctors. I do not understand why we cannot at least debate this issue on the Senate floor and have a vote on it. Senator KERRY would appear to want to do this because he wants to fight special interests. Well, I want to promote this special interest—which is children, mothers, expectant mothers, and doctors who deliver babies. So if the other side wishes to oppose those three constituencies, that is their choice. But I think they need to explain to us why it is good for a mother, good for a baby, or good for a baby doctor that the practice of medicine is being curtailed in this country in the very critical discipline of obstetrics.

Mr. President, I understand the Senator from Vermont wants the floor so I yield.

The PRESIDING OFFICER. The distinguished Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I thank the distinguished Senator from Kansas, the Presiding Officer. And I thank my friend from New Hampshire for his usual courtesy in allowing me to have the floor. I will talk about the same issue.

I am really disappointed there seems to be politics being played in this medical malpractice insurance debate. I feel a little bit like Claude Rains in "Casablanca." I feel like saying: I am shocked—shocked—in an election year we may find politics being played on what we all acknowledge is a serious matter.

What we have before us is a one-size-fits-all bill. It is a one-size-fits-all bill for a problem that varies greatly from State to State. This bill would actually encroach on the rights of every State—my State of Vermont, the distinguished Presiding Officer's State of Kansas, the State of New Hampshire, all others. It would yank away from our States legal rights and legal responsibilities they now have. And if history is any kind of a predictor, they would take those rights away forever. I think we have to show great care in the Senate when we want to so trample the rights of our individual States.

The American public assumes the 100 Members of the U.S. Senate—if they are going to do something to drastically change the lives of people in all 50 States, if they are going to drastically step in and set aside the legislatures of the 50 States—would do it only after careful consideration. But instead we have short-circuited our own procedure. Usually, when we have a bill, as everybody knows from civics 101, it is introduced, it is sent to the appropriate committees, hearings are held, debate is held in the committees,

amendments are voted on, and then it is sent to the floor—but people have had a chance, both for and against the bill, to come in and testify.

Certainly, the Governors of the various States would have a chance to come in and say either we want you to just trample our rights and trample our legislature, trample our own authority or we do not. In this case, that did not happen. In this case, the bill was just written up in a couple lobbying shops down on K Street and brought up here for people willing to introduce it at the request of those lobbyists. And instead of letting States find solutions that are best for their citizens, the Republican majority prefers this attempt to tally points on some election year political scoreboard for what are powerful special interests, but they are going to do it at the public's expense.

Instead of looking at the big picture, the overly broad antitrust immunity that the insurance companies get, or the fact that a lot of insurance companies made a lot of poor calls in the stock market and lost a lot of money and are now saying, well, the doctors can pay higher premiums to pay it back—instead of looking at ways to reduce medical errors so there would be less suits—what they have said is that we have to help these big insurance companies—not help the individual States, not help the people involved. We will help the insurance companies.

No matter they are unwilling to clamp down and ask for higher medical standards, no matter they have lost billions playing the roulette wheels in the stock market, no matter they do not want to debate, it is an election year and their lobbyists came up and said we really want this bill, so here it is.

Here is a bill that would take a chain saw to the legal rights of the American people and to the prerogatives of each of the 50 States that we take an oath to represent in the Senate. It has been tried before. It did not work. This time the bill is limited to obstetrical and gynecological care. Actually, it is not just making sure the insurance companies are helped out. But what the majority says and what the lobbyists say is they want to limit the legal rights of the most vulnerable patients: mothers and infants. It is unfortunate because we do have a health care system that is in crisis. We hear that so often that the force of it tends to diminish, but that truth is one we have to confront. The crisis is one that has to be tackled and solved.

Dramatically rising medical malpractice insurance rates are forcing some doctors to abandon their practices or to cross State lines where it might cost less. So many times, of course, these insurance rates have gone up even though there have been no cases that would indicate why they have.

Patients who need care in high-risk specialties, such as obstetrics, and pa-

tients in areas that are already underserved, such as many rural communities in my State and the Presiding Officer's State, are too often left without adequate care.

What I find amazing is that here we are, the richest and most powerful Nation on Earth, and instead of simply being able to do what most Democratic nations do—that we would assure access to quality health care for all our citizens—we are saying: No, we will allow our doctors and our providers to be driven from their calling by the manipulations of some of the insurance companies.

That is why I was hoping we would have a real debate, we would have real hearings, to find out what is happening, that we would find out what happens when you give antitrust immunity to the insurance companies to set rates however they might want.

Different States, though, have different experiences with medical malpractice insurance. Many of these States are not seeing rates skyrocket, but the State's insurance remains largely a State-regulated industry. Are we going to say that even for those States that have much lower insurance rates, we are going to say, tough, no matter what you have been doing, no matter what you did to make things work right, tough, because we are going to throw that all out. We are just going to wipe you off the books. We are going to wipe off your State control because we, the 100 Members of the Senate, understand it so much better than you possibly could. We know so much better than your 50 Governors, your 50 legislatures, and we know it so well we are able to do this without any hearings, without any discussions, without any work from the outside?

We are able to do it because we are U.S. Senators. And we know that what was handed to us by the lobbyists when they drafted this bill must be right because, after all, they come to our fund-raisers.

I don't think it should be that way. I don't think that my own State of Vermont should be set aside when our Governor and our legislature are working to try to find the best solution for our small State.

I think of the one time we did have a hearing on this in the Senate Judiciary Committee—not this bill but a predecessor bill—when Linda McDougall came here. It was pretty tragic. She told us that she had had a double mastectomy because they made a mistake. She wasn't supposed to have had any mastectomy, but somebody read the papers wrong and that is what happened.

If the Senate is able to pass this bill and get it signed into law, she would still be allowed to recover, for what was gross negligence, a total of \$250,000. That is about what Senators make in around a year and a half. Which do you think she would rather have? Would she rather have her body back intact or the \$250,000? Please.

Arbitrarily limiting injured patients' remedies under the law without addressing systemwide medical errors that result in patient harm and death is a recipe for failure. We should be asking what were the things that went wrong; how did these things happen that such a terrible mistake was made?

We are fortunate in this Nation to have many highly qualified medical professionals. I think in my own little State of Vermont how fortunate we are to have extremely good physicians. Unfortunately, sometimes even good doctors make errors. If there is no pressure on the insurance companies, no pressure on the medical societies to keep the standards up, why should they go up? If the Senate, in its infinite wisdom, can take a lobbyist bill and just pass it and stop them from having to worry, why should they worry?

We must do all we can to support the men and women who commit their professional lives to caring for others, but we must also ensure that patients have access to adequate remedies if they receive inadequate care.

Let's understand, notwithstanding what the insurance companies' lobbyists tell us, high malpractice insurance premiums are not the direct result of malpractice lawsuit verdicts. They are the result of investment decisions by the insurance companies and business models geared toward ever increasing profits, as well as the cyclical hardening of the liability insurance market. In cases where insurers made a bad investment and experienced the same disappointment from Wall Street that many other Americans have, it should not be able to recoup its losses from the doctors it ensures. The insurance company should bear the burden of its own business model, just as every other business in this country ought to do.

A nationwide arbitrary capping—with no hearings—of awards available to victims, as the Republican majority has proposed, should not be the first and only solution turned to in a tough medical malpractice insurance market.

I might ask my friends, does anybody think if we pass this bill, if we override the legislatures of Texas or New Hampshire, Ohio, Vermont, or anywhere else, if we override all those legislatures and pass what the lobbyists and the fund-raisers have asked us to pass here—this bill, with no hearings, no committee work, just came from the pens of K Street, I suppose—does anybody think if we pass this pig in a poke that these medical malpractice rates are going to come down? Come on. I have a bridge in Brooklyn to sell you if you believe that.

We can pass this. We can help the insurance companies out of their bad investments. We can make sure that people who have been severely injured through medical malpractice are unable to recover for it. We can do all those things. But I guarantee you, the rates will not come down. We have seen enough other times when we passed special interest legislation supposedly

to help consumers and it has helped businesses. It has not helped the consumers.

What we ought to be doing is conducting thoughtful and collaborative consideration in committee that might achieve a sensible solution that is fair to patients, that supports our medical professionals and their ability to practice. I suggest one thing we might do is take away the blanket exemption from Federal antitrust laws that the insurance industry has. Insurers have for years had this novel exemption that nobody else has enjoyed. The McCarran-Ferguson Act permits insurance companies to operate without being subject to most of the Federal antitrust laws. Do you think our Nation's physicians, our doctors and their patients, have benefited by allowing the insurance companies to operate without being subject to most of our antitrust laws? Of course, they have not. They have not used this exemption from antitrust laws to benefit the patients. They have not used it to benefit the doctors they insure. They have used it to benefit themselves.

With this antitrust exemption, they can collude to set rates, resulting in higher premiums, certainly higher than real competition would achieve. And because of the exemption, law enforcement officials can't even investigate the collusion.

If we want to do something, let's get rid of the antitrust exemption that let's them set doctors' premiums anywhere they want. Let's get rid of the antitrust exemption that allows them to recoup their losses in the stock market—not losses for malpractice cases—by just charging ever higher premiums.

More than a year ago, I introduced the Medical Malpractice Insurance Antitrust Act, S. 352. Senators REID, KENNEDY, DURBIN, EDWARDS, ROCKEFELLER, FEINGOLD, BOXER, and CORZINE cosponsored the legislation. It would modify McCarran-Ferguson with respect to medical malpractice insurance and then only for the most pernicious antitrust offenses: price fixing, bid rigging, and market allocation. These are the anticompetitive things that affect premiums.

I can't imagine how anybody could object to a prohibition on insurance carriers fixing prices or dividing territories. After all, all the other industries in our Nation have to abide by these laws or they pay the consequences. So we will find out who really carries sway here. Is it the insurance companies and their lobbyists or is there some indication that the American people may still have a voice in the Senate?

Let's find out what happens when we bring up an amendment to remove the antitrust exemption these insurance companies now have. This legislation languished for a long time. We actually had hearings on this. But the one that is written downtown comes straight to the floor.

If we are really serious about controlling rising medical malpractice in-

surance premiums, we have to limit the broad exemption to Federal antitrust law and promote real competition in the insurance industry, and work at reducing medical errors across the health care system. This partisan bill doesn't do that.

This partisan bill is designed to be a talking point for fundraisers. It is not designed to help doctors in rural, underserved areas to be able to pay their medical malpractice insurance. It doesn't help the women and children in this country who need these medical specialties. It may help insurance companies and fundraisers, but it doesn't help anybody. If we are going to pass something, let's pass something real.

I see my good friend from Texas and my friend from Ohio on the floor. When I started speaking, there was nobody else seeking recognition. My good friend, Senator GREGG, was kind enough to yield when I came here. I will be speaking more on this, but I will yield to whichever Senator wants the floor.

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

Mr. CORNYN. Mr. President, I ask unanimous consent to be added as a cosponsor of the Healthy Mothers and Healthy Babies Access to Care Act of 2003.

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

Mr. CORNYN. Mr. President, I am happy the majority leader has seen fit to bring this important issue to the floor. I will have some specific comments about the bill in just a moment.

I believe our civil justice system is badly broken insofar as it serves the interests of the few at the expense of the many. What I mean by that is our system of resolving civil disputes, whether they be medical malpractice lawsuits, or automobile accident cases, or any other kind of ordinary bread-and-butter lawsuit you see decided in courthouses across this country, in which citizens volunteer to give up a substantial amount of their time, that this process takes too long and it is too expensive to serve the interests of justice. It discourages those who have meritorious claims from even bringing those claims because they don't want to endure the time or expense. It too often benefits the very few at the expense of the rest of the public.

Particularly, the benefit is to a handful of lawyers. I must say, I am proud to be a lawyer. I practiced law a long time before I was a judge presiding over a trial court in San Antonio, TX, for 6 years and serving on the Texas Supreme Court for 7 years. I am proud to be a lawyer.

The problem is we have a handful of lawyers who are literally the tail wagging the dog on this and other reform issues that are so important to restoring public confidence in our civil justice system and making sure that rather than serving the interests of the few, the interests of the general public are

served by the way in which we handle disputes like medical liability cases and other tort litigation.

We have in this country what some have called the "sporting theory" of justice. We have an adversary system, where each side retains a champion and we go in and we have a clash between these adversaries in court, and the theory is—and in many respects it works well—the impartial jury decides the facts and the judge applies the law, and then we have a judgment in the dispute. It is a way of resolving our disputes without violence, in a way that seems to satisfy the public generally. But the problem is in modern-day litigation—and nowhere is this more prevalent than in the area of medical liability litigation—the interest of the person who is harmed is not truly paramount in consideration in terms of the way the system works. In fact, many times, it is the patient who may be injured or harmed who receives actually less money than the lawyer who brings the lawsuit.

As you know, many of these lawsuits are handled on a contingency fee basis. In other words, the lawyer who brings the lawsuit will represent a client in court—a patient in this instance—and say, well, if I represent you, then I will take 50 percent of everything you recover. It won't cost you a penny if I don't recover anything, but if I do, I will recover 50 cents off the top of every dollar you recover. Of course, there are other expenses associated with this kind of lawsuit, such as the hiring of expert witnesses, court costs, and the like.

Too often, what happens in these cases is the lawyer ends up the one walking out of the courtroom with the most money, not the injured party, not the person for whose benefit a lawsuit is brought. To me, that simply turns our civil justice system on its ear. It calls into question whether this is a system of resolving disputes in a way that serves the interests of the public; or does it, as it appears too often, serve the interests of a handful of personal injury lawyers who make their living bringing this kind of lawsuit.

There is another aspect of this as well. In our civil justice system, we know almost anybody can file a lawsuit for virtually anything. If you can get a lawyer to file a lawsuit, then you can sue someone for a small fee, whereby the clerk will serve the papers on the defendant, and typically the defendant will have to hire a lawyer to represent them. At this point, there is no determination made that there is any merit to that lawsuit. Well, what happens too often is the very nature of being able to file that lawsuit without any determination if there is any merit at all leads to a form of legalized extortion, because the person who has been sued has no recourse but to hire someone to defend them. Even if they end up winning the lawsuit, even if the lawsuit filed is dismissed ultimately, there is no recourse for that defendant who

has been wrongfully sued or sued in a frivolous lawsuit.

This, too, adds to the expense of ordinary litigation and makes very little sense to me or, I think, to a lot of people. I think the more the public understands who it is who benefits from the current state of our civil justice system, our tort system, our medical liability system, the more the people will understand it is not them, not the injured patients, not those whom the system is designed to benefit; it is for those who filed the lawsuits, the lawyers who represent those folks. Unfortunately, because of the costs associated with just the expense of litigation, we know too often those persons who are sued will make what is known in the profession as a nuisance settlement. In other words, they will say, well, it is going to cost me tens of thousands of dollars just to defend myself against a frivolous lawsuit. Rather than defend myself and win the lawsuit, but end up \$100,000 out of pocket, or whatever the cost may be, I will pay you \$5,000 or \$10,000 to simply have it go away.

Unfortunately, you can see why the financial incentives tend to favor nuisance settlements of lawsuits which, unfortunately, have the unintended impact of encouraging further litigation and other lawsuits even when they are frivolous. We need to do something about it. I join the senior Senator from New Hampshire who said we need some meaningful medical liability reform. We need to make sure that it is not the lawyers who bring these lawsuits who benefit but, indeed, the public. Nowhere is this a greater concern than when it comes to access to health care and medical liability lawsuits.

Last fall, I spoke in this Chamber, along with others, in support of broad-based medical liability reform. Today I rise to speak in favor of this narrow, but very important, bill that deals with women's access to physicians who will deliver their babies, access which has been damaged terribly by the current dysfunctional way in which we resolve disputes about medical liability.

The change we argued for last fall and this change as well would drastically reduce the cost of health care by reducing frivolous claims and eliminating the need to pay extraordinary amounts of money for medical liability insurance.

Unfortunately, we failed to pass meaningful reform. We have heard—I heard the Senator from Vermont mention this a moment ago—that the real culprit in all this is the insurance companies; it is not the lawyers who benefit disproportionately from the status quo; we know it is not the patients who do not benefit very often; and we know people who seek access to health care are denied access to that health care because of this dysfunctional system. The Senator said it is the insurance companies.

I take second chair to no one in saying that if, in fact, he can point to

abuses perpetrated by insurance companies or anyone else, we certainly ought to take up that issue. But I believe the motivation is really one to create a diversionary tactic, a smoke-screen, if you will, to say it is not the lawyers, it is not us, Heaven forbid, it is not the women who want their babies delivered, it is the insurance companies. We have heard this time and time again when, in fact, I believe the empirical evidence that has been produced in my State and other States shows that, in the end, insurance companies, which are typically subject to strict State regulations, are having to play a lottery game, a sort of game of roulette. They don't know what the rules are because they change with every million-dollar, multimillion-dollar, tens-of-million-dollar judgments in lawsuits. So they charge an insurance premium, just like we pay for homeowners insurance or renter's insurance or any other kind of insurance, and ultimately that cost is passed on to the consumer. In this case, the consumer of that insurance, the one who pays that premium, is the physician who wants to practice medicine, who wants to dedicate their life to the interests of people who are sick and who need their help—in this case, mothers who need access to good baby doctors so they know the baby they have carried for all these months will be delivered safely and will be healthy.

The good news I guess, if we can find any good news in this sordid situation in which we find ourselves, where these lawyers who benefit from the status quo are the ones who are calling out the tune and having others dance to the tune they have called out, is that some of the States are stepping up; they are not waiting on a solution from Washington, DC, and that is a good thing.

As someone who believes that local government and State government tends to be more responsive because it is closer to the people they serve, than for the Federal Government, I think it is good that the States are stepping up, but this is not strictly a State problem.

When we consider how much money we appropriate each year—we just passed a \$400 billion Medicare bill which is now estimated to cost more than \$100 billion more than that over 10 years—when you think about Medicare, when you think about Medicaid, when you think about S-CHIPS, the Federal taxpayer—in other words, everyone who earns a wage in the United States—subsidizes this broken medical liability system because much of the costs associated with health care today are due to either counting in what this rapidly increasing cost is in terms of determining what a fee for a service is or otherwise having to suffer the consequences when doctors simply pull up stakes and move out of their State, leaving mothers, in this case, who want a doctor to deliver their baby in the lurch.

In my own State, out of 254 counties, there are 154 counties in which a pregnant woman cannot find a specialist to deliver her baby. A large part of that cause is because of the cost of medical liability insurance which is simply priced out of the market, and physicians say I am going to retire early rather than subject my family and myself to putting at risk everything I have worked a lifetime to save and achieve or people who just simply have gotten tired of being in the crosshairs their whole life by a system that serves the interests of the few at the expense of the many. I think Senator GREGG had a chart that showed what I mentioned a moment ago behind, that out of the 254 counties in Texas, 154 have no obstetrician/gynecologist, no specialist in delivering babies. The yellow depicts those pregnant woman would have to drive to one of the white counties simply to find someone who will deliver her baby, and sometimes they don't make it. Sometimes the baby is damaged because complications ensue because there is no doctor close by who is qualified to deliver that baby because of this broken medical liability system.

I think it was Senator FRIST or perhaps Senator GREGG had a chart that showed a chart of 19 States where there is a medical liability crisis because of this civil justice system, a system that is supposed to be a just system but is truly an unjust system. It is simply broken.

Each of these red States, including, we can see, the State of Texas, is listed as a State in crisis. Nineteen of them are where patients are losing access to baby doctors due to skyrocketing medical liability insurance premiums and where pregnant women are forced to drive long distances just to find a physician to deliver their baby.

As I mentioned a moment ago, the good news, if there is any good news in all this, is that the States are not necessarily waiting on the Federal Government. In my own State, just this last year, the voters passed a constitutional amendment, proposition 12, which would provide some of the relief that is sought to be delivered to the entire Nation in this particular bill. We have already seen some very beneficial effects of this constitutional amendment and the legislation that implements it because we have seen medical liability insurance companies offer to reduce their premiums by 12 percent or 19 percent in another case.

So we are beginning to see some real impact of the predictability and the commonsense reforms that I believe are designed into this important bill. Because the American taxpayer pays to support the Medicaid system, pays to provide indigent health care, pays to provide other types of medical care, this is truly not just a State problem. This is a national problem, and I know many of my colleagues, myself included, are concerned when we hear those dreaded words from the Federal



Government: We are from the Federal Government and we are here to help. Those are some of the most dreaded words in the English language because, indeed, the States and local government, I believe, tend to be much more responsive. This is truly not just a statewide problem in my State or any State. This is a national crisis that calls out for a national solution.

This is not something that affects only obstetricians or baby doctors. Indeed, this affects the ability of hospitals to do business in rural parts of our country, rural parts of my State. Emergency departments lose staff and scale back critical services such as trauma units. From 2002 to 2003, we saw a 56.2 percent average premium increase faced by emergency room physicians and the hospitals in which they practice. One-third of the Nation's hospitals saw 100 percent or more increases in liability insurance premiums in 2002. We may think this does not really concern me, this is the hospital owned by a corporation, or this is a doctor's problem, somebody who drives a big shiny car, who makes a lot of money. But this is not about helping doctors or helping the corporations that own hospitals. Many of them are owned by nonprofit associations and are charitable organizations that keep their doors open because they believe in their mission. This is ultimately about access to health care.

I have heard some of my colleagues on the other side suggest that because of the booming number of uninsured in this country, estimated to be at any snapshot in time as many as 43 million people, we need universal, federally funded health care in this country. We know, because the Joint Economic Committee has told us so, that 3.9 million uninsured Americans would be able to receive health insurance if Congress were to pass commonsense medical liability reforms. Almost 4 million currently uninsured individuals would be able to receive health insurance if Congress were to pass commonsense medical liability reforms.

This is not just an isolated matter. This does not just affect doctors who are fortunate by virtue of their training and that expertise to earn significant incomes. This is not just about big hospitals with shiny buildings owned by corporations. This ultimately comes down to the individual who wants what we all want, and that is access to good quality health care, but who simply cannot find it because they either cannot afford the health insurance or their employer has been priced out of the market because of booming health insurance premiums, in large part caused by this liability crisis or, as we have seen, simply the doctors who, rather than live in the crosshairs of this broken system, decide to retire or to move away to some other location.

I know there are others, such as Senator DEWINE, who want to speak after me, so I will conclude my remarks. But

I plead to my colleagues to allow this matter to be debated. That is all we are talking about at this point. All we are looking for is 60 Senators who will have the courage to stand up to the trial bar, the personal injury trial lawyers, who insist that this matter not be debated on the Senate floor. When so many pay the costs of that intransigence, I suggest that is just not fair and it is not just.

I encourage our colleagues to reexamine their conscience and ask whether they are serving the best interests of their constituents, and in this specific instance so many women who need a doctor to deliver their baby. This country's future depends on those healthy babies being delivered and becoming productive citizens, not harmed by an avoidable medical complication because the mother, during her hour of need, and the baby during its hour of need could not get the medical care they so richly deserve and upon which America depends.

We must end the liability lottery where only a few patients and even more trial lawyers receive astronomical awards. Even when there is no award in a frivolous lawsuit the costs simply run up what we all pay for health insurance, those of us who can get it, and render many more even unable to get access to health insurance and thus access to health care at all. We must pass meaningful medical liability reform that includes real and lasting change and brings the lessons of Texas and other States that have been successful in passing statewide reform to the entire Nation because, indeed, this is no longer just a State-by-State crisis, as we have seen with 19 States in an emergency situation. This is a crisis that affects our entire Nation. It affects the quality of life that we enjoy and the promise that I believe we all wish to see delivered to every American, and that is the ability to live out our dreams. Part of that means access to decent, good quality health care, something that is being impaired by our failure to act in this instance.

I yield the floor.

(Mr. COCHRAN assumed the Chair.)

#### POLITICAL CRISIS IN HAITI

Mr. DEWINE. Mr. President, at this very minute, there is an urgent crisis in America's own backyard, a crisis on the island nation of Haiti. I have come this afternoon to talk about that. I have been on the Senate floor many times in the past to talk about Haiti. I think I have traveled to Haiti 13 times since I have been in the Senate. I have talked before about the AIDS crisis there. I have talked about the horrible dehumanizing poverty. I have talked about the lack of clean water. I have talked about the food shortages. I have talked before about the children who are sick with AIDS and other diseases such as malaria and tuberculosis, children who have been orphaned when their parents die from AIDS, children who have little hope for a better future

unless significant reforms are implemented and changes are made.

Today, I come to the Senate floor to talk about what everyone has seen in the news in the last several weeks, and that is something that is now dwarfing the poverty, the AIDS, and all the other problems, and that is the current crisis, the violence that has erupted across this island nation.

The chaotic and dangerous situation in Haiti right now is anything but a surprise. The fact is that a crisis has been looming there since at least before Christmas. In January, in an opinion piece that I wrote for the Miami Herald, I urged Haitian President Aristide to reach an agreement with the legitimate opposition groups, the political groups, to reach wholesale political change and reform. In that opinion piece, I urged him to pull back his own gangs of thugs and to tell them to stop their violence. I suggested then that President Aristide had within his own power the ability to avert further chaos and inevitable disaster at the hands of insurgent groups by ending the political impasse with the opposition and by creating a government that the international community could, in fact, support.

I am pleased that just this weekend President Aristide agreed to the proposal of the U.S. administration, our administration's proposal to end the political stalemate. It is imperative that the legitimate political opposition groups in Haiti now accept the terms of this agreement. As I speak this afternoon, these groups are considering this proposal. But I must say, time is of the essence. I believe our administration's proposal, based on other Caribbean nations' earlier proposal, is a reasonable offer and one that has the greatest chance of bringing about an immediate end to the bloodshed.

Members of the Senate need to understand that, really, there are three forces at play here. There is the Aristide government; there is the legitimate political opposition in the country; and then there are the thugs, and we can use no other term to describe them but the thugs who are trying to overthrow the Government.

Let there be no mistake about it. These are not democrats, with a small "d." They care not for democracy. When we talk about the political opposition we mean just that, the political opposition, the legitimate political opposition in Haiti. It is not associated with these thugs.

So we call upon them today, the political opposition, to agree to the proposal made by the U.S. Government. President Aristide has agreed to this. We ask, and believe it is clearly in the best interests of Haiti, for the political opposition to agree to it as well.

This agreement includes the setting up of a broad-based advisory council to Aristide's government. It also includes the appointment of a new Prime Minister. That is very significant. Further, it includes the disarming of gangs



aligned with Aristide's Lavalas Family Party.

I urge the opposition groups to accept this because, quite candidly, this proposal is the best hope for creating a coalition government that can stop the violence and a coalition government that can be accepted by the international community and can be respected on the world stage.

The fact is, unless agreement is reached and unless the violence stops, there will be serious consequences for our hemisphere, for Haiti, and, yes, for the United States. We do not know what is going to happen in Haiti, but as we think about what our response might be if in fact settlement cannot be reached or if in fact a settlement is reached and the violence continues, we need to keep in mind a few basic facts.

First, Haiti is in our neighborhood and what happens in our neighborhood affects the United States. Haiti is a nation that lies only about 800 miles from our shores and is, therefore, less than a 1½ hour flight from Miami.

Second, amazingly there are at least 20,000 U.S. citizens living in Haiti today. Let me repeat that. The official estimate is that there are at least 20,000 U.S. citizens living in Haiti today. These are missionaries; these are doctors; these are nurses and other U.S. citizens. No one knows for sure how many U.S. citizens are actually down there. They are, so to speak, embedded all throughout the country.

The reality is that an awful lot of humanitarian workers are simply not going to flee. They are not going to leave this Nation no matter what our advisories say. They are there simply to help the people of Haiti and they are going to stay. They are going to stay to help the children. They are going to stay to help the elderly. They are going to stay to help the sick. They are not going to abandon the people. Therefore, we have an obligation as a country to protect them and we need to be concerned about them.

Furthermore, if the violence does not end, then we in the United States will once again be seeing boats swollen with Haitians, risking their lives for the chance of a better life. Our Coast Guard will be out there having to stop them and we will be seeing them floating toward Miami and the Florida shores.

No one knows what the future will hold. We have watched on the news. We have read in the newspapers as these thugs, these rebels have taken over most of the main cities of Haiti—all of the main cities of Haiti, except Port-au-Prince. No one knows what will happen next. I said the hope is there will be agreement reached between the opposition, legitimate political opposition and the Aristide government. But if we assume the violence will continue, if we assume these thugs, these insurgents do what they say they are going to do and they move toward Port-au-Prince, no one can predict what will happen. But it is certainly

not out of the realm of possibility that there will be a bloodbath in Port-au-Prince.

There is no army. President Aristide, tragically—we have seen the police corrupted. There is no real police force of which to speak. So what Aristide has done is he has armed the gangs of Port-au-Prince. So there are arms everywhere in Port-au-Prince. They are the ones who would be there to “defend” Port-au-Prince.

So you would have certainly the potential of the gangs of Port-au-Prince with their guns versus the insurgents coming in, and the people who would be the victims would be the children, the women, and the elderly would be caught in that tragic crossfire. That very well could be the scene that we will see unfold in front of us on CNN, on the network news.

Those are things we need to contemplate in the days ahead as we think about what our reaction might have to be. I believe our administration has taken the right steps. Mr. Roger Noriega, representing the administration, went to Haiti and made this proposal. It was the right thing to do. It was a good proposal.

Haiti is out of time. I, again, urge the opposition leaders, the legitimate political opposition leaders to accept the administration's proposal. It is clearly in Haiti's national interest. If the opposition doesn't accept the proposal without question, the situation will spiral out of control very quickly. It may, in fact, spiral out of control anyway, but clearly it will spiral out of control if it is not accepted. If it does spiral out of control, the United States needs to be prepared to act in our own national self-interest.

I yield the floor.

THE PRESIDING OFFICER (Mrs. DOLE). The Senator from Wyoming.

Mr. ENZI. Madam President, our Nation's medical litigation system is broken and we need to start working to fix it. I urge my colleagues to vote for cloture on the Gregg-Ensign bill. It is time to stop filibustering and to start working.

I just got back from Wyoming. They are having this same debate there. They don't trust us to finish it here. They are trying to finish it on a local basis. They are having a debate on a constitutional amendment to be able to do medical tort reform.

I tell you, that is a very difficult thing. Litigation reform requires a constitutional amendment in Wyoming. That means there may be a vote of the people, but that can't happen until at least November and we are in a crisis in Wyoming right now. We are not the only State in a crisis.

Last year, we brought a medical litigation reform bill to the Senate. The legislation would have placed reasonable limits on the amount of money attorneys can take from a verdict or a settlement in an injured patient's favor. The bill also would have limited awards for punitive damages and non-

economic damages. In other words, the pain and suffering awards.

The bill would not have limited awards to compensate patients for economic losses. This is an important point for everyone to keep in mind. If a judge and jury were to decide a person suffered an injury due to a doctor's mistake or a hospital's negligence, that person would be entitled to receive full compensation for their economic loss, including everything from rehabilitation to lost wages resulting from their injury. I cannot stress this point enough. The bill would not have limited awards for any part of economic losses.

What the bill would have done is place a ceiling on noneconomic damages. The bill would have limited the maximum award for noneconomic damages to \$250,000 in States that do not have their own limits on such awards.

In Wyoming, we do not currently have limits on noneconomic damage awards. We do not have limits despite evidence which shows limits on noneconomic damage awards have helped control the cost of medical liability insurance premiums in other States.

As a result, people in Wyoming are losing access to affordable health care in their communities. The rising cost of medical liability insurance in my State of Wyoming is forcing doctors to curtail their practices or close them entirely. We have a shortage of doctors in Wyoming as it is and the cost of medical liability insurance is making a bad problem even worse.

To address this problem, I cosponsored the medical litigation reform bill we offered for debate last year. We needed 60 Members in this body to vote in favor of working on the bill to get past a filibuster, but only 49 voted in favor. So it was back to the drawing board.

Here we are again, 9 months later, with a new bill. It is ironic we are here 9 months later because this bill focuses on mothers and babies.

Medical liability crisis affects many patients and doctors. Those it affects most are the expectant mothers and their obstetricians.

Doctors who deliver babies have a dubious honor when it comes to medical liability insurance. The typical obstetrician pays more in annual premiums for professional liability insurance than almost any other type of doctor. Part of the reason is that in some states the child has the right to sue when they get to adulthood. That is a pretty long tail on the liability. If the parent fails to sue, the child can sue.

Some of my colleagues have pointed out the statistics and numbers on this crisis, so instead I will tell a short story about an obstetrician in Wyoming. I told this story in July so I apologize if you have heard it before, but it is worth retelling.

There was an article in the Washington Post about a year ago about the medical liability crisis. The reporter for the Post had gone to Wyoming to

see how the crisis affected a State already struggling to keep enough doctors as it is.

According to the article in the *Washington Post*, the doctor in Wheatland, WY, went to a high school basketball game between the Wheatland Bulldogs and the nearby Douglas Bearcats.

Here is Wheatland on a map; here is Douglas. Wyoming is a pretty big State. This map shows about a quarter of the State. Each of the counties on this map is bigger than Delaware, and the distance between Wheatland and Cheyenne is pretty close to the length of Delaware. We are talking about a lot of distance, but not many people. One of these counties the size of Delaware has 2,500 people living in it total, so we have a lot of land, few people, and consequently not many doctors. Wheatland and Douglas are 60 miles apart. That qualifies as nearby in my State.

Now the doctor had just announced he would not be delivering any more babies in Wheatland or Douglas because of the cost of liability insurance. The irony is he delivered just about every player on both teams at that basketball game.

I would like to read a section of this story. The name of the doctor is Willard Woods:

The national malpractice insurance crisis . . . hit home for Wheatland this winter when Woods' insurance company joined a number of national malpractice carriers in declaring bankruptcy.

I emphasize that last part. Malpractice carriers are declaring bankruptcy. Some people say these companies are making out like bandits on medical liability insurance. If they are, they would not be declaring bankruptcy. These insurance companies are in crisis. They are raising their rates to cover the costs from legal cases and settlements.

Back to the quote.

That left only two firms selling malpractice insurance in Wyoming, and neither one was willing to take on a new obstetrical coverage. Woods did get insurance for his gynecological practice—a branch of medicine that spawns far fewer lawsuits than delivering babies—but the annual premium cost him \$116,000, three times what he paid the year before.

In this wheat-growing region of eastern Wyoming, where medical services are sparse and scattered, the impact is acute. Platte County, with a population of less than 9,000, has five doctors, equal to the number of veterinarians.

Women with normal pregnancies can still have their babies delivered in the hospital; Woods's two partners, both general practitioners, share the delivery duties.

"But if you have any kind of problem like I did," said Wheatland mother Kori Wilhelm, who has a genetic blood mutation that makes pregnancy dangerous, "you have to go to Cheyenne now"—and that's a 140-mile round trip—"to get the specialized treatment we used to get right down the street at Dr. Woods's clinic."

Put yourself in that woman's shoes. Until the cost of medical liability insurance drove Dr. Woods out of obstetrics, a woman experiencing a difficult

pregnancy in Wheatland could get specialized care in her own community. Now that woman has to drive 140 miles round trip for proper prenatal care and to have a specialist deliver her baby.

Madam President, 140 miles is a long way for anyone to travel to see a doctor. It is even a longer 140 miles for a pregnant woman. And it is truly a long 140 miles for a pregnant woman in the middle of winter when high winds and blowing snow often force the highway department to close the interstate between Wheatland and Cheyenne.

I wish this were the only story I could tell about the crisis in Wyoming, but it is not.

I could talk about Dr. Jack Richard, an OB/GYN who reluctantly retired last year due to his high cost of medical liability insurance. Dr. Richard served the people of Casper, WY, for more than 30 years, but he was not ready to retire at the age of 61. Dr. Richard had already stopped providing routine obstetrical care in 2000, but even as a part-time physician, his premiums had doubled since then.

I could talk about Lisa Minge, an OB/GYN who left my hometown of Gillette in November and moved her practice to Boise, Idaho. She cited the high cost of liability insurance as one of the factors in her move to Idaho, which has a \$250,000 limit on noneconomic damage awards.

I could talk about Dr. Bert Wagner, an OB/GYN in Cheyenne who stopped delivering babies this year to avoid the high cost of insurance for the obstetrical side of his practice.

Or I could talk about a group of family practice doctors in Cheyenne who are trying to decide whether they can keep delivering babies. The four doctors in this group saw their premiums go from \$65,000 in 2003 to \$110,000 in 2004. This is despite the fact they had already limited the number of babies they would deliver to 30 per doctor per year to avoid having to pay the full obstetrical rate. I don't know what you do if you are the mom who needs the 31st baby delivered.

I have more stories I could tell, but I am not sure what good it would do. I am an optimist by nature, but I am afraid I am pessimistic about the outcome of this vote.

Nevertheless, I commend Senators GREGG and ENSIGN and our majority leader, Dr. FRIST, for trying again. They have developed a bill that is focused on one of the most critical parts of this nationwide crisis—the plight of expectant mothers who depend on obstetricians to provide a safe and healthy delivery for their babies.

What Senators GREGG and ENSIGN have proposed is a modest approach that will provide some measure of relief to doctors who are squeezed by the high cost of medical liability insurance. The bill puts reasonable limits in place on the amount of money attorneys can take from settlements and verdicts awarded to injured mothers and babies.

The bill does not limit the amount of money juries and judges can award to cover lost wages, rehabilitation, special services, and other economic losses an injured mother or child might face. It simply puts a reasonable limit on what judges and juries can award for punitive and noneconomic damages, which are the types of unpredictable awards that are contributing to this health care access crisis.

I have noticed something interesting during our debates on this issue. While we have been debating the pros and cons of reform, no one is standing up to defend our current system of medical litigation. No one is standing up to defend our current system. We are talking about limits on noneconomic damages, or the role of the insurance industry, and Senators are saying: Yes, there is a problem, but the bill before us doesn't solve it.

One thing I have not heard is a rousing defense of our medical litigation system. Even some of the lawyers in this body have agreed frivolous lawsuits are a problem and our medical litigation system needs reform.

Why aren't we hearing anyone defend the merits of our current medical litigation system? It is because it is indefensible. Our system does not work. It simply does not work for the patients or for the health care providers.

The bill we are debating today is a good bill for mothers and babies and the doctors who serve them. But even the sponsors would probably admit it is a short-term measure that does not address the fundamental problems with our medical litigation system. This is an important bill, but it is just a tourniquet to stop the bleeding. It is not going to heal our broken system.

I would like to share with my colleagues a brief analysis of our medical litigation system. It comes from this book, "Fostering Rapid Advances in Health Care, Learning From System Demonstrations," published by the Institute of Medicine of the National Academy of Sciences.

Let me quote a section of this book:

There is widespread agreement that the current system of tort liability is a poor way to prevent and redress injury resulting from medical error.

Most instances of negligence do not give rise to lawsuits, and most legal claims do not relate to negligent care. Many injured patients do not know they have suffered an injury resulting from error, and those who go through the legal process often do not even recover the cost of their continued health care.

A few plaintiffs and their attorneys, however, win large sums that may be disproportionate to their injuries or unrelated to the defendant's conduct. Prolonged, adversarial haggling over claims by plaintiffs' attorneys and liability insurers alienates both providers and patients, and generates legal fees and administrative expenses that consume more than half the cost of liability insurance premiums.

The apparent randomness and delay associated with this pattern of accountability not only prevent severely injured patients from receiving prompt, fair compensation, but destabilize liability insurance markets and attenuate the signal that liability is supposed

to send health care providers regarding the need for quality improvement. Fear and distrust breed inefficient "defensive medicine," and lead to missed opportunities for information exchange and apology that might avoid lawsuits in the first place.

The shortcomings of the current malpractice system therefore come from three directions, all of which have contributed to the present crisis: inefficient and inequitable legal processes for resolving disputes, problematic responses by clinicians to the threat and cost of liability, and volatile markets for liability insurance. Although some states face greater insurance instability than others as the result of different legal standards, public expectations, and professional cultures, no state is immune to the threat of service interruptions affecting physicians, hospitals, and other health care providers.

These are not my words. They are not the words of personal injury lawyers. They are not the words of tort reform advocates either. As I pointed out earlier, these words are from the National Academy of Sciences, specifically the Institute of Medicine. This organization was created by the Federal Government and chartered by Congress to provide unbiased and evidence-based advice on health policy.

This congressionally chartered body issued a report in 2002 that called upon the Federal Government to support demonstration projects in the States to evaluate alternatives to current medical tort litigation. In response, I have introduced a bill in the spirit of this report.

This bill, the Reliable Medical Justice Act, would authorize funding for States to create alternatives to current tort litigation. The funding would cover the costs of planning and initiating proposals based on models outlined in the bill or other innovative ideas.

My bill would require participating States and the Federal Government to work together in evaluating the results of the alternatives as compared to traditional tort litigation. This way, all States and the Federal Government could learn from new approaches.

As I speak, some States are already looking into alternatives to medical litigation as we know it. My home State of Wyoming is one of them. Another is Massachusetts, where Governor Romney is working with Harvard University on an innovative project. Another is Florida, where the Governor's task force recommended the implementation of projects along the lines of those suggested in my bill. We should encourage and support these States and others that are considering similar ideas.

Believe it or not, both Newt Gingrich and the editors of the New York Times have endorsed the idea of creating and evaluating alternatives to medical litigation. If Newt Gingrich and the New York Times are in the same tent on an issue, maybe there is room in that tent for most of my fellow Senators to support it as well.

I support the Gregg-Ensign bill. It provides some short-term relief for mothers and babies and their doctors.

A lot of my colleagues will be voting with me, and a lot will probably vote against me. Regardless of how we vote on this legislation before us, we must acknowledge there is a medical liability crisis, and we must work together to find a solution.

Our medical litigation system is failing us. Medical lawsuits are supposed to compensate people fairly and deter future errors. But most patients do not get fair and timely compensation, and there is nothing to show the lawsuits are deterring medical errors or making patients safer.

I hope my colleagues will vote in favor of providing mothers, babies, and their doctors with some immediate relief through the Gregg-Ensign bill. I also hope they will look seriously at my legislation, S. 1518, which would put us on the road to replacing medical lawsuits with better and fairer systems for compensating and protecting patients. We need to pass both of these bills before we can say we have begun to solve this medical liability crisis.

I thank the Chair and yield the floor.  
The PRESIDING OFFICER (Mr. THOMAS). The Senator from North Carolina.

Mrs. DOLE. Mr. President, for years America has enjoyed world class health care. We have led the way in cures and treatments. We have developed the latest and the best technologies, and we have ensured our doctors are trained in groundbreaking procedures. Indeed, our Nation has accomplished much in the area of health care.

But today, the future of our world-renowned health care system is at risk. Some trial lawyers have nearly crippled the system by filing hundreds of frivolous lawsuits each year and defeating efforts to place limits on these lawsuits and the big-money fees lawyers earn off of them.

Nineteen of our States are in a full-blown medical liability crisis, according to the American Medical Association. North Carolina is among the hardest hit, particularly our OB/GYNs, who face constantly rising, astronomical premiums just to stay in business. Many have been forced to move or quit their practices. This problem is particularly evident in our rural areas where some women have had to drive for miles just to find someone to deliver their baby. This is unacceptable.

It is understandable why doctors are leaving their practices, when the State's top five jury awards in 2001 ranged from \$4.5 million to \$15 million. The annual number of settlements greater than \$1 million for medical liability cases has more than tripled between 1993 and 2002.

Meanwhile, women in our States are struggling.

Consider these facts: Obstetricians in western North Carolina are seeing their insurance premiums increase from 50 to 100 percent. Women's Care, P.A., the largest OB/GYN physician group in North Carolina saw its premiums increase 30 percent last year—

for 3 times less coverage. One of its obstetricians will soon stop delivering babies. Others may join him.

And there are more stories. Dr. Mary-Emma Beres of Sparta, NC, a small town in the northwestern part of the State with a population just under 2,000, had to stop delivering babies after facing a 300 percent increase in her malpractice premiums. Her departure left only one obstetrician to handle high-risk cases. And it meant some women who needed C-sections had to endure a 40-minute ambulance ride to another hospital to deliver their baby.

Then there is Dr. John Schmitt. He is an OB/GYN who left his practice in Raleigh after seeing his insurance premiums triple from \$17,000 to \$46,000. He decided instead to join the medical school faculty at the University of Virginia. One of his patients, Laurie Peel, highlighted this dilemma best when she said, "When you are a woman, you try to find a gynecologist who will take you through lots of things in life. You develop a relationship with your doctor. To lose someone like that is very hard."

It is time to stop this deplorable situation that leaves the most vulnerable and sickest among us as the real victims. No one in this country should have to struggle like this for health care. The America I know is better than that.

Doctors who do remain in business are forced to practice defensive medicine and order an excessive amount of tests and procedures to protect themselves from lawsuits. Dr. Steve Turner of Garner estimates that internists like him prescribe close to \$5,000 a day in defensive medical practices or \$1.2 million a year per doctor.

The legislation before us offers a solution that works. It is modeled after California's law which has been in place since 1975 and has kept premiums down in that State. This legislation does not cap damages. As you know, there are cases where compensation is absolutely justified and deserved. Under S. 2061, victims who suffer from a doctor's malpractice will be able to recover every penny of their actual economic damages. It does limit non-economic damages, like pain and suffering. Punitive damages would be limited. But the legislation allows patients to collect for medical bills, funeral expenses and other costs. And States would still have the option of setting higher or lower caps than these in the bill.

Each week in North Carolina, nearly 2,200 babies are born and 300 of those babies are born early.

This legislation deals with the immediate crisis facing OB/GYNs, so that at the very least women can have the best health care available to them when they deliver their babies.

Today we have a choice. We can vote with those trial lawyers who file endless lawsuits and watch our health care system spiral into decay. Or we can put an end to this debate, and protect our

health care system, by casting a vote for our patients and the medical professionals who so tirelessly care for them. I urge my colleagues to vote in favor of cloture. Let's pass this bill for our patients who need it most.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. THOMAS. Madam President, I join my partner from Wyoming in supporting what is one of most important bills we will have before us; that is, medical liability, the opportunity for us to do something about the cost of health care.

As I go about town meetings in my State of Wyoming, the topic I hear the most about is the cost of health insurance. Obviously, health insurance costs are driven by the cost of health care; in this case, of course, some directly as a matter of the kinds of payments that have to be made for protection under medical malpractice liability insurance.

I am very pleased to join my colleagues to talk a little about an issue that has had a severe impact on health care. It is not the total answer, but it is a step in the right direction. We are finding ourselves in a situation where we have very good health care, excellent health care, which we all want. We all know it is going to be expensive, but we find ourselves in a position where we are almost cutting off access to health care because of the cost.

We have 43 million people who do not carry insurance because of the cost. Obviously, we help take care of those people when they have something without the ability to pay, and the insurance goes up for those who do pay. The insurance goes up for the hospitals and the doctors who don't get paid for all their patients. So it is a broad problem but one we can handle. And one of the issues that is right before us is the idea of doing something on comprehensive medical liability which, by the way, our friends on the other side of the aisle filibustered last year. I hope they will not do it again this year.

I come from a small State which also has some impact. We have fewer insurance carriers in our State because there isn't the kind of market to bring people in. We have many communities where there are only one or two practitioners and some where there are none. When we lose a practitioner, it makes it very difficult for that community.

Wyoming is one of the 19 crisis States for medical liability designated by the American Medical Association. A recent op-ed by Wendy Curran, executive director of our Wyoming Medical Society, I think described some of the

issues regarding the need for liability relief in our State. I think she laid it out quite well:

Wyoming is losing OB/GYNs, emergency trauma surgeons and general practitioners because of high malpractice insurance premiums.

It is interesting because Cheyenne, WY, is in the corner of our State next to the front range in Colorado and we have physicians living in Cheyenne and practicing in Colorado because they have this kind of protection and this kind of limitation on malpractice suits.

Wyoming physicians pay higher malpractice premiums than any of the surrounding States, which have all enacted liability reform.

It is kind of interesting that in our small State we are in the process of talking about that now. Whether it will be done in our legislature, which is meeting now, I don't know. The fact is, it is a budget session of 20 days and it takes two-thirds votes to get it in. It is going to be difficult to do.

Because of the fear of being sued, money is unnecessarily spent on defensive medicine each year, which we all pay for—\$70 billion to \$126 billion a year.

I had the real opportunity a while back in one of our rural areas to talk to a physician, who I think was pretty much retired but had been in Africa and had written books, and he had an interesting observation. We think about the lawsuits or the settlements that are very costly. He mentioned another aspect of this that is costly. In years past, when you hurt your arm, you could go in to your family practitioner and he or she would look at it, fix it, and send you home or put a cast on if he had to. Now, because of the possibilities of being sued, they have to send you to a specialist first and take a few more tests. So medical care is much more expensive notwithstanding the idea of the suits.

A recent survey indicates that 71 percent of Wyoming voters support liability reforms.

So I think most people do believe it is not the full answer to the cost of health care, but it is a movement we can make, a step we can take that will indeed make a difference. So I support, as my friend from Wyoming and the Senator from North Carolina do, the approach taken by Senators GREGG and ENSIGN in this bill.

OB/GYNs have probably been affected the most, and it is impacting access to the care for pregnant women. We have had bills before that went clear across the medical spectrum, and I think that is probably the appropriate way. But this singles out those issues that are so prevalent and difficult. Rural areas are disproportionately impacted, as there is often no other provider available, or where an OB/GYN is forced to close up shop. We have had that very thing happen in small towns, where there is only one OB/GYN. On the other hand, in some towns there are none and the general practitioners are concerned about delivering the babies.

We had one physician leave a little town called Wheatland, WY. He delivered babies in three counties. His malpractice premiums rose to over \$100,000 a year in a little community, in addition to what he had paid before. Pregnant women in Newcastle and Weston County have to travel 80 miles for babies because high medical malpractice premiums have forced three local physicians to abandon their practices.

Dr. Hugh DePalo, a practicing OB/GYN in Casper, WY, indicates that his premiums have increased by 300 percent in the past year. It is amazing.

According to the Wyoming Health Care Commission, for every dollar malpractice insurance companies make in premiums in Wyoming, they must pay \$1.25 on suits and settlements. Also according to the Wyoming Health Care Commission, some of our hospitals are paying medical malpractice premiums of \$1,000 to \$3,000 per birth, which makes delivering babies very unprofitable. Of course, they still do it, but somebody else has to pick up the tab.

It is interesting that these practitioners in Wyoming pay \$20,000 to \$30,000 more a year in malpractice insurance than those in Colorado, which has a cap of \$250,000.

Since all the States around us have passed liability reforms, we have a tough time recruiting all types of practitioners. We have underserved areas. I am chairman of the caucus here on rural health care, and we have been pleased with some of our accomplishments, but rural health care is different. For a long time, we had different fees paid to rural than to urban hospitals. The fact is, because of low volume, it could well be that the cost per case for rural hospitals is even higher.

One of the big costs of health care, of course, is the new equipment. We all want to have "Cadillac" health service, but when you have small volumes, you cannot do that. In our State, we have to have a system because you are not going to have all practitioners, specialists in every community. Something has to be set up so that it is available. So it is a difficult thing. We make it much more difficult by having these very high premiums. So we need to do something to protect, in this instance, our OB/GYN service for women and their babies and to set a reasonable limit on noneconomic damages. Keep in mind that if somebody has damages that are economic—this is not a limit on that; this is noneconomic damages. We have to provide for a quicker review of liability claims so they don't go on for years. We need to assure that claims are filed within a reasonable time. We need to educate people that frivolous lawsuits only add to the overall costs of health care for everyone.

Sometimes we say there haven't been many lawsuits. The fact is there may not be a lawsuit but there is a settlement, which also, because of the predicted outcome of the lawsuit, is a very high settlement and the costs are still there.

So I think the Senate should act on this important legislation that contains provisions that allow injured patients to recover economic damages—that is fair and legal—such as future medical expenses and loss of future earnings. Punitive damages are reasonably limited to the greater of two times the amount of the economic damages or \$250,000. It authorizes periodic payments to injured parties rather than one lump payment. It preempts State law unless such law imposes greater protections for the health care providers and organizations.

So I believe it does allow doctors to practice responsibility without the excessive testing, in reference to specialists, which is part of the growing costs of health care. I think this is a step in the right direction. But we have spent a great deal of time talking about Medicare and Medicaid, and we always talk about VA. We are going to have to look at the broad view of health care now.

Again, we all want great health care. That ought to be what we go for. But it becomes so expensive that it precludes lots of families from participating. That is something we don't want to have happen. I urge my colleagues to vote for cloture on S. 2061. I think it could be one of the most important votes in this legislative year.

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

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

#### FLAWED INTELLIGENCE ASSESSMENTS

Mr. LEVIN. Madam President, there is now confirmation from the administration's own leading weapons inspector that the intelligence community produced greatly flawed assessments about Iraq's weapons of mass destruction in the months leading up to the invasion of Iraq. It is my opinion that flawed intelligence and the administration's exaggerations concerning Iraq's weapons of mass destruction resulted from an effort to make the threat appear more imminent and the case for military action against Iraq appear more urgent than they were.

However, regardless of whether one thought the threat was imminent or not to proceed as unilaterally as we did, our intelligence was so far off the mark and the descriptions of that intelligence by the administration were even further off the mark that for the sake of the future security of this Nation, there needs to be an independent assessment not just of the intelligence but also the characterization by the administration of that intelligence.

Today, I want to raise a related issue: how the Director of Central Intelligence, George Tenet, misled the American people before the war about

the status of our sharing of U.S. intelligence information with the United Nations inspectors.

Director Tenet, after 12 months of indefensible stonewalling, recently re-lented and declassified the material that I requested, which makes clear that his public testimony before the Congress on the extent to which the United States shared intelligence with the United Nations on Iraq's weapons of mass destruction programs was false.

Prior to the war, the CIA identified 550 sites in Iraq as possibly having weapons of mass destruction or prohibited WMD materials or equipment. They were called "suspect sites." Madam President, 150 of those sites were so-called "top suspect" sites where the CIA believed it would be more likely to find such items. The 150 top suspect sites were, in turn, divided into three categories: High priority, medium priority, and low priority.

At two public hearings shortly before the war on February 11 and February 12, 2003, I pressed Director Tenet on the issue of how many suspect WMD sites were shared with the United Nations. On February 12, Director Tenet said the following:

When the inspections began, we drew up a list of suspect sites which we believe may have a continuing association with Iraq's WMD programs. The list is dynamic. It changes according to available intelligence or other information that we receive.

Of this set number of suspect sites, we identified a specific number as being highest interest, highest value, or moderate value because of recent activities suggesting ongoing WMD association or other intelligence information that we received.

And here is his bottom line:

As I said yesterday, we have briefed all of these high value and moderate value sites to UNMOVIC and the IAEA.

Mr. Tenet did not say "some;" he did not say "most;" he said "all." We have briefed "all" of these high value and moderate value sites to the U.N.

I told Director Tenet at the time in two public hearings that he was wrong and that classified numbers told a different story. On March 6, 2003, Director Tenet again stated in writing that:

We have now provided detailed information on all of the high value and moderate value sites to UNMOVIC and the IAEA.

National Security Adviser Condoleezza Rice made the same representation in a letter to me on March 6, 2003, in which she said:

United Nations inspectors have been briefed on every high or medium priority weapons of mass destruction, missile, and UAV-related site the U.S. intelligence community has identified.

On January 20, 2004, the CIA, after a year of resistance, finally declassified the number of "high and medium priority 'top suspect' WMD sites" where the CIA shared information with the U.N. inspectors prior to the war in Iraq.

In doing so, they finally acknowledged that 21 of the 105 high and medium priority top suspect sites on the

CIA list were not shared with the United Nations before the war. So the record is now clear that Director Tenet twice gave false information on this matter to the public and to the Congress shortly before the war.

The January 20, 2004, letter from the CIA states their position. The position of the CIA is that it provided the United Nations "with the intelligence that we judged would be fruitful in their search." History will, and a thorough investigation would, determine the accuracy of that statement. But the public can now judge the accuracy of Director Tenet's public statements before the war that all high and medium priority top suspect sites were shared with the United Nations. All such sites were not shared and Mr. Tenet's repeated statements were false.

Last February, Director Tenet could have answered honestly and said: We have not given the U.N. inspectors all the high and medium priority top suspect sites and this is why, Senator.

Instead, he chose a different path, one of misstating the facts. I can only speculate as to Director Tenet's motive. If he had answered honestly and said that there were 21 high and medium priority top suspect sites that we had not yet shared with the United Nations, it would have put an obstacle in the path of the administration's move to end U.N. inspections and proceed to war. It would have been more difficult for the administration to proceed to war without first having shared with the U.N. our intelligence on all high and medium priority top suspect WMD sites and it would have reinforced widely held public and international sentiment that we should allow the U.N. to complete their inspections before going to war.

In other words, honest answers by Director Tenet might have undermined the false sense of urgency for proceeding to war and could have contributed to delay, neither of which fit the administration's policy goals. For the last year, I have attempted to have declassified the number of high and medium priority top suspect sites that the U.S. did not share with the United Nations. The CIA stonewalled doing that for no reason that I can think of except that the facts are embarrassing to them. Surely, that is no reason to withhold information from the American people and to give inaccurate information repeatedly to Congress in public testimony. We rely on our intelligence agencies to give us the facts, not to give us the spin on the facts.

The accuracy and objectivity of intelligence should never be tainted or slanted to support a particular policy. What is badly needed and what is lacking so far is candor about how we were so far off in the assessments of Iraq's possession of WMD. The lack of candor is one of the many reasons an independent commission should be appointed by Congress, not just by the President, to look at not just how the intelligence came to be so flawed but

how that flawed intelligence came to be further exaggerated by the administration in order to support its decision to initiate military action.

One small part of this picture is this recent letter from the CIA that finally makes clear the truth. The CIA did not share all of the top suspect WMD sites in Iraq that Director Tenet said twice publicly before the war that it had shared with U.N. inspectors. It is more evidence of the shaping of intelligence to fit the administration's policy objectives.

I ask unanimous consent that the letter from the CIA that I have referred to on this matter be printed in the RECORD.

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

CENTRAL INTELLIGENCE AGENCY,  
Washington, DC, January 20, 2004.

Hon. CARL LEVIN,  
Committee on Armed Services,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR LEVIN: I am responding to your letters of 23 October 2003 and 8 January 2004 regarding declassification of specific information concerning the Intelligence Community's (IC's) sharing of information on Iraqi suspect weapons of mass destruction (WMD) sites with the United Nations (UN) inspectors.

I want to begin by ensuring that there is a mutual understanding of what has been declassified thus far with respect to Iraqi suspect WMD site numbers and the sharing of this information with the UN inspectors.

In our 23 May 2003 letter, we provided the number of approximate Iraqi suspect WMD sites identified by Central Intelligence Agency, 550; and, the number of suspect sites where inspectors were more likely to find something than at other sites, 150.

In our 11 July 2003 letter, we provided the number of suspect WMD site packages provided to the UN inspectors, 67.

In our 9 and 13 May briefings to the SSCI staff, we explained that this number represented the number of site packages shared with the UN inspectors at the IC initiative. The 67 number does not include site packages provided pursuant to UN inspectors' requests.

Your most recent letters concern three specific requests:

The number of high and medium priority sites on the IC's 150-site top suspect site list. Answer: High: 37; Medium: 68.

The number of high and medium priority sites where the IC shared information with the UN, including briefing packages. Answer: High: 33; Medium: 51.

The number of high and medium priority sites where the IC shared briefing packages with the UN. Answer: High: 21; Medium: 30.

The 21 high and 30 medium site packages provided to the UN inspectors represent site packages provided at the IC's initiative and pursuant to UN inspectors' requests. The number of high and medium site packages provided to the UN inspectors solely at the IC's initiative are 20 and 25, respectively.

These numbers have been declassified. However, in order to ensure that the numbers are accurately characterized, it is important to reiterate what has been previously provided in earlier correspondence to you regarding the suspect WMD site information shared with the UN inspectors. I specifically call your attention to the Director of Central Intelligence's 11 July 2003 letter, signed by the Deputy Director of Central Intelligence, which states:

"... CIA provided UNMOVIC with the intelligence that we judged would be fruitful in their search for prohibited material and activities in Iraq. We did not have and we never claimed to have, smoking-gun information that would lead the inspectors to a quick find. We selected the best sites we had that we judged would have the best chance of finding something. It is important to remember that we had given the UN a vast amount of data in the 10-plus years we cooperated with them on inspections, including data on many of the sites long suspected of containing illicit activity. Thus, when inspections resumed last year, we wanted to focus our effort on giving the UN new data that we had not told them previously. We started by considering about 150 sites that seemed promising—we further refined that list because many of these sites were already known to the UN inspectors, had been the subject of previous discussions by CIA and those organizations, and on which we had no new information. By the time inspections stopped, we had developed site packages for 67 sites. These included the sites on which we had the best intelligence—on which we had pertinent and possible 'actionable' information. We would not have helped the UN inspectors by giving them large volumes of data they already had. The UN relied on us to prioritize the information rather than simply to give them everything we had on every possible site in Iraq."

We ask that the numbers and text be used in tandem when discussing Iraqi WMD suspect sites and site packages provided to the UN inspectors.

I believe that with this response all your requests for declassification of Iraqi suspect site numbers have been addressed.

Sincerely,

STANLEY M. MOSKOWITZ,  
Director of Congressional Affairs.

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

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

Mr. BUNNING. Madam President, today I rise to spend a few minutes talking about the need for medical malpractice reform in my State, along with the bill before us, S. 2061, the Healthy Mothers and Healthy Babies Access to Care Act.

First, I commend the Senate leadership for bringing up this bill for consideration this week. It sends a signal to the American people that this is a high health care priority this year and that we have not given up the fight for real reform. As a father of 9 and a grandfather of 35, I believe there are very few things more important than providing mothers with the safest and healthiest environment to deliver their children.

Unfortunately, because of the medical liability crisis in Kentucky, the health and safety of both mothers and their babies are being jeopardized. Personally, I believe the most effective approach to medical liability insurance reform is a comprehensive approach covering all health care providers.

I hear all the time from doctors and hospitals across Kentucky about how

they struggle to pay their skyrocketing premiums. Last May, the Joint Economic Committee found that total premiums for medical liability insurance doubled from 1992 to 2001, to reach \$21 billion. I know hospitals and doctors are struggling under these increases. Last year, we had an opportunity to pass a comprehensive reform bill. Unfortunately, our opponents did not even give us a chance to fully consider the bill or have an up-or-down vote on it. Today we are attempting to fix the problem for just one of the specialties that has been the most severely affected by the increase in malpractice insurance premiums. Those are the OB/GYN doctors.

Specifically, this bill would improve access to care for pregnant women by placing some reasonable limits on lawsuits against their health care provider. The bill provides unlimited awards for economic damages and places a \$250,000 cap on damages for pain and suffering.

The bill also ensures that health care providers will only be liable for their share of any damages in a lawsuit brought against an OB/GYN doctor, along with limited attorney's fees.

All of these are steps in the right direction and the right thing to do. I urge my colleagues to vote for cloture tomorrow. The liability system we have now is badly flawed and broken and must be fixed. It encourages lawsuits and defensive medicine and forces doctors to become more worried about going to court than properly caring for their patients. This, in turn, leads to higher insurance premiums and gaps in care. Under our current liability system everyone loses, doctors and patients—everyone, that is, except the personal injury lawyers.

It is obvious people are beginning to understand the impact that soaring medical malpractice premiums are having on their communities. In fact, a recent poll showed that 68 percent of Kentuckians support putting limits on medical malpractice awards. That is right, 68 percent of Kentuckians. That is an overwhelming number of Kentuckians supporting reform.

I hear all of the time about how premiums rise, squeezing physicians financially, and affecting Kentuckians' access to quality health care. Last year, the American Medical Association added Kentucky to its list of crisis States. This means the current liability system is seriously eroding patient care. In Kentucky, physicians are choosing to close their offices or retire early. Others are packing up and moving to other States with more sensible insurance regulations.

A study conducted by the Kentucky Medical Association shows that over a 3-year period, Kentucky had a net loss of 819 physicians. According to the study, over 1,200 physicians moved out of the State to more friendly communities, and 281 retired. Even worse, we are losing young doctors. In that time, 500 residents packed their bags and left



Kentucky. That means 58 percent of the residents who trained in the State moved elsewhere to practice. My State cannot continue to bleed physicians like this. It takes a toll on our communities and our patients.

The American College of Obstetricians and Gynecologists also conducted a survey back in 2002 and found that 71 percent of the Kentucky physicians who responded to their survey have actually changed their practice—changed their practice from what they did because of the medical liability reform crisis that we are having. In my book that is completely unacceptable.

They also estimate that 3,240 pregnant women in Kentucky are without OB/GYN care. If that is not a crisis, I don't know what is.

The medical liability crisis not only affects physicians in private practice, it affects our hospitals as well. Last year, two hospitals in eastern Kentucky—Our Lady of Bellfonte Hospital in Russell and the Knox County Hospital in Barbourville—both completely stopped delivering babies. This puts mothers in rural areas at a much greater risk of complications. No expectant mother should have to drive past the hospital she has trusted for years to find one that will deliver her child. It doesn't make any sense. It just is not common sense.

While the liability crisis clearly must be addressed for the entire country, individual States are trying to pass legislation to help the doctors within their own borders. I commend them for this effort. In Kentucky, the State senate recently passed a bill by a vote of 23 to 14 that would allow Kentuckians to vote whether they want to amend the State constitution to allow for medical malpractice reform. Now it is up to the Kentucky House of Representatives to pass similar legislation. I believe the general assembly should pass a constitutional referendum and let Kentuckians vote on this issue since the crisis is threatening their access to care and ultimately costing them more in health care costs.

I have consistently supported medical malpractice reform since I came to this Congress in 1986, and I will support S. 2061 this week. It is the right thing to do, and it is the right thing to do for my State.

It is important that my colleagues take a stand and decide if they are with the mothers and children or if they are with the personal injury lawyers. Personally, I will be supporting the mothers and children in my State. I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

JOBS IN AMERICA

Mr. KENNEDY. Madam President, I would like to take a few moments of the time of the Senate to review one of the compelling issues facing the Nation, all across our country, and that is the state of our economy translated in ways that working families understand it—the state of jobs in America. How

are people doing with the jobs they have? Are they working longer? Are they working harder? What has happened to the millions of Americans who are on the unemployment lines? What about the millions of Americans who have lost any hope?

It seems to me, as I have said on many other occasions, that we have an administration that looks at the state of our economy from the position of Wall Street but not Main Street. The reason I say that is because I look at the remarks of the President of the United States that he made today. I will include the relevant parts of the speech. I am now quoting.

At home, obviously, the economy and jobs are on my mind. I know they're on yours, as well. I am pleased that the economy is growing. . . . My view of Government is to create an environment that is good for the entrepreneur. . . . And that we ought to keep on with the tax cuts.

That is his recommendation in terms of his statement that he made at the National Governors Association.

The rhetoric fails to match the realities of most Americans' lives. I know the President and his economic advisers have been touring the country claiming that the tax cuts for the wealthy have led to an economic recovery. A closer look at the States they have been visiting makes it clear this President and this White House are out of touch with the real needs and everyday concerns of average American families.

The President told small businesses in Tampa, FL, last week that tax relief was a vital part of the economic recovery and failed to mention 52,000 jobs have been lost in Tampa, FL, since he took office and that the jobs being created in the State pay 15 percent less than the jobs that have been lost. He did not mention Tropical Sportswear, an apparel maker in Tampa which shipped more than half of its cutting room jobs overseas.

And in a minute I will talk about the new Time magazine just out on the market and its cover story about too many jobs going abroad. I fail to see much in the President's comments to the Governors and to the American people showing the sensitivity that families are feeling all across this country about outsourcing.

Two weeks ago the President touted his economic policies in Harrisburg, PA, where 14,000 jobs have been lost since January 2001. The jobs being created in Pennsylvania pay 23 percent less than the jobs that were lost. In the same week, the President told businesses in Springfield, MO, the growth is good and jobs are being created. Yet 5,300 jobs have been lost in Springfield, MO, since President Bush took office, and the jobs being created in Missouri pay 25 percent less than the jobs that have been lost.

Every day it is becoming more and more clear the current Bush economic policy is in disarray. Last week, President Bush and his economic team

backed away from the promise to create an average of 2.6 million new jobs this year. The President made the promise in his economic report just the week before last and now no one in the White House or the Cabinet will endorse the 2.6 million number. It is just broken promise after broken promise.

President Bush promised his first tax bill would create 800,000 additional jobs by the end of 2002, but we lost 1.9 million jobs instead. His 2002 economic report promised 3 million more jobs in 2003; instead, more than 300,000 were lost. His economic report last year projected 1.7 million new jobs for 2003, and we suffered a loss of 400,000 jobs. He promised the latest round of tax breaks would create 510,000 additional jobs by the end of 2003, but we lost 53,000 jobs last year. President Bush says it is a good idea to send jobs overseas, as if we had not lost enough jobs already.

This chart is a pretty clear indication about what has been happening to the American economy in terms of jobs and the impact the economic policies of this administration are having regarding employment. This shows 5.2 million jobs short of the administration promises for 2002. In 2002, we are 2.5 million jobs short of the promises of 2003. The reality is nearly 2 million jobs have been lost in the first 2 years under President Bush.

The administration talks about how the economy is growing and how well the economy is doing. In his speech to the National Governors Association today, we can see words that are similar to what the President used in the State of the Union Address. In the State of the Union Address the President talks about the pace of economic growth in the third quarter being the fastest in nearly 20 years. Productivity is high and jobs are on the rise. He continued along in that speech, talking about his support for the elimination of overtime in an effort to help small business. That is the regulation the administration referred to as "the needless Federal regulation," a regulation that has been in effect since we adopted the 40-hour week that provides overtime protections for millions of Americans. This administration is committed to overturning that regulation. That would affect 8 million Americans who work more than 40 hours a week.

This is the projection of this administration in terms of the jobs created and the actual record of the administration over recent years. Whether it is a speech to the National Governors Association or the State of the Union, when we hear from the President the state of the economy is getting stronger and stronger, it is important to understand what the facts are.

We can ask ourselves whether this is the responsibility of workers in this country. This chart shows Americans work more hours than workers in other industrialized nations. This chart, from the Organization for Economic Development and Cooperation, shows Americans work 100 hours each year more



than any other industrial nation and considerably more than most of the other European nations. A few hundred hours more than France, Italy, and Germany. American workers are working longer. They are working harder just to try to stay in place.

If we look at the job market in terms of women in our society, what is happening to middle-income mothers who work 55 percent more hours today than 20 years ago? In 1979, it was 895 hours annually. Look at this figure: 1,388 hours now, almost double the amount in 2000.

So American workers are working longer and harder than any other industrial society. Not only that, we have also seen that the families are working longer and harder. Both men and women, husbands and wives are working longer and harder than any other country in the world. So families are working almost longer and harder, and the jobs gained do not pay as much as jobs lost.

The administration talks about the creation of new jobs, they talk about the unemployment figures, but it is important to understand what those jobs are and what they are in terms of pay. In 48 of the 50 States, the new jobs are paying less than the old jobs. There are only two States where they pay more. They average 23 percent less. Workers are working longer and harder. The jobs are paying less.

We will look at what is happening to the national average wage. For workers in 2001, the average wage was \$44,000. The average wage now is \$35,410, a 21-percent reduction in the average wage for workers today.

We read the statement of the President today talking about the state of our economy, that everything is good and getting better, and when we read the State of the Union talking about how positive all the economy is, we ought to be able to look at what is happening out there on Main Street. Workers are working longer and harder. Both men and women are working longer and harder, and their total income is going down. That is what is happening on Main Street across this country.

This chart demonstrates these points. In 48 States the Bush "recovery" has replaced high-paying jobs with low-paying jobs, with the exception of Nebraska and Nevada. That is a national phenomenon in States across this country, and the outsourcing issue is one of the principal contributors. That is why there is national attention given in this magazine today talking about the challenges we are facing with outsourcing.

I will read a couple parts of the article about outsourcing, and I will include the relevant paragraphs so they will be in complete context.

That's why outsourcing to India has exploded during the recovery.

I will come back to the "recovery" in just a minute.

That is why outsourcing to India has exploded during the recovery. It jumped 60% in 2003—

That is 60 percent in 2003—

compared with the year before, according to the research magazine Dataquest, as corporations used some of their profits (not to mention [their] tax breaks)—

Not to mention their tax breaks—do you want to know where a great chunk of those tax breaks are going? It has been used to organize and shift American jobs overseas. This is the conclusion in this magazine today. It goes on:

That translates to 140,000 jobs outsourced to India last year. And what is the human aspect? Here is one of the individuals who has been affected. His name is:

Vince Kosmac of Orlando, Fla., has lived both sad chapters of outsourcing—the blue-collar and white-collar versions. He was a trucker in the 1970s and '80s, delivering steel to plants in Johnstown, Pa. When steel melted down to lower-cost competitors in Brazil and China, he used the G.I. Bill to get a degree in computer science. "The conventional wisdom was 'Nobody can take your education away from you,'" he said bitterly. "Guess what? They took my education away." For nearly 20 years, he worked as a programmer and saved enough for a comfortable life. But programming jobs went missing two years ago, and he is impatient with anyone who suggests that he "retrain" again.

"Retrain" again—remember that picture with the President out there talking about new training programs that were tied into the community colleges? The principal problem with that is he said he was going to request I guess \$250 million, but of course they cut over \$600 million in the last 3 years out of the training programs.

But this is what is happening here—the fact that this individual got the training and programming jobs went missing 2 years ago.

... he is impatient with anyone who suggests that he "retrain" again. "Here I am, 47 years old. I've got a house. I've got a child with cerebral palsy. I've got two cars. What do I do—push the pause button on my life? I'm not a statistic."

That is it. These families are not statistics. They are real people who are working hard, working longer, and making less. That is one of the prime concerns many of us have; that is, if we have a problem, the first thing we have to do is understand it. The first thing the President of the United States has to say is: We have a problem. Let's deal with it. If he just keeps on going as he did with the State of the Union and as he has today to the Governors, that everything is hunky-dory, everything is getting better, that there is no problem, then you are failing to understand what is happening on the main streets across this country.

This next item is from the Lou Dobbs show on CNN last Friday night. These are all publications from today, the speech made by the President today, the impact on the wages today. All of this has been in the last few days. We are not going back a year or 2 years ago as to what is happening; we are

talking about what is happening across this country today and what the President of the United States said today and how out of touch he is on these issues.

This is from last Friday night. I think these two comments said it all on the Lou Dobbs show last Friday night. This is Glenn of Oxford, MI:

If General Motors, Ford and DaimlerChrysler can take supplier parts and send them to China to be mass produced at a third of the cost, then why doesn't the cost of the vehicle ever go down? Labor is cheaper, parts are cheaper, but CEO pay increases.

There it is. That is what is happening. That is the real economy. That is what is happening. When you are talking about outsourcing, you are not only talking about families who have worked hard, played by the rules, and are being outsourced; a decision is being made over which they have no control. But you would think at the end of the day, if the parts are cheaper, if everything is cheaper, then at least the vehicle or some other part would be cheaper; but, no, the same cost, but the profits go to the CEOs.

That was Glenn of Oxford, MI, last Friday night on the CNN show.

Here is Walter, of Gary, IL:

When did the American dream become buying goods and services as cheap as possible?

That is a pretty good question: "When did the American dream become buying goods and services as cheap as possible?"

It used to be to have a good job, buy an affordable home, raise our children and hope that our children will be able to do the same if not better in the future.

That is the definition of the American dream. That is the dream that is being trampled on every single day, and we need to have national leadership that understands what is happening out across this country.

It is stunning to me—absolutely stunning to me—that we cannot have a recognition about what is happening in terms of the current situation. These are the facts.

In the Bush economy, corporate profits ballooned compared to workers' wages. On this chart is shown the change in the share of corporate-sector income, profits, and workers' wages, which is in the dark tan. And what is shown on the chart is for the early 1990s recovery—the early 1990s recovery—compared to today's recovery that this President is talking about. He talked about it today. He talked about it in the State of the Union. He said everything is hunky-dory. Yet we have spelled out what is happening to real working families. This chart tells the story. And they must have this chart down at the Council of Economic Advisers. They must have this chart down in the White House. Someone ought to put this one on the desk of the President. Here it is.

In the early 1990s, the share of the recovery was 60.29 percent for workers' wages, and for corporate profits it was 39 percent.

What about today? Well, here it is. Eighty-six percent of today's "recovery" goes to corporate profits and 13 percent is going to the wages of workers.

This tells it all as to what is happening in terms of the American economy. The workers are getting short shrift across this country. You can take all of the statistics, and the President can make all the speeches—as he did in the State of the Union and as he did today—but it is not telling the full story. This tells the full story. This tells what is happening to workers in this country. It is told in the lost hopes and dreams of workers who have seen their jobs go overseas, but it is also told in these other facts.

I will just show you this chart about the Bush economy creating low-paying jobs. Let's take the late 1990s—1998 to 2000—the fourth quarter. This is the quarter of the growth period out of the recession. And here are comparable periods of time out of the recession between the 1990s and the year 2000 and the current recovery and what has happened with low-paying wages.

This is what we were talking about before, the loss of income, jobs being lost and the new jobs paying less and less and less, both men and women working harder, working longer, corporate profits booming, workers working harder and making a good deal less, with the average income for those working families going down.

Here is a chart that shows the recovery is the worst for workers since the Great Depression. This is the comparison for the month the recession ended about what happened to workers' salaries. In 1961, when we had a period of economic growth and price stability, the longest period of economic growth and price stability with the exception of President Clinton, until the time of the ballooning of the spending in the Vietnam war. But the wages went up 10.7 percent. In the 1970s, it came in at 12 percent; in 1975, 9 percent; November of 1982, 11 percent; March of 1991, 3.6 percent—not very much. This is the period of time President Clinton turned this country around, creating 21 million jobs. And then the first increase was 3.6 percent. Now it is four-tenths of 1 percent.

How many more indicators do we need?

The fact is, we are facing a serious economic crisis in workplaces across the Nation. This administration appears not to understand it. In a statement of the President to the National Governors Association, he talked again about how well the economy is doing, how pleased he is with the progress we are making.

That is not what is happening on Main Street, USA. All across this Nation, in 48 out of the 50 States, too many jobs are going abroad. We hear about it in our States and all across the Nation. Everyone appears to know about it except the administration. Their only answer to any of our prob-

lems is providing additional tax breaks for wealthy individuals.

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

Mr. KENNEDY. Yes.

Mr. REID. Madam President, is the Senator from Massachusetts aware of what happened last week regarding one of the President's chief economic advisors, N. Gregory Mankiw, Chairman of the President's Council of Economic Advisors? Recognizing that the country has lost 2.8 million manufacturing jobs during the time he has been President, is the Senator aware that this man recommends that in an effort to bolster manufacturing jobs, he wants to have people who work at McDonald's reclassified as manufacturers? Is the Senator aware of that?

I will read exactly what the man said, in case the Senator missed that. The plan is to simply reclassify existing jobs in the fast food industry and declare they are now manufacturing jobs. He said:

When a fast-food restaurant sells a hamburger, for example, is it providing a "service" or is it combining inputs to "manufacture" a product?

Is the Senator aware of this statement which I would consider ridiculous?

Mr. KENNEDY. I am. We want to reference it because it is so startling. It is in chapter 2, page 73—what is manufacturing. The Senator has read it correctly. It is startling to me. We just read the papers in the last few days, if we look at what the Secretary of Health and Human Services has to do now in terms of correcting a record with regard to the disparities on health care because people over in the Department were cooking the books to give it more favorable statements and comments and facts with regard to the problems we are facing with minorities.

Then, of course, in the last day or so we read the comments of our friend and colleague Senator LEVIN where he said the CIA had not been frank and candid and honest with him in terms of providing information about what sites had actually been given to the inspectors and whether they had been given the most accurate sites in terms of the weapons of mass destruction. There was representation that they had, and we find out in the newspapers that they had not.

Then we are troubled today by the statement of the Secretary of Education—who is my friend, although I differ with him—when he said the NEA organization that represents the teachers is a terrorist organization. I was absolutely baffled by that comment. I will read the AP wire:

Education Secretary Rod Paige called the nation's largest teachers union a "terrorist organization" during a private White House meeting with governors on Monday. Democratic and Republican governors confirmed the education secretary's remarks about the [NEA]. "Those were the words, 'the NEA is a terrorist organization,'" said Democratic Gov. Jim Doyle of Wisconsin. Several Demo-

cratic governors called the remarks inappropriate.

I ask unanimous consent to print the AP wire in its entirety in the RECORD.

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

[From the Associated Press]

PAIGE TELLS GOVERNORS EDUCATION UNION IS "TERRORIST ORGANIZATION"

(By Robert Tanner)

WASHINGTON.—Education Secretary Rod Paige called the nation's largest teachers union a "terrorist organization" during a private White House meeting with governors on Monday.

Democratic and Republican governors confirmed the education's secretary's remarks about the National Education Association.

"These were the words, 'The NEA is a terrorist organization,'" said Democratic Gov. Jim Doyle of Wisconsin.

Several Democratic governors called the remarks inappropriate.

"He was making a joke, probably not a very good one," said Gov. Ed Rendell of Pennsylvania. "Of course he immediately divorced the NEA from ordinary teachers, who he said he supports."

"I don't think the NEA is a terrorist organization," said Rendell, who has butted heads with the group as well. "They're not a terrorist organization any more than the National Business Organization is a terrorist organization."

Neither the Education Department nor NEA had an immediate comment on Paige's comments. Both indicated the statements were forthcoming.

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

Mr. KENNEDY. Yes.

Mr. REID. I am stunned by the statement of Secretary Paige. I have the greatest respect for Governor Doyle. I know if he said he said it, he said it. But with regard to the NEA, for example, someone I went to high school with spent much of his adult life working for the NEA, organizing all over the West. That is a terrible thing to say about my friend Rinaldo Martinez, that he is part of a terrorist organization. That is stunning.

Back to the loss of 2.8 million manufacturing jobs.

Mr. KENNEDY. If I may make a quick comment, since we are on that subject, on the statement by the Secretary, whether it was said seriously or in jest, this illustrates in crystal-clear terms the misplaced values of the administration when they roll out the red carpet for the big drug companies, the HMOs, the insurance companies in recent Medicare legislation, and then slap our Nation's teachers in the face with unacceptable language. I say they are wrong. I believe Secretary Paige owes the Nation's teachers and the people an explanation and a full apology.

Mr. REID. The President's people want to reclassify people who work at McDonald's, Burger King, and Wendy's as manufacturing so that the loss of manufacturing jobs appears less. But would the Senator comment on the fact that it seems it may be better for the President's folks to dwell on people who work in those places not having a

raise in the minimum wage for as long as they have? People are working two and three jobs to make ends meet just barely. We don't hear a word from the administration, not a single word on increasing the minimum wage for these people who work in these places that they want to reclassify as manufacturing jobs, where they now make \$5.15 an hour. And we have been stymied procedurally from raising even an up-or-down vote on the minimum wage that will allow us to do that. Yet they want to reclassify people who work in those places as manufacturers. Is this the height of nonsense?

Mr. KENNEDY. The Senator is absolutely correct. Here we have the administration effectively misleading the country in terms of where we are going in terms of the economy and the numbers of jobs and the types of jobs. But at the same time, as the Senator correctly points out, we have not seen an increase in the minimum wage for 7 years. The purchasing power of the minimum wage now is close to the lowest it has ever been.

We know there is a majority in the Senate that is for an increase in the minimum wage, but we are being blocked in this body and in the House of Representatives by the fact that the President and this administration are opposed to an increase in the minimum wage, as they are opposed to an extension of unemployment compensation so that we have some 90,000 workers a week, men and women who have contributed into the unemployment compensation fund that is in a surplus of \$17 billion, and we find that the administration has opposed the request of our friend and colleague from Washington, Senator CANTWELL, who along with others, has a dozen times requested that we take up a temporary extension of the unemployment compensation for workers.

Not only that, as the Senator well knows, we have an administration that is opposed to overtime for 8 million workers in this country, of whom many are policemen, firefighters, and nurses, who are the backbone of our homeland security.

People say, what could you do right away? They ask Senator KERRY, what can you do now? Well, you could do something today if you had different leadership that would make a significant and important impact on the lives of 7 million Americans with regard to the minimum wage, hundreds of thousands of workers regarding unemployment, and 8 million Americans with regard to overtime. That is what you can do today with different leadership, let alone what you could do if you had a President who was prepared to help eliminate the tax loopholes that send our jobs overseas; or they can try to bring in American companies and try to work with them to find ways of stabilizing this whole issue about the export of jobs and find ways of keeping them. There are many ways this can be done, but you will not get it done when

you have a President who at noontime today said to the Governors: Everything is fine, the economy is growing, don't worry, we are just doing fine; everything is going along in a very positive way.

I am troubled the message is not getting through.

Mr. REID. We have heard a lot about the loss of manufacturing jobs in our country.

There are traditionally very good jobs, the kind that can really support a family—decent hourly wages, good health care coverage, and paid vacations. They provide an honest day's pay for an honest day's work because these jobs aren't easy.

It takes concentration, skill and stamina to stand on an assembly line making automobiles, or aircraft, or televisions, or dungarees. And most important of all, it requires pride in a job well done.

When I grew up, you saw the "made in the USA label" on almost everything you bought. It was an assurance that a product was of the highest quality because it had been manufactured by American workers.

Today it's hard to find that label on many products because fewer and fewer things are being "made in the USA."

Over the last 42 months, our Nation has lost manufacturing jobs every single month—a total of 2.8 million jobs.

These are the statistics, and behind these statistics are 2.8 million grim stories.

Every time a job is lost, a family's world is torn apart.

A worker loses the self-esteem of supporting a family, and also loses the sense of pride in a job well done. The family will probably lose their health coverage. Maybe they'll have to give up their dream of owning a home, or their children will have to forget about attending college.

This is why the loss of manufacturing jobs is such a crisis in our country.

For months now, we have wondered whether the administration has a plan to revive our manufacturing sector, and help create new manufacturing jobs.

Mr. President, I believe in giving credit where credit is due. It now appears that the administration might in fact have a plan to create manufacturing jobs.

Unfortunately, that plan is simply to reclassify existing jobs in the fast food industry and declare that they are now "manufacturing" jobs!

This idea was suggested in the Economic Report of the President which was sent to Congress last week, and by N. Gregory Mankiw, the chairman of the President's Council of Economic Advisers.

To reiterate, in a speech to economists, Mr. Mankiw said that reclassifying fast food jobs as manufacturing was "an important consideration" in setting economic policy. And the White House drew a box around this part of the Economic Report:

When a fast-food restaurant sells a hamburger, for example, is it providing a "service" or is it combining inputs to "manufacture" a product?

Sometimes, seemingly subtle differences can determine whether an industry is classified as manufacturing. For example, mixing water and concentrate to produce soft drinks is classified as manufacturing. However, if that activity is performed at a snack bar, it is considered a service.

According to an article in last Friday's New York Times, some economists in the administration want to count flipping hamburgers as manufacturing so they can claim more jobs in that sector of the economy.

Mr. President, if this idea wasn't such a cruel mockery of American workers and their families, it would be funny.

I have nothing against people who work in the food service industry. Here in the Senate I have fought to protect these workers. I have tried to get a vote on increasing the minimum wage. And I have fought to protect overtime pay.

But it is a fact that very few food service jobs can compete with good manufacturing jobs in terms of supporting a family.

I suppose the food service workers could organize themselves into unions, as many factory workers have done. Maybe they could call themselves the Amalgamated Hamburger Assembly Workers or the Brotherhood of French Fry Baggers.

They could call themselves that, but they would still be food service workers, not factory workers. And their jobs would still be service jobs, not manufacturing jobs.

You can change all the terminology you want, but you can't change the fact that our country desperately needs a real plan to boost our manufacturing sector.

We need to look at tax credits for businesses to create manufacturing jobs; we need to cut health care costs; and we need to enforce our trade agreements so they will be fair to American workers.

We need a plan that recognizes what the loss of manufacturing jobs has meant to almost three million American families.

This is a serious problem. But this suggestion by the administration can't be taken seriously.

Mr. KENNEDY. Madam President, this is an insult to Lucille Rocket of Durfee High School in Fall River. She works hard to bring smaller learning communities to school to help kids learn. She mentors teachers. She is an enormously constructive and positive person in the high school system as a member of the NEA in my State.

Cathy Moriarty teaches at-risk second grade children in Springfield's gymnasium because they don't have enough classrooms. She believes the No Child Left Behind Act doesn't fund the needed support for smaller class size and better trained teachers. She is a member of an organization that speaks

to that issue. She is proud of it. I am proud of her.

Amanda Pellerin-Duck, who is in Springfield's Commerce High School, brought new curriculum on global issues to school. She cares about the quality of education and she has spoken out about the importance of making sure we are going to get it right with the No Child Left Behind.

Ellen Peterson is a first grade teacher who helped new teachers on her own time. These teachers give of themselves every day. They are devoted to the children and they care deeply about the quality of education, and they are members of an organization that was insulted.

Cindy Douglas teaches kindergarten in Franklin with limited supplies and does an extraordinary job. She believes this administration and this Nation should put funding of education at a higher priority.

Those are real people who are members of this organization. We have not always agreed, the NEA and myself, on education issues. But I admire their work in my own State, and I admire the work they have done historically on education. I have been a member of that committee for 42 years. It is absolutely startling, Madam President. Probably for the time I have been on the committee, for 20 years, we never voted on any issue. Everything was bipartisan—all the education issues. We had it under a Republican, Senator Stafford, who is still alive, a wonderful elderly Senator from Vermont, and Senator Pell, a dear and valued friend of mine and my family, who is from Rhode Island. We never voted on education issues. They were bipartisan for 20-odd years. Most of us—at least I did—thought we had a bipartisan effort with this administration on the No Child Left Behind. We had extraordinary overwhelming support in this body and in the House of Representatives trying to get this job done. We were going to have reform, but with that, we have to have investment. We got the reform, but not the investment. We have left children, I believe, hanging high and dry.

It is not just the Senator from Massachusetts saying it. It is also education leadership in the State of Utah, in Republican States alike that are talking about this. That is why, as we are trying to deal with an issue of such high importance and priority, we should be beyond and far away from the inappropriate use of terms in characterizing an organization that has worked so long and hard to improve the quality of education for the children in this country.

This legislation, S. 2061, is not a serious attempt to address a significant problem being faced by physicians in some States. It is the product of a party caucus rather than the bipartisan deliberations of a Senate committee. It was designed to score political points, not to achieve the bipartisan consensus which is needed to enact major legislation.

This bill contains most of the same arbitrary and unreasonable provisions which were decisively rejected by a bipartisan majority of the Senate last year. The only difference is that last year's bill took basic rights away from all patients, while this bill takes those rights away only from women and newborn babies who are the victims of negligent obstetric and gynecological care. That change does not make the legislation more acceptable. On the contrary, it adds a new element of unfairness.

The proponents argue that they are somehow doing these women and their babies a favor by depriving them of the right to fair compensation when they are seriously injured. It is an Alice in Wonderland argument which they are making. Under their proposal, a woman whose gynecologist negligently failed to diagnose her cervical cancer until it had spread and become incurable would be denied the same legal rights as a man whose doctor negligently failed to diagnose his prostate cancer until it was too late. Is that fair? By what convoluted logic would that woman be better off? Both the woman and the man were condemned to suffer a painful and premature death as a result of their doctors' malpractice, but her compensation would be severely limited while his would not. She would be denied the right to introduce the same evidence of medical negligence which he could. She would be denied the same freedom to select the lawyer of her choice which he had. She would be denied the right to have her case tried under the same judicial rules which he could. That hardly sounds like equal protection of the law to me. Yet, that is what the advocates of this legislation are proposing.

Of course, this bill does not only take rights away from women. It takes them away from newborn babies who sustain devastating prenatal or delivery injuries as well. These children face a lifetime with severe mental and physical impairments all because of an obstetrician's malpractice or a defective drug or medical device. This legislation would limit the compensation they can receive for lost quality of life to \$250,000—\$250,000 for an entire lifetime! What could be more unjust?

This is not a better bill because it applies only to patients injured by obstetrical and gynecological malpractice. That just makes it even more arbitrary.

We must reject the simplistic and ineffective responses proposed by those who contend that the only way to help doctors is to further hurt seriously injured patients. Unfortunately, as we saw in the Patients' Bill of Rights debate, the Bush administration and Congressional Republicans are again advocating a policy which will benefit neither doctors nor patients, only insurance companies. Caps on compensatory damages and other extreme "tort reforms" are not only unfair to the victims of malpractice, they do not result in a reduction of malpractice insurance premiums.

While those across the aisle like to talk about doctors, the real beneficiaries will be insurance companies and large health care corporations. This legislation would enrich them at the expense of the most seriously injured patients; women and children whose entire lives have been devastated by medical neglect and corporate abuse.

This proposal would shield HMOs that refuse to provide needed care, drug companies whose medicine has toxic side effects, and manufacturers of defective medical devices. This legislation is attempting to use the sympathetic family doctor as a Trojan horse concealing an enormous array of special legal privileges for every corporation which makes a health care product, provides a health care service, or insures the payment of a medical bill. Every provision of this bill is carefully designed to take existing rights away from those who have been harmed by medical neglect and corporate greed.

It would drastically limit the financial responsibility of the entire health care industry to compensate injured patients for the harm they have suffered. When will the Republican party start worrying about injured patients and stop trying to shield big business from the consequences of its wrongdoing?

This legislation would deprive seriously injured patients of the right to recover fair compensation for their injuries by placing arbitrary caps on compensation for non-economic loss in all obstetrical and gynecological cases. These caps only serve to hurt those patients who have suffered the most severe, life-altering injuries and who have proven their cases in court.

They are the children who suffered serious brain injuries at birth and will never be able to lead normal lives. They are the women who lost organs, reproductive capacity, and in some cases even years of life. These are life-altering conditions. It would be terribly wrong to take their rights away. The Bush administration talks about deterring frivolous cases, but caps by their nature apply only to the most serious cases which have been proven in court. These badly injured patients are the last ones we should be depriving of fair compensation.

In addition to imposing caps, this legislation would place other major restrictions on seriously injured patients seeking to recover fair compensation. At every stage of the judicial process, it would change long-established judicial rules to disadvantage patients and shield defendants from the consequences of their actions.

If we were to arbitrarily restrict the rights of seriously injured patients as the sponsors of this legislation propose, what benefits would result? Certainly less accountability for health care providers will never improve the quality of health care. It will not even result in less costly care. The cost of medical malpractice premiums constitutes less

than two-thirds of 1 percent—0.66 percent—of the Nation's health care expenditures each year. Malpractice premiums are not the cause of the high rate of medical inflation.

Over the last 15 years, medical costs increased by 113 percent. The total amount spent on medical malpractice insurance rose just 52 percent over that period, less than half the rate of inflation for health care services.

Data from the National Practitioners Data Bank shows the number of payouts by Ob/Gyns in medical malpractice cases is not increasing. It has been relatively stable over the last twelve years. In fact, there were 13 percent fewer payouts in 2002 than in 1991. Similarly, the total amount paid to settle malpractice claims against Ob/Gyns has remained flat over the past twelve years when adjusted for medical inflation. The evidence shows that contrary to the claims of those promoting this legislation, malpractice payouts are not causing the cost of health care to rise.

The White House and other supporters of caps have argued that restricting an injured patient's right to recover fair compensation will reduce malpractice premiums. But, there is scant evidence to support their claim. In fact, there is substantial evidence to refute it. In the past few years, there have been dramatic increases in the cost of medical malpractice insurance in States that already have damage caps and other restrictive tort reforms on the statute books, as well as in states that do not.

Caps are not only unfair to patients, they are also an ineffective way to control medical malpractice premiums. Comprehensive national studies show that medical malpractice premiums are not significantly lower on average in States that have enacted damage caps and other restrictions on patient rights than in States without these restrictions. Insurance companies are merely pocketing the dollars which patients no longer receive when "tort reform" is enacted.

If a Federal cap on non-economic compensatory damages were to pass, it would sacrifice fair compensation for injured patients in a vain attempt to reduce medical malpractice premiums. Doctors will not get the relief they are seeking. Only the insurance companies, which created the recent market instability, will benefit.

Doctors, especially those in high risk specialties, whose malpractice premiums have increased dramatically over the past few years do deserve premium relief. That relief will only come as the result of tougher regulation of the insurance industry. When insurance companies lose money on their investments, they should not be able to recover those losses from the doctors they insure. Unfortunately, that is what is happening now.

Doctors and patients are both victims of the insurance industry. Excess profits from the boom years should be

used to keep premiums stable when investment earnings drop. However, the insurance industry will never do that voluntarily. Only by recognizing the real problem can we begin to structure an effective solution that will bring an end to unreasonably high medical malpractice premiums.

Finally, I understand we will be voting on cloture tomorrow. We just had this legislation offered. We are here on a Monday. We are prepared for action and discussion, but we are being required to vote tomorrow. I intend to vote no on the cloture motion. This is an important issue affecting the quality of health and fairness and justice for millions of women and babies. It does not deserve to be rushed through the Senate.

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

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

#### OUTSOURCING JOBS

Mr. DORGAN. Madam President, last week the Senate was not in session and most of us in the Senate were in our home States. I spent most of the week in North Dakota visiting with people about the economy, jobs, health care, and a wide range of issues. I had meetings on the issue of No Child Left Behind, on the significant problem in rural States with methamphetamine and the scourge this deadly new drug poses to young people and to law enforcement. A lot of us were doing a lot of activities last week. I wish to talk about a couple of issues that happened since we left town.

Last week, there was a lot of discussion about the Economic Report of the President that was sent to the Congress just prior to our leaving town.

This week's BusinessWeek, March 1, 2004, says:

Will Outsourcing Hurt America's Supremacy?

That is similar to the front cover of BusinessWeek a year ago:

Is your job next? A new round of globalization is sending upscale jobs offshore. They include chip design, engineering, basic research—even financial analysis. Can America lose these jobs and still prosper?

So BusinessWeek, in front covers, now and exactly 1 year ago from now, asks the same questions: Will outsourcing hurt America's supremacy?

The issue of outsourcing of jobs has been raised in the President's Economic Report, and there has been a lot of discussion about it. I thought it would be helpful perhaps to read it because it gets back to the question of international trade and its impact on our economy.

On page 25 of the Economic Report of the President, it says: Outsourcing of professional services is a prominent ex-

ample of the new type of trade. The gains from trade that take place over the Internet or telephone lines are no different than the gains from trade in physical goods transported by ship or by plane. When a good or service is produced at a lower cost in another country, it makes sense to import it rather than to produce it domestically.

Let me read that last sentence again. When a good or service is produced at a lower cost in another country, it makes sense to import it rather than produce it domestically.

So that created a significant debate. This is a booklet, the Economic Report of the President, that is extolling the virtues of outsourcing of American jobs. It is safe to say, perhaps, that no economist who worked on this booklet has ever had their job outsourced. In fact, I know of no American economist who has lost his or her job because of outsourcing. I also know of no politician in this country who has lost his or her job because the job was outsourced to Sri Lanka, Bangladesh, China, or Indonesia.

So it is easy then for politicians and economists to thumb their suspenders, smoke their cigars, ruminate, cogitate about these things, and come up with this goofy idea that somehow when a good or service is produced at a lower cost in another country, it makes sense to import it rather than produce it domestically.

I will take this point just for a moment and see if I can dissect it by talking about bicycles. I know I have spoken about this before, but repetition is the hallmark of good policy, so let me do it again. When it can be produced less expensively overseas, the President's economic advisers and the President's report say do it. Well, Huffey bicycles are a good example. The company that made Huffey bicycles had 20 percent of the domestic market. People can buy these bicycles from Sears, Wal-Mart, and Kmart. Most people know about Huffey bicycles. They used to be made in this country. They were made in Ohio by American workers. Those American workers made \$11 an hour making bicycles.

I did not know one of the workers but I am sure they were proud of their jobs and proud of their product. They made Huffey bicycles. In fact, on Huffey bicycles the decal on the front between the front fender and the handlebars was an American flag decal made by American workers. So Huffey bicycles moved to China. Why? Because it costs \$11 to hire an American to work to make a Huffey bicycle and a Chinese worker can be hired for 33 cents an hour.

Huffey left Ohio and went to China. The last job that was done by the workers in Ohio was to replace the little flag decal with a decal of the globe. They removed the flag and put a globe on the front of Huffey bicycles.

The last bicycle that was boxed up and left the plant in Celina, OH, was at 10:15 in the morning when a red 20-inch

Huffy model was put in a box for shipment, and then Huffy changed its nationality. Huffy bikes are now Chinese.

Now, bicycles do not speak, so there was no visible sign of this change of nationality when the Huffy showed up at Wal-Mart or Kmart or Sears. They are now for sale as a Chinese bicycle rather than an American bicycle.

Question: Does anybody think that when Huffy decided to send its bicycle production to China, those bicycles ended up on the showroom floor of Wal-Mart or Kmart at a much lower price because instead of paying \$11 an hour for workers constructing these bicycles, they were now paying 33 cents an hour?

Instead of having safe workplaces, there are none of those OSHA problems in China. Instead of having a manufacturing plant where they cannot put chemicals in the water and put chemicals into the air, there are none of those restrictions in China. Instead of having child labor laws where 12-year-olds cannot be hired to work 14 hours a day, there are none of those restrictions in China.

So is it less expensive to produce Huffy bicycles in China? Darn right it is. Does the consumer benefit from that? Do my colleagues think Huffy bicycles that showed up on the showroom floor of Kmart and Wal-Mart are less expensive bicycles after they cut manufacturing costs of workers from \$11 an hour to 33 cents an hour? The answer is no, of course they aren't.

This has nothing to do with advantaging consumers. It has to do with corporate profits. It has to do with laying off Americans and fattening profits.

So going to page 25 of the Economic Report of the President, his economic advisers say: When a good or service is produced at lower cost in another country, it makes sense to import it rather than produce it domestically. The keyword here is cost. They know the cost of everything and the value of nothing, as the old saying goes.

I will tell my colleagues where things can be produced at less cost: Mexico, Indonesia, Bangladesh, China. I can name a dozen countries. But is that the only criterion? Is that the judgment we are going to make in this country: If it costs less somewhere, then there is an advantage to producing it there and shipping it back here and there is some sort of inherent advantage to our consumers? It is simply not true.

I do not understand whether it is being hard headed or soft headed to fail to understand the basic truths about international trade. I am not someone who believes we should build a fence around our country but I do believe there ought to be some fairness with respect to the rules of this globalization.

I will describe for a moment something I did just before the break. I came to the Senate floor and I listed—which, incidentally, is on my Web site as well at <http://Dorgan.Senate.gov> for

those who might be interested—the top 100 companies that basically moved jobs to Mexico after the North American Free Trade Agreement.

Now these 100 companies—this is not conjecture from me—these are companies that certified to the Department of Labor that these jobs were no longer going to exist because of the North American Free Trade Agreement. Why did they certify it? Because they wanted to make eligible the workers who were being laid off for this transitional trade adjustment assistance. What a wonderful, remarkable term: Transitional trade adjustment assistance. That means, for somebody out there who is losing their job, they are going to be transitioned and they are going to get some assistance in the short term. Guess what. One loses their job, they get transitioned, we give them some money, and then go away, please.

So in order to get that transitional assistance, one had to have a certification from their company. So here is a certification. Levi Strauss, 15,676 jobs, mostly moved to Mexico; they certified that. I am not accusing them of it. I am just saying they certified that to the Department of Labor. Levi's, now that is all American; right? Everybody wears Levi's, but Levi's are not American anymore. They are made elsewhere. Fruit of the Loom used to be in Texas. They certified 5,352 jobs gone, T-shirts, shorts, underwear; Fruit of the Loom, not American, gone.

Do my colleagues want to order some Mexican food? Well, they do not have to say: Give me a chalupa, give me an enchilada. What they can say is: Give me some Fig Newtons, because Fig Newtons left America and went to Mexico. They are gone. Do my colleagues think Fig Newtons are made at home? No, they are not. Fig Newtons are on this list, certified as leaving America. Why? Because they can make them less expensively elsewhere.

How many Americans know that Fig Newtons now come from Mexico? So we lose our Fruit of the Loom, we lose our Levi's, we lose our Fig Newtons.

I am mentioning some things that are not high tech. I should mention some high tech—Motorola telephones. Let me give an interesting statistic that most people would not believe.

Do you know that after NAFTA, when we were told that what would be shipped to this country from Mexico would largely be the result of low-skilled, low-wage labor, they said that is what this is going to be. We are accessing the Mexican marketplace for low-skilled, low-wage labor which will ship jobs into this country and it will not displace those in this manufacturing sector who have good jobs, making good money, because they have high-skilled, high-wage jobs. Wrong. The three largest categories of manufactured items coming into the United States from Mexico are automobiles, electronics, and automobile parts.

Did you know in a recent year we imported more automobiles into the

United States from the country of Mexico than we exported to all the rest of the world? I am going to say that again. The United States imported more automobiles from Mexico than we exported to all of the rest of the world. That describes to you what happened with NAFTA—a substantial flight of U.S. jobs, good manufacturing jobs, good-paying jobs to Mexico.

It is all about wages. I understand that. So you go to page 25 and the issue here is not about values. It is not about the American economy. It is not about caring whether this world-class economy of ours retains a strong manufacturing base—which I think is essential to be a country with a strong world-class economy. It is not about that. It is about cost.

When a good or service is produced at a lower cost in another country it makes sense to import it.

So you say, "So long to American jobs." There are no tears shed for that with these economists.

Of course they sit there without worrying about their jobs because no economists I know have lost their jobs. No economists lost their jobs to NAFTA. No politician lost his or her job. Despite the fact that everybody was wrong.

This describes what happened. This happens to be the 100 top companies that certify job loss: Only with respect to Mexico; only with respect to NAFTA.

We were told. The best economists said: Pass this North American Free-Trade Agreement because if you do we will produce substantial new jobs. Guess what. We had a small trade surplus with Mexico. We passed NAFTA, the North American Free-Trade Agreement, and that small surplus turned into a giant deficit. Ross Perot called it a giant sucking sound, and those jobs have gone to Mexico wholesale.

We had a modest deficit, a relatively modest deficit with Canada, which is the other country that is the participant in the North American Free-Trade Agreement, and that has become a very large deficit.

In both cases with Mexico and Canada, all the experts were wrong and we have dramatically increased the Federal trade deficit with respect to both countries.

Let me also say in the Economic Report of the President there has been a discussion in recent days about what is manufacturing, because they pose the question on page 73. They ask a question.

The definition of a manufactured product, however, is not straightforward. When a fast food restaurant sells a hamburger, for example, is it providing a service? Or is it combining inputs to manufacture a product?

I don't know exactly which economist might have written page 73, but when a fast food restaurant sells a hamburger, is it providing a service or is it combining inputs to manufacture a product? This rather serious economist poses one of the questions of our



era: Should a hamburger be considered part of our manufacturing base? Should the making of a hamburger be considered part of our manufacturing base?

How about the person who hangs out the window and says, Do you want fries with that? Is that a key part of the manufacturing base? Where does this go?

What would your mom, or my late mother, think if you came home and said what you had been doing and you told her you had been manufacturing chocolate pie? I don't think so.

Sometimes in this town language becomes such a barrier to understanding. This is so fundamentally absurd on its face. Is making a hamburger part of America's manufacturing base? The answer is of course not. Of course not.

We have lost a massive number of manufacturing jobs in this country in recent years. I suppose some of the same economists who have sold us on this economic strategy may want to make it appear as if we have lost fewer jobs by counting those who construct a hamburger—two all-beef patties, special sauce, lettuce, whatever it is—as part of our manufacturing sector. But of course on its face that is nuts and this ought not be part of any significant or serious discussion.

There are a lot of questions being raised these days about jobs. Let me say I don't think, with all the discussion we have about social programs in the Congress, there is not a social program in this country that is as important as a good job that pays well. Because that is what helps provide the security for America's families.

We are going through a time when we face the loss of a lot of jobs. We face the restructuring of an economy. We did have a recession, relatively short. We are now a year and a half past that recession and the fact is we are still not producing any significant number of new jobs. So the question for all of us is, Is this economic strategy a strategy that produces new growth without new jobs?

Paul Craig Roberts, who was one of the top economists for the Reagan administration, recently wrote a piece suggesting that perhaps this is an economic recovery without new jobs. If that is the case, we have some serious problems ahead of us. He says maybe this new economy, this new growth, does create jobs but not in the United States; jobs in China, jobs elsewhere, just not jobs here. If that is the case, we face significant challenges.

We are going to have an agenda in this Senate that will move very quickly between now and the first Tuesday of November, which is election day. I understand all that. We are going to be working on a lot of extraneous issues, some because one side or the other wants to have a political wedge issue someplace. We on our side don't schedule this place. The majority schedules it at this point so they will determine what is on the floor of the Senate.

But for me, I believe there is not a more important issue that we need to deal with than the question, are we going to have an economic engine that creates jobs so the American families, as they talk about their lot in life, have a chance to visit about progress? How will American families answer the questions: Do I have a good job? Does it pay well? Do I have job security? Am I going to be outsourced?

And then answering the other questions that come from the ability to have a decent job, Do we send our kids to schools we are proud of? Do Grandpa and Grandma have access to good health care? Do we live in a safe neighborhood? Do we keep this country safe from terrorist attacks?

There are so many issues that confront us, but I think the issue of jobs is critically important and we spend far too little time working on it in the Senate.

I want to say this: Those who think it is a good thing to send America's jobs overseas, those who think this is a new economic approach that is good for America, don't understand. Because they have not been in that place. They have never been a part of a family where they know about secondhand things, second jobs, second shifts, and second mortgages. They have never been a part of that. They think it is just fine to construct some economic theory, some model that says if we can produce Huffy bicycles less expensively in China, good for us, let's do it. Except the consumer doesn't benefit from that, it is just the American workers who lose their jobs.

The questions these economists need to answer—and the politicians, incidentally, who support this, and there are plenty—is: Who will be the purchasers and consumers in an economy in which you diminish and then finally ship good jobs overseas? Who is going to purchase all of these things you are producing overseas?

I have given a number of trade speeches. I come to the floor of the Senate and talk about this repeatedly and nobody seems to care very much. That is lamenting. I should not say it quite that way. It does not result in dramatic change in public policy.

We can talk about the most recent trade agreement with China. We have roughly a \$130 billion trade deficit with China right now. It has been growing leaps and bounds. Our negotiators negotiate an agreement with China and say on the bilateral trade with respect to automobiles: We will agree with this, China; you can ship any Chinese automobile you may wish to manufacture to the United States, and we will charge a tariff of only 2½ percent. And we agree any U.S. cars we try to ship to China are charged a tariff 10 times higher of 25 percent.

Stupid? Sure. On its face it is a stupid provision. We say to China, which has a \$130 billion trade surplus with us, by the way, we will make a deal. We want to have bilateral automobile

trade, and we will let you charge a tariff 10 times higher than we will.

I would love to find the negotiator who did that and see if we could not find a way to prevent them from ever having a public sector job once again. That makes no sense. Yet we see this time after time after time.

As I speak today, every single pound of American beef that is sent to Japan has a 50-percent tariff on it. We have a huge trade deficit with Japan. Every pound of American beef sent to Japan has a 50-percent tariff. That is 15 years after our trade negotiators reached a beef agreement with Japan.

This country needs to get a backbone and stand up for its economic interest. Yes, I am talking about ranchers. I am talking about manufacturers. I am talking about business owners who do business in this country and have to compete. We need a spine, backbone, some willingness to stand up for the economic interests of this country, not being protectionists but just saying there needs to be some basic rules.

If, in fact, we are a global economy—and, indeed, we are—then the rules with respect to that global economy need to keep pace with globalization.

We had people killed in the streets of this country in the last century. They gave their life fighting for some basic rights: The right to organize, basic rights for workers to organize. We had people fight on the issue of child labor to prohibit the sending of 12-year-old children down into the coal mines and into manufacturing plants. We waged fights over the issue of minimum wage and safe workplaces and the environmental laws that prohibit a plant from dumping its chemicals into the air and water.

Now we are told forget all that because if you are a global company, you pole-vault over that and go someplace where you do not have to worry about environmental or labor rules. That is a nuisance. Child labor, minimum wage, the right to organize, that is a nuisance.

This is what we have dealt with for 100 years in order to create a more perfect opportunity for business and labor. There is something fundamentally wrong.

I hope we can have a discussion about jobs in the Senate. I intend to offer a series of amendments at the next opportunity dealing with the issue of jobs and dealing with the issue of trade. The President has just finished a Central American Free-Trade Agreement. I believe we ought to have that debate in the Senate. He has just completed the Australian Free-Trade Agreement. We ought to have that debate in the Senate. I intend to be in the Senate opposing both. I will describe why later. Neither, in my judgment, represents the best interests of this country. I want trade pacts to be mutually beneficial. That means they need to benefit this country, as well.

What prompted me to speak were a couple things: One, this discussion



about outsourcing. The economists who wrote this—this is the President's book, actually signed by the President, but the fact is, I understand it is written by the President's economic advisers. He, in some ways, began to do a U-turn and lost the steering wheel and turned back again. My hope is the President certainly does not believe this nonsense. Outsourcing of good jobs in this country, outsourcing of manufacturing jobs, outsourcing of service jobs is not in this country's best interest. They say in the long run it will even out because the other countries will raise themselves up.

John Maynard Keynes said in the long run, we are all dead. I am interested in the next year, the next 5 years, the next 20 years. I am relatively uninterested in the realignment of the economies 100 years from now.

I want very much for this country to succeed. I want this country to remain a world economic power. It will not be a world economic power if it is deep in debt, up to its neck in fiscal policy deficits and up to its neck in trade deficits. We have fiscal policy deficits this year alone of about \$660 billion. I know the numbers that are advertised are \$530 billion, but that is if you take the Social Security revenue, which is a dishonest thing to do. So \$660 billion in Federal budget deficits, and add to that the highest trade deficits in human history, very close to \$480 billion, and it is appropriate to look at this country's fiscal policy and trade policy and ask: Where is the leadership? Where does the leadership come from to address these issues?

My hope is that I and others who care a great deal about this can provide some of that leadership. We invite the President and people from both political parties to join us. This President needs to speak forcefully in response to this "Economic Report of the President." He needs to say: This is not what I mean. The economists may have written it, but I don't believe outsourcing strengthens our country. I don't believe moving American jobs overseas strengthens the United States of America.

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

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

The legislative clerk proceeded to call the roll.

Mr. ENSIGN. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. ENSIGN. Mr. President, I rise today to speak on the issue of medical liability reform and the bill pending before the Senate. This legislation is a narrowed-down version of what myself and Senator GREGG introduced last year, which in contrast was a broad-based medical liability reform bill. Today we pared it down to limit it just to OB/GYNs, nurse midwives, and any other provider involved in the delivery of babies.

The reason we have done this is fairly typified in my State and in many other States around the country by this picture. It is a real life picture taken only days ago: the building moniker reads "OB/GYN," and next to it, a sign now hangs that reads "For Lease," and call a particular number. This sign indicates how OB/GYNs are leaving practice in my State and in other States across the country because they can no longer afford their medical liability premiums.

This is a problem that some describe as not that big a deal. But if you talk to the women who cannot get obstetrical and gynecological services, it is a crisis to them.

Southern Nevada is the fastest growing population center in the country. We have 6,000 new people moving in a month and are we not getting as many new OB/GYNs as we need. We need a lot of new doctors coming to our State. But instead of new doctors arriving to practice in Nevada, we have doctors limiting their practices and stopping either the practice of obstetrics or leaving our State altogether.

The American Medical Association has identified 19 States that are in crisis, and all but 5 States are showing signs the crisis is building in their State.

Some people have said: Well, this is about rich doctors versus rich lawyers. This is not about doctors versus lawyers. This is about access to care. This is about a woman who is thinking: "I want to have the best possible care for my baby," and she cannot find a doctor.

I have a good friend who lives in Las Vegas. He delivers high-risk pregnancies. These are the people you want to have as your best doctors. However, because of the huge increases in rates, his insurance company has limited him on the number of deliveries he can make during the year.

That is not what we want to be doing. We want to have the best people delivering babies, especially for high-risk pregnancies which require the most skill.

It is our legal system that is out of control. Unfortunately, we have trial lawyers out there who are taking advantage of our broken civil justice system. They are even advertising on TV. I am sure many people, when they watch TV, have seen these 1-800 numbers you can call to find somebody to sue. It is basically: Bring your Rolodex and we will figure out who you are going to sue. That goes for almost anything today, but it is especially prevalent in the field of medicine.

Across America the crisis is happening not just with OB/GYNs. As a result, in this bill, we have decided to focus also on nurse-midwives, the overall practice of delivering babies, and providing gynecological care because it is the most acute problem we are seeing across the country.

In my State, we did pass a medical liability reform bill in August of 2002,

but the only reason that it was able to pass was because our trauma center closed. It was the only level I trauma center for a region of 10,000 square miles, and it closed because of the medical liability crisis. The only way that trauma center was able to open again was because the State decided to step in and put its liability cap on anybody who provided care through the level I trauma center. People have been arguing that \$250,000 is not enough. Well, the State of Nevada's cap on damages is \$50,000 for anyone who chooses to sue a healthcare professional that provided care at the trauma center. That alone allowed the level I trauma center to open.

This is the same level I trauma center where Roy Horn, the famous person from the duo of Siegfried and Roy, was treated when he was attacked by a tiger. If it was not for the State of Nevada applying its \$50,000 damage cap, that trauma center would not have been available for Roy. He certainly would be in much worse shape today if that had not been the case, and maybe he would not have made it at all if that kind of care was not available. This example indicates the politics of what can happen when a crisis gets so great that the trial lawyers cannot stand up and keep their stranglehold on our legislatures around the country.

Today, we need to have the same thing happen in the Senate where people around the country call their Senators and say the crisis is too severe. We need to have special interests, especially trial lawyers' special interests, put aside, and we need to put the practice of medicine first. We need to put first access to quality care for women and those new babies coming into the world. We need to put their care above all else.

Last year, the University of Nevada School of Medicine had the lowest number of students entering obstetrics and gynecology it has had since 1999. And, equally disturbing, each year since 2000, that number has continued to go down and down and down.

This chart shows the very clear contrast of what has happened in my State and other States versus California. Why do I put California up versus the rest of the States in the country? The reason is because California enacted what is known as MICRA. MICRA is their medical liability reform law which they enacted in 1975. After withstanding eleven years of court challenges, it has now been in effect for about eighteen years and we know it is working.

By the way, the people in lawsuits are getting plenty of compensation in California. But the difference in premium increases—California compared to the rest of the country—is stark. In California, from 1976 to today, there has been a 167-percent increase. For the rest of the country, however, it is over 500 percent. Moreover, these percentages do not reflect the last couple of years. If the last couple years were

shown, this red line showing the 500 percent would almost be spiking because it is going up so rapidly.

To put this in real dollar terms, so you can get a comparison between different States, here are some really good examples. This is 2002 premium survey data for selected specialties. We are comparing the cities of Los Angeles—once again, California has the MICRA law it enacted—and Denver, which is in another State that has enacted very similar legislation. The laws in California and Colorado are the ones Senator GREGG and I based our legislation on. These two States have strong medical liability reform in their States. These other States shown on the chart do not. Let's see the difference. Let's go down on the lower portion of the chart because we are talking about OB/GYNs. Let's talk about the difference in the States. For Los Angeles, \$54,000 a year—still a lot of money, but \$54,000. In Denver, it is around \$31,000. In New York, it is \$90,000. In Las Vegas, where I live, it was \$108,000 in 2002, and you cannot get it for \$108,000 anymore. Currently, it is closer to \$140,000 or \$170,000 in my State, and even higher. In Chicago, it is \$102,000. In Miami, it is over \$200,000 a year.

Is there any doubt in anybody's mind these laws are working when you look at the comparisons? Like I said, this is data from 2002. If you had 2003 data, the numbers would be even more stark. Consequently, I think we need to call on our Senate colleagues to at least allow us to debate this bill.

We are going to have what is called a cloture vote on the motion to proceed tomorrow. All that is is a parliamentary term here in the Senate as to whether we can proceed to the bill. The other side of the aisle is blocking us from even proceeding to the bill, blocking us from having a reasonable debate on whether we are going to allow women to have access to their OB/GYNs and to their nurse-midwife practitioners.

I have talked to so many people in my State, including patients, doctors, nurses and other people throughout the healthcare system, healthcare industry, and they know it is a crisis. But I have also visited with people from around the country. My State is not the only one that is in this type of a crisis. We are seeing severe problems from Pennsylvania to Mississippi to West Virginia to Washington State to Oregon, and all across the country. State after State after State has a serious problem today. When debating whether to debate this bill—that is all we are doing today, debating whether to debate this bill—we need people to step up to do the right thing. We have a Presidential election coming up this year. I think the candidates need to explain where they are on this bill. Some of them are going to be out running for office and may not be able to vote on this, but they ought to at least take a position on this bill to let people know

where they stand. Do they stand with the trial lawyers? Or do they stand with pregnant mothers and unborn babies who need to come into this world?

I think it is clear where we should stand as a body. This body should, in no uncertain terms, stand with protecting the patients of America, with making sure when a woman needs care, whether it is obstetrics or gynecology, that the healthcare provider will be there. Too many of these providers are leaving practice today because of the high cost of liability premiums.

I want to respond to a couple points the other side always brings up. They say the reason is not because of jury verdicts; rather, the reason for these premium differences is because of investments in the stock market the insurance companies made and then they went bad.

The stock market went crazy last year. It went way back up. So if the insurance companies were investing in the stock market, they would be doing fine, and we would not see these types of increases. The insurance companies in California and Colorado were invested in the stock market, just as the insurance companies in New York and Nevada and Illinois and in Florida. Yet there is this difference.

The only thing you can point to for the difference—and these are cities with similar population bases—is the reform laws that have been passed. They all invested in the same stock market. It was not the stock market that caused the premium increases. It was and is runaway jury awards. Our country, unfortunately, has become too litigious. It is not about personal responsibility anymore. Jury awards are just out of control.

People say: Injured patients deserve their just compensation. Well, they get just compensation in Colorado and California. I don't think one could look at California and ask: Do they discriminate against women? That is one of the arguments you hear: Because women don't make as much money, that they are being discriminated against. Are we saying the whole State of California discriminates against women? It is a ludicrous argument.

We have to have reasonable reform. That is what we have put forward today, reasonable reform, so that access to care is there. If access to care is not there, that is when discrimination against women will happen. The OB/GYNs, which is what this bill addresses, are the part of the medical profession that is in crisis the most. Of all of the various specialties, this is the one that is in the most severe crisis. Obviously, it affects women more than it affects men. So in effect, if we are not allowing women to have access to the OB/GYN care, not passing this bill will discriminate against women. People not voting for this will be discriminating against women. That is why we need to pass this legislation.

If you are opposed to the final version of the bill, at least let us go to

the bill, debate it, and amend it. But it seems the other side of the aisle, the Democrats in the Senate, don't want to have any part of this debate. The American people need to stand up to that. They need to stand up and make their voices heard, because this debate is too critical. We are having, and we will continue to have, babies not delivered with the kind of care they need. High-risk pregnancies need the absolute finest modern medicine can bring them. If those people are limiting their practices, and OB/GYNs are having to limit the number of deliveries they make, then those high-risk pregnancies will not have the kind of highly qualified medical care they need and deserve.

I could go into a lot of other statistics. I could talk about various anecdotes of people I have met. I would rather just sum up with this: In a day and age where America has the finest health care system in the world, where we have the finest quality, the best doctors, the best research institutions, the best hospitals, and where people from all over the world who can afford it come to America because of the high quality of care, if we want to keep the highest quality of care, we must enact medical liability reform. This bill that is limited down to just affecting the practice of obstetrics and gynecology, we at least must start here. I want to go much further than this, but let's at least start here so American mothers who are having babies or American women who are seeking gynecological care can have access to that type of care.

One last point has to do with the uninsured. I have heard in the Democratic debates talk about the 43 million uninsured. They want to do something about it. The main thing they could do to make healthcare insurance more affordable would be to enact reasonable medical liability reform. That is what we have before us today. So for those who are trying to make this a political issue, let's make it an issue that we actually do something about instead of just talking about it on the campaign trail.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### BLACK HISTORY MONTH

Mrs. DOLE. Mr. President, a short time ago Congress debated legislation to make the birthday of Dr. Martin Luther King, Jr., a national holiday. The floor leader for that legislation was a fellow name Bob Dole. And during the final debate, I had the privilege of sitting in the gallery with Coretta Scott

King, as we heard Bob deliver these words:

A nation defines itself in many ways; in the promises it makes and the programs it enacts, the dreams it enshrines, or the doors it slams shut. Thanks to Dr. King, America wrote new laws to strike down old barriers. She built bridges instead of walls . . . there is nothing partisan about justice. It is conservative as the Constitution, as liberal as Lincoln, as radical as Jefferson's sweeping assertion that all of God's creation is equal in His eyes.

I could not agree more.

I am very proud of the rich and vibrant African American Heritage in my home state of North Carolina. Indeed, Mr. President, our history is full of trailblazers, including, Franklin McCain, Joseph McNeil, Ezell Blair, Jr., and David Richmond, known as the Greensboro Four because of their February 1960 sit-in at a Woolworth Store counter in Greensboro, North Carolina. They, along with others, laid the foundation for the America we strive to be, where all people are given an opportunity regardless of the color of their skin.

We have come a long way since then. Today, African Americans and minorities serve in every aspect of business, politics, and the legal profession. They're represented in judgeships throughout the country. John Wesley Winters, Sr., who died just a few weeks ago at the age of 84, was the first black Raleigh, NC, City Council member and one of the first black state senators of the 20th century. He was known as a bridge-builder between the races. And in 1992, my good friend Eva Clayton became the first African American woman to represent North Carolina in Congress. And just last year, Mr. President, I was privileged to support Allyson Duncan, confirmed as the first African American woman to serve on the 4th Circuit Court.

Higher education is another area where strides have been made. North Carolina is home to 11 historically black colleges and universities, including Shaw University in Raleigh, founded in 1865 and the oldest H.B.C.U. in the South. And I was honored to give the commencement address and receive an honorary degree several years ago from Livingstone College, another outstanding historically black college in my hometown of Salisbury, NC, where Dr. Algeania Freeman currently serves as the first woman president. And I am so very proud that my husband Bob is serving as chairman of a \$50 million dollar fundraising campaign at Bennett College in Greensboro, one of only two historically black women's colleges in America. In fact, Bennett's president, Dr. Johnetta Cole, currently serves as national chair of the United Way, and in that capacity has worked with HILLARY CLINTON and me on legislation to create a nationwide 2-1-1 line, a one-stop community service referral system.

This month we honor the steadfast commitment of so many people, many of whom gave their lives so that Afri-

can Americans could have the same opportunities as any other citizen in our Nation.

Today, as the Nation continues to celebrate Black History Month, I salute this heritage and the fine citizens who have contributed to North Carolina's greatness. May we continue their work on behalf of all Americans.

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

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

#### PROTECTION OF LAWFUL COMMERCE IN ARMS ACT—MOTION TO PROCEED

Mr. FRIST. Mr. President, there have been a number of conversations regarding the gun manufacturers liability bill. Those discussions were about the likelihood of reaching an agreement to allow the Senate to consider that bill under an orderly time agreement. Now it appears that we will be unable to reach an agreement on the bill and there is an objection to even proceeding to that measure.

With that said, I now ask unanimous consent that at a time determined by the majority leader, after consultation with the Democratic leader, the Senate proceed to the consideration of Calendar No. 363, S. 1805, the Protection of Lawful Commerce In Arms Act.

The PRESIDING OFFICER. Is there objection?

Mr. REID. On behalf of Senator REED of Rhode Island, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. FRIST. I now withdraw the pending motion.

The PRESIDING OFFICER. The leader has that right.

#### CLOTURE MOTION

Mr. FRIST. I now move to proceed to Calendar No. 363, S. 1805, and I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

#### CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 363, S. 1805, a bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others.

Bill Frist, Orrin Hatch, Mitch McConnell, Larry Craig, Jim Talent, John Ensign, John Cornyn, Conrad Burns, Saxby Chambliss, Craig Thomas, Don

Nickles, Rick Santorum, Trent Lott, John E. Sununu, Mike Crapo, Lamar Alexander, Wayne Allard.

Mr. FRIST. I ask unanimous consent that the live quorum under rule XXII be waived.

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

Mr. FRIST. I now withdraw the motion to proceed to S. 1805.

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

#### ORDER OF BUSINESS

Mr. FRIST. Mr. President, for the information of my colleagues and those watching, we have a scheduled cloture vote on the motion to proceed to the OB/GYN medical liability bill tomorrow afternoon. As I stated earlier, along with many of my colleagues, I hope that cloture will be invoked and that the Senate will be able to consider this bill. If we are prevented from even debating this legislation, it is our hope to take up the bipartisan gun liability bill. Given the earlier objection, it was necessary to file that cloture motion to proceed tonight. So the vote will occur on the gun liability bill on Wednesday of this week.

#### MORNING BUSINESS

Mr. FRIST. I ask unanimous consent the Senate now proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

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

#### SENATOR JOHN GLENN

Mr. STEVENS. Mr. President, as the days go by, I think it is more and more important to recognize that Senators have friends on both sides of this aisle. One of my great friends is Senator John Glenn and his wife Annie. They have been very important people in my life. I have great memories of times I spent with John Glenn privately.

For instance, I distinctly remember the time John and Annie asked my wife Catherine, my daughter Lilly, and me to go on their boat. It is called the SENIRAM. Few people, other than the occupant of the Chair, would recognize that name, but if you spell it backwards, you will get the point. We had a wonderful day with them. I have had wonderful times throughout the years we have known each other since John and Annie came to the Senate.

Recently, I had the occasion to attend a dinner in his honor. Our distinguished minority leader TOM DASCHLE was the keynote speaker. I think the remarks Senator DASCHLE made about John Glenn and his career were most appropriate and some of the finest I have heard.

I ask unanimous consent that the remarks of the distinguished Democratic

leader at the dinner honoring Senator John Glenn, an American hero, on the 100th anniversary of the Wright brothers' first flight, Friday, December 12, 2003, be printed in the RECORD.

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

REMARKS BY SENATE DEMOCRATIC LEADER  
TOM DASCHLE HONORING SENATOR JOHN  
GLENN

From all accounts, Wilbur and Orville Wright were both deeply shy. Once, at a big dinner in their honor, the host gave an effusive introduction and then called on Wilbur to make a speech. Poor Wilbur rose to his feet and after a long stammer said, "There must be a mistake. I think you want my brother"—and quickly sat down. The host then called on Orville, who replied, "Wilbur just made the speech." I know the feeling. What in the world do you say when you open for John Travolta and John Glenn?

This is a thrill and an honor. I want to thank Spencer Dickerson, president of the Aero Club of Washington, for inviting me to be a part of this incredible evening. I also want to thank FAA Administrator Marian Blakey, my partner in this warm-up act and a truly outstanding public servant; Admiral Wesley McDonald, chairman of the National Aeronautic Association, sponsors of the Wright Trophy; and Don Koranda, president of NAA. And to any Ohioans who are here, thank you, too. There is something amazing about a state that gives the world Wilbur and Orville Wright, Neil Armstrong and John Glenn.

We are here tonight to pay tribute to a genuine, old-fashioned American hero—a man with whom I was privileged to serve for 12 years in the U.S. Senate and who I am honored, and still a little amazed, to be able to call my friend.

We are also here to thank Annie Glenn. In his memoir, John tells a great story about how hard Annie worked to overcome her lifelong habit of stuttering. When she succeeded, about 20 years ago, she told him, "John, I've wanted to tell you this for years. Pick up your socks"—which makes Annie Glenn possibly the only person on Earth who is not awed by John Glenn. John may have been the one who strapped himself into those rockets, but it was Annie's love, courage, and unshakable faith in him that made John's space missions and virtually everything else he has done possible. Thank you, Annie Glenn.

A few months ago, Linda and I got a sneak preview of the incredible exhibit on the centennial of flight that's now at the Library of Congress. Of all the treasures in that exhibit, what fascinated us most was a letter that you'll find reprinted in tonight's program. It was written in 1908 by Gutzon Borglum, the visionary sculptor who carved Mount Rushmore out of the Black Hills of South Dakota. Linda and I were surprised to learn that, in 1908, Borglum was also president of the Aero Club of America—the forerunner of NAA.

He wrote this letter late on a September night. He was in Washington—still awestruck by something he had witnessed hours earlier. For the first time in his life, he had seen a man fly an airplane. That man was Orville Wright.

This is a small portion of what Borglum wrote: "My dear Ned, Well, hell's popping, the gasoline motor is in the air, and man with outspread wings is astride of it! Orville Wright has broken all previous records. He flew 67 minutes in a 16-mile wind, handled his pair of planes like a chauffeur, and rode the air as deliberately as if he were passing over a solid . . . road. Nothing I have ever

seen is comparable in action to this gliding bird, save the ice-boat." He goes on to say, "This is not an experiment. Man has put, safely and forever, his shod heel into the blue heavens, and glides about as if on ice. "Flight," he predicted, "will rub out the boundaries of the world."

Someone said that, in that first flight at Kitty Hawk, the Wright Brothers "flew through the smokescreen of impossibility." It's fitting that John Glenn receive the Wright Brothers Memorial Trophy. And it is especially fitting that he receive it tonight, just days short of the 100th anniversary of the Wright Brothers' first flight—because isn't that what John Glenn has done all his life—fly through "the smokescreen of impossibility" and show us that we can achieve more than we ever imagined?

We all have John Glenn stories we plan to tell our grandchildren. One of mine is from about eight years ago when Linda and I traveled to China with several other Senators and their spouses, including John and Annie. On our flight home, we persuaded John to tell us about the Friendship 7 flight. He told us about the wonder and majesty of space—about the beauty of the light particles that seemed to hang in space like fireflies frozen in place. He told us about the joy he felt when he flew over Perth, Australia at midnight and saw that the entire city had left its lights on to help guide his voyage. He told us about those moments when the world held its breath—when the skin of the spacecraft caught fire from the friction of re-entry and began to peel off in flaming pieces—and those terrible 2½ minutes when he lost all radio contact with the ground.

We all huddled around him, wide-eyed, on that flight. No one moved. No one said a word.

Another story I will tell my grandchildren took place in September 1998. It was just before John left the Senate to begin his last, grueling month of training at NASA for his return to space. The members of the Senate held a dinner for him at the National Air and Space Museum. Not only were John and Annie there, so was John's entire Discovery crew.

Before dinner, John and Annie graciously agreed to pose for pictures with Senators—right next to the Friendship 7 capsule! Now, you may not know this, but U.S. Senators are not exactly famous for their willingness to wait in lines. But that night, we all stood in line and waited—happily—to have our pictures taken with our hero. It's not unusual for Senators to like and admire their colleagues. But John Glenn is that rare Senator who inspires in other Senators feelings of sheer awe.

In his 24 years in the Senate, John's extraordinary knowledge of aviation served America well. Over and over, it enabled him to see essential issues instantly. I saw that ability again on the morning of September 11, 2001.

John and I were in my office in the Capitol when someone told us that a plane had hit the World Trade Center. We turned on the TV just in time to see the second plane hit the tower. In that first, terrible moment, when the whole world seemed stunned and confused, John understood the nature of the horror instantly. His eyes narrowed and he said simply, "Pilots don't fly into buildings."

John's influence in the Senate extended far beyond aviation.

People who've been there say you see the world differently from space. You see how small and fragile our world is, and you are forever changed by that knowledge. That is certainly true of John Glenn. He fought to protect our fragile environment. And no Senator ever worked harder to prevent the

spread of weapons of mass destruction, especially nuclear weapons. For that, we owe him our undying gratitude.

One of the most remarkable things about John is that he wears his heroism with such extraordinary modesty. Partly because he'd already had enough fame and tickertape parades before he came to the Senate—but mostly, I suspect, just because of who he is—Senator Glenn never worried about grabbing headlines. He worked quietly and diligently—with Democrats and Republicans—to solve difficult problems. He immersed himself in complicated but important issues—like troop readiness, government ethics and campaign finance reform.

He was willing to take on what he called the "grunt work" of government. He looked at government with the eyes of an engineer and tried to imagine ways it could work better. He used his position on the Government Affairs Committee to fight for efficiency in government. He was the author of the Paperwork Reduction Act and the lead sponsor of laws requiring inspectors general and chief financial officers in all federal agencies.

He used his seat on the Senate Armed Services Committee to keep America's military strong, and to advocate for our men and women in uniform, and for veterans.

He was a very good Senator. He was also a very popular one. In 1974, the year he was elected to the Senate, he carried all 88 counties in Ohio. In 1980, he was re-elected with the largest margin in his state's history. The last time he ran, in 1992, he became the first Ohio Senator ever to win four terms.

In 1985, he responded to a magazine survey of Senators. Next to "favorite book," he wrote, "In election years, the Cuyahoga County voter registration rolls; in all other years, the Bible." Next to "aspirations after the Senate," he wrote, "retire gracefully." Back then, probably not even Annie imagined what he had in mind.

Five centuries ago, Leonardo DaVinci wrote, "Once you have tasted flight, you will forever walk the earth with your eyes turned skyward, for there you have been, and there you will always long to return." Francis Gary Powers, the U2 pilot, described the pull to return to the heavens differently. After this first flight, at the age of 14, he told his father, "Dad, I left my heart up there."

In 1996, at the age of 75, John set yet another speed record by flying his Beechcraft Baron from Dayton, Ohio to Washington, DC in 96 minutes.

In retrospect, we should have known then that something was up.

I was among a group of Senators who went to Florida that day to witness our friend's return to space. Our friend, Senator Stevens, was there, too.

So much had changed in the 36 years since John's Friendship 7 orbit. Yet, some things were the same. Walter Cronkite came out of retirement to cover the Discovery mission. The people of Perth again turned on their lights to guide his voyage. And we all learned once again, because of the extraordinary courage of this man, that we can achieve more than we ever imagined.

Some people think there are two John Glenns: Lt. Colonel John Glenn, the astronaut-hero, and Senator John Glenn. In truth, there is only one John Glenn—the patriot. Love for his country is what motivated John Glenn to risk his life in two wars. It's what kept him in the United States Senate for 24 years and what prompted him, in 1984, to run for President. It is what sent him into space the first time and what sent him back at the age of 77. Love for his country is also why he is working today on a challenge that may be as hard as the putting a man in space was in 1962: teaching young people to understand and respect public service. He believes in his

bones what he said when he announced his retirement from the Senate. "Despite all our problems—despite our sometimes inefficient bureaucracies . . . and all of the other problems we love to complain about—this is still the greatest nation in the history of the world, and still a shining beacon of hope and opportunity."

In July 1969, as the crew of the Apollo 11 prepared for lift-off, Esther Goddard was speaking to an AP reporter. She read these words from the diary of her late husband, Robert Goddard, "the father of American rocketry." "When old dreams die, new ones come to take their place. God pity a one-dream man." Tonight, I thank God for giving us John Glenn. By having the courage to live his many dreams, he gives us the courage to live our own. Thank you, John. Thank you, Annie. Godspeed to you both.

#### CONFERENCE DELIBERATIONS ON H.R. 3108

Mr. FRIST. Mr. President, on Thursday, February 12, 2004, the Senate appointed conferees on the pension bill, H.R. 3108.

The legislation, as amended, passed on January 28 on an overwhelming 86-9 vote.

Of course, the regular order on a bill of this type would have been to insist on the Senate position and appoint conferees to begin negotiations with the House over the contents of this bill. Normally, this would have occurred without comment immediately after passage of the legislation.

Sadly, that was not the case.

Instead, the Senate was diverted into an argument over past patterns and practices—how many times a bill has gone to conference, or been pre-conferenced, or simply agreed to by the other body or who has been at what meeting, when, or where. This argument may mean much to a few, but it stood in the way of the many.

The Senate and the House are different institutions, with different rules, different pressures, different Members, and different outlooks. The most reasonable way for them to blend these differences is together, with representatives from both bodies sitting down at a table, reconciling legislation that each House has endorsed as its best idea to resolve pressing national problems.

The pension legislation passed both the House and the Senate with large bipartisan majorities. In the Senate, the legislation was developed over 3 months with bipartisan input from across the ideological and party spectrum. Both leaders, as well as the chairmen and ranking members of the HELP and the Finance Committee, wrote the bill, negotiated with multiple interested members, and spearheaded the legislation to passage.

When it came to the pension legislation, I listened carefully to what the minority leader said in various statements. I was gratified by the leader's assurance, given on the floor February 4, that he was "not asking for any predetermined outcome," and that he was "not asking for a certain set of expecta-

tations with regard to the legislation itself." Such an expectation on the part of any Member would have been another sharp departure about how we do our work here.

It was the regular order that we go to conference on this legislation. I also believe it is the regular order that Senate conferees, majority and minority, participate in conference deliberations as compromise between the House and Senate is developed.

I will work with my Senate majority colleagues to validate this commitment. We should not stymie over process when there is so much substance for us to work on, together, as the year progresses.

#### THE POLITICIZATION OF THE FOREIGN SERVICE

Mr. LEAHY. Mr. President, I rise today to bring to the Senate's attention a speech given by Ambassador Thomas Pickering in which he addressed some important issues concerning the Foreign Service.

I had the privilege of hearing this speech during an event at the Smithsonian last year, and I know of no one better qualified to talk about the Foreign Service than Ambassador Pickering. In over 41 years in the Foreign Service, Thomas Pickering served as ambassador to a dizzying number of important countries and international organizations, including Russia, India, Israel, Nigeria, and the United Nations. He also happens to speak 5 foreign languages.

In his speech, Ambassador Pickering warns of the increasing politicization of the Foreign Service. He points out that after disastrous experiences in the Civil War and Spanish-American War, the United States military professionalized its officer corps. Today, with the rise of international terrorism and the proliferation of other complex international problems, we should be thinking along the same lines.

However, we seem to be going in the wrong direction. Increasingly, individuals who have done little more than donate to a political campaign are being placed into key positions within the State Department. Ambassador Pickering appropriately points out that certain political appointees have and will continue to play an important role in pursuing U.S. diplomatic efforts overseas. Bringing individuals like Howard Baker and Felix Rohatyn, who possess unique skills, to the State Department is essential.

But the world is becoming more interconnected and more dangerous. International crises no longer confine themselves to remote corners of the world. For example, the outbreak of a deadly disease in Africa is only a plane ride away from the United States. We need seasoned, talented individuals capable of effectively advancing U.S. interests in key positions in Washington and abroad—not individuals whose primary talent is digging into their pockets to donate to a political campaign.

I urge all Senators to heed Ambassador Pickering's address and ask unanimous consent that the entire speech be printed in the RECORD.

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

NATIONAL PORTRAIT GALLERY'S PAUL PECK  
PRESIDENTIAL AWARD—ACCEPTANCE SPEECH  
BY AMBASSADOR THOMAS R. PICKERING

Thank you very much for the kind introduction. I am grateful to Strobe Talbott for his very kind remarks. Thank you too for this extremely generous and most unexpected award. I want to extend my warmest congratulations to Diana Walker, my co-recipient tonight, for her great contribution to portraying the presidency. I look forward to doing more television shows together.

I am even more grateful for this award, given my distinguished predecessors in receiving it, one of whom, General Brent Scowcroft, is here tonight, and the high respect I have for the members of the selection committee.

Let me also thank Mr. Peck for his unstinting generosity to the Portrait Gallery, the Presidency and to the pursuit of educational opportunities for disadvantaged Americans, including African Americans and Hispanics and many others. Your willingness to support so generously such worthy and deserving causes is more than admirable. Were I not a recipient of the award tonight, I would say with equal vigor "thank you for doing this for your country and its future." I want too to thank all the cooperating foundations and organizations that made the award and the evening possible.

I would be remiss in my own understanding of reality were I not to say immediately that it has been my family who have been my strongest supporters throughout my career in government. I'm happy to have with me tonight my son Timothy and members of his family, my daughter Margaret and members of her family and most especially my wife Alice. To all of them, but most especially to Alice, my firmest friend and toughest critic through many fascinating assignments, I owe the most, and they too should be receiving the award with me in every sense of the word—they surely deserve it.

I have had the honor of serving every president since Harry Truman, when I worked as a clerk in the U.S. Post Office and for the U.S. Weather Bureau as a summer intern in the Arctic. Since leaving the Foreign Service at the end of 2000, I have also served on a number of official advisory committees to U.S. departments and agencies.

My Foreign Service career was highly rewarding and in some respects, very unusual. I've had the pleasure of serving on all continents except Australia. But then too, I went to university there under the Fulbright program. I also spent three and one-half years in the U.S. Navy and over 41½ in the Foreign Service.

I wallowed in diversity, both ethnic and religious. I had the pleasure of being Ambassador to the world's only Jewish state (Israel); to a Muslim country (Jordan); to the world's largest Hindu state where Buddhism was born and where 150 million are Muslims, which makes it the world's second-largest Muslim state (India); to the largest Orthodox Christian country in the world (Russia); to a predominantly Roman Catholic republic (El Salvador); and to two countries, while still both Christian and Muslim, contain very large populations which practice traditional African religions (Nigeria and Tanzania). It's been a wonderful career, even though my mother often wondered why I kept moving around and couldn't keep a steady job.

Paul Peck is truly right. Public service, and we all serve the President in that regard, is essential for our country's survival and prosperity.

Last year, Mr. Peck encouraged us all to think about change and improvements—about ways to make our service to the Presidency and through the Presidency to all of the people more effective and more valuable.

Tonight, I want to talk about two aspects of that service and provide you some thoughts on improvement.

I do so in the certain knowledge that the Civil Service, the military service and the Foreign Service of the United States have made numerous sacrifices and provided enormous opportunities for us all as citizens. We are lucky that for the size of our population, we have one of the smallest public services in numbers, both at the Federal and State level, when we compare it with other countries around the world.

Also, I see it as one which is generally dedicated, intelligent and hard-working. Indeed, our public found out how essential was our public service when just a few years ago in a budget battle, there were selective shutdowns of activities of the Federal Service and the public uproar was immediate, vigorous and sustained.

However, I must tell you I am troubled by the fact that in our presidential elections there has been an increasing tendency for presidential candidates to run against our public service. It's not just the talk of "clean up the mess in Washington", but that plays a role in it. There have been implications that the public service hasn't been faithful or it has been lazy and self-indulgent, or that it has not met the needs of the people. And the candidate of course will not only throw out the rascals from the opposing party, but go down to Washington and clean up "that mess" for once and for all.

This has hurt the reputation of our career public servants and I am concerned that in another oncoming electoral season, we will see much of the same rhetoric repeated. I hope I am wrong. I will keep my fingers crossed. But on the very off-chance that any candidates are listening tonight, I ask them to consider this issue carefully.

Secondly, I am concerned by the increasing, what I can only call, politicization of our Civil and Foreign Service.

We all know that over the years, Congressional legislation has sought to draw a clear bright line between public service and the elected political leadership. Indeed, that is as it should be.

As a public servant, I have understood the necessity for loyalty to the President and his policies. That too is as it should be. Our system has always provided a remedy if there was conflict or confusion—resignation.

But let me mention that during recent administrations, in the department that I know best, the Department of State, there has been a general replacement in jobs, some well down in the bureaucracy, of career appointments with political appointments.

Let me also note that the plumb book which lists these jobs has grown several fold over the last two decades, yet again another indication of the pressure of politics on the public service.

And then, let me mention something that I perhaps know even more about—Ambassadors.

As an Ambassador who served coming from the Career Service, I appreciate what my colleagues from outside the Career Service have often brought to the job. There have been, and continue to be, outstanding appointments to those jobs. Stu Eizenstat and Howard Baker, and might I add Nancy Kassebaum Baker in Japan, and Felix Rohatyn in France are but a few fine examples, and

there are many others—Max Kampelman and Sol Linowitz among others.

What disturbs me is the large number of such appointments for whom one cannot say they bring special knowledge, background, experience or wisdom to the job. We must be frank that they are there because they are being rewarded in the main for their financial contributions to the winning political party. At a time of war on terrorism that should not be the standard for such service!

The spoils system went out in the 1880s, but this remnant is not one that speaks well of our Presidency or indeed of our needs at a time when we are the undoubted leader of the world community in such a war.

One wag has remarked that the first job that was truly professionalized by popular acclaim was brain surgery. And after disastrous experiences in the Civil and Spanish-American war, we professionalized our Military Officer Corps.

Right now, by tradition more than anything else, about 70% of our Ambassadors are from the Career Service and 30% from the outside. Not too long ago, a distinguished American senator, who has gone on to serve at a high post in the Executive Branch, led the fight for reducing that number to 10%. He was unsuccessful, but I don't believe the project should be abandoned.

Where knowledge, experience and good training can make a difference, America deserves the best. The Career Service is organized to do that, and I would hope that this important improvement, in what I believe is the spirit of Paul Peck's Award, can be picked up and implemented in the future, despite my full understanding of all the difficulties in doing so. And I say that in full knowledge of the fact that the Career Service needs to send its best men and women to this assignment.

For me and for all of my colleagues in the Foreign Service and with all of those with whom I worked in the Civil and Military Service, it was and is always a privilege to serve this country.

Every day was a day of new challenges and new opportunities. I used to tell my staff that the day in which you did not learn something new and important in the service of our country as a day wasted.

You all, as Americans, gave us that opportunity. If I was able to give something back to you in return, then it was for me both a great pleasure and the highest honor.

Thank you most sincerely for your recognition tonight. Because you recognize public service as well as individuals at this occasion, I am pleased as well to tell you that my acceptance of this honor must be on behalf of all of those who have so loyally and faithfully served our country down through the generations.

Thank you very much.

## HONORING OUR ARMED FORCES

### TRIBUTE TO SPEC JOSHUA L. KNOWLES

Mr. GRASSLEY. Mr. President, I rise today to pay tribute to SPEC Joshua L. Knowles of Sheffield, IA who courageously gave his life for his country in Operation Iraqi Freedom. He is the 10th Iowan to be killed since the start of hostilities in Iraq. My deepest sympathy goes out to his parents, Sandy and Les, and his two sisters, Breanna and Michelle, as they deal with their loss. SPEC Joshua Knowles graduated from Sheffield-Chapin/Meservey-Thornton High School in 1999 where he played football. He enlisted in the Iowa National Guard 1133rd Transportation

Company out of Mason City, IA, on February 18, 1999 and served as a motor transport operator. Specialist Knowles was killed on Thursday, February 5, 2004, when the cab of the military cargo truck he was riding in was hit by mortar fire as the convoy passed through Checkpoint 6 at the Baghdad International Airport. He was in the cab with fellow Iowan, SPEC Peter Bieber of Nora Springs, who was also injured in the attack. Specialist Knowles will be honored posthumously for his patriotic service to his country with the Purple Heart as well as the Bronze Star, which is awarded for members of the military who distinguish themselves "by heroic or meritorious achievement or service while engaged in an action against an enemy of the United States". In a press statement, Specialist Knowles' family recalled a shirt that he had sent them from Iraq. The shirt says, "U.S. Soldiers Never Die, They Just Take Cover Until the Next Mission" which they said exemplified his attitude toward military service. We can all be proud of this exceptional Iowan and I know he will be greatly missed by all those who knew him. In giving the ultimate sacrifice for his country, Specialist Knowles showed himself to be a true hero and patriot. I again want to express my sympathy for his family and my gratitude for his courageous service.

## CBO COST ESTIMATE ON S. 1072

Mr. INHOFE. Mr. President, I ask unanimous consent that a cost estimate prepared by the Congressional Budget Office to accompany Senate Report 108-222, the committee report to S. 1072, the Safe, Accountable, Flexible, and Efficient Transportation Equity Act, be printed in the RECORD. The estimate was not available when the report was filed by the Committee on Environment and Public Works.

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

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE  
S. 1072—*Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003*

Summary: Assuming appropriation action consistent with the funding levels specified in the bill, and assuming the appropriation of amounts necessary to complete highway and environmental studies and regulations required by the bill, CBO estimates that implementing S. 1072 would cost \$172 billion over the 2004-2009 period and about \$48 billion after 2009.

CBO estimates that enacting S. 1072 would reduce direct spending by about \$1.7 billion over the 2004-2009 period and by about \$3.4 billion over the 2004-2013 period. Finally, the Joint Committee on Taxation (JCT) estimates that enacting S. 1072 would reduce revenue collections by \$52 million over the 2004-2009 period and by \$130 million over the 2004-2013 period.

S. 1072 would extend the authority for the Federal-Aid Highway program. For this program, the bill would provide about \$218 billion of contract authority over the 2004-2009



period, and it would authorize the appropriation of about \$2.6 billion over the same period. S. 1072 also would require the Department of Transportation (DOT) and the Environmental Protection Agency (EPA) to complete certain studies and regulations concerning highway construction and air quality.

Consistent with the Balanced Budget and Emergency Deficit Control Act, CBO assumes for this estimate that the contract authority for the Federal-Aid Highway program would continue at the same rate provided immediately before the program would expire at the end of 2009. Hence, this estimate includes an additional \$4.9 billion in contract authority in each year over the 2010–2013 period.

S. 1072 would make several changes to current law that would affect direct spending. The legislation would end funding for DOT's Minimum Guarantee program, increase funding for the Emergency Relief program, provide DOT the authority to spend certain fees,

and provide DOT the authority to share monetary judgments pertaining to fraud in the federal highway and transit programs with state and local agencies.

JCT estimates that enacting S. 1072 would result in lower revenue collections by expanding the State Infrastructure Banks program and by changing the eligibility requirements of the Transportation Infrastructure Finance and Innovation Act (TIFIA) program. Under current law, five states can use grants from the Federal-Aid Highway program to fund a state infrastructure bank. S. 1072 would extend that authority to all states. S. 1072 would change the TIFIA program by making smaller projects eligible for credit assistance. Both provisions would decrease revenue collections by increasing the use of tax-exempt bonds.

S. 1072 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA); any costs to state or local governments would result from complying with conditions

of federal assistance. In general, the bill would benefit states by reauthorizing federal highway programs for the next six years.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 1072 is shown in Table 1. The costs of this legislation fall within budget function 400 (transportation).

Basis of estimate: For this estimate, CBO assumes that S. 1072 will be enacted this spring. We also assume appropriation action consistent with the authorization and contract authority levels in the bill. Estimates of outlays are based on historical spending patterns of the Federal-Aid Highway program. CBO estimates that implementing S. 1072 would cost almost \$172 billion over the 2004–2009 period and that enacting S. 1072 would lower direct spending by about \$3.4 billion over the 2004–2013 period. JCT estimates that enacting S. 1072 would lower revenues by \$130 million over the 2004–2013 period.

TABLE 1.—SUMMARY OF BUDGETARY EFFECTS OF S. 1072

	By fiscal year, in millions of dollars—					
	2004	2005	2006	2007	2008	2009
<b>CHANGES IN SPENDING SUBJECT TO APPROPRIATION</b>						
Estimated Authorization Level <sup>1</sup>	392	417	431	440	450	464
Estimated Outlays	4,192	25,005	32,571	35,645	37,273	37,765
<b>CHANGES IN DIRECT SPENDING</b>						
Estimated Budget Authority	6,232	5,523	6,806	6,404	6,503	5,098
Estimated Outlays	–32	–161	–314	–376	–400	–415
<b>CHANGES IN REVENUES</b>						
Estimated Revenues <sup>2</sup>	–1	–3	–7	–10	–14	–17

<sup>1</sup> Under current law, most budget authority for the Federal-Aid Highway program is provided as contract authority, a mandatory form of budget authority. Most outlays that result from the contract authority, however, are subject to obligation limitations contained in appropriation acts and are therefore discretionary. S. 1072 would provide contract authority for the Federal-Aid Highway program. CBO assumes appropriation action will continue to limit outlays from the portions of the Federal-Aid Highway program that are subject to limitations under current law as well as new components of the program that would be authorized by S. 1072.

<sup>2</sup> Estimate provided by Joint Committee on Taxation.

#### Spending subject to appropriation

Over the 2004–2009 period, S. 1072 would provide about \$218 billion of contract authority and authorize the appropriation of about \$2.6 billion for the Federal-Aid Highway program. The bill also would require DOT and EPA to complete certain studies and regulations. Assuming appropriation action consistent with the contract authority and authorizations specified in the bill, and assuming the appropriation of amounts necessary to cover the studies and regulations, CBO estimates that implementing S. 1072 would cost almost \$172 billion over the 2004–2009 period.

Under current law, most spending from the Federal-Aid Highway program is considered discretionary because it is controlled by annual limitations on obligations set in appropriations acts. For this estimate, CBO assumes appropriation action will continue to limit outlays from the Federal-Aid Highway program.

S. 1072 would require DOT and EPA to complete certain studies and regulations concerning highway construction and air quality. The bill would require DOT to assess the condition of the surface transportation system and develop a plan to ensure this system will continue to meet the nation's transpor-

tation needs, and it would require EPA to improve the methodology for measuring air particles. The bill also would require DOT to issue regulations to improve worker injury rates and traffic flow during road construction, and it would require EPA to issue regulations for the management of air quality data during disasters. Based on information from DOT and EPA, CBO estimates that completing these studies and regulations would cost \$7 million over the 2004–2009 period, subject to appropriation of the necessary amounts.

#### Direct spending and revenues

The legislation would end funding for DOT's Minimum Guarantee program, increase funding for the Emergency Relief program, provide the authority to spend certain fees, and provide the authority to share certain monetary judgments. CBO estimates these changes would lower direct spending by about \$3.4 billion over the 2004–2013 period and reduce revenues by \$130 million over the same period. The bill's changes in direct spending and revenues are detailed in Table 2.

Minimum Guarantee Program. Of the total amount of contract authority for the Minimum Guarantee program, current law ex-

empts \$266 million of contract authority for fiscal year 2004 from any limitation on obligations. Consistent with the Balanced Budget and Emergency Deficit Control Act, CBO assumes this program continues at the same rate through fiscal year 2004 and in each of the following years. Under this baseline assumption, \$639 million of contract authority for the Minimum Guarantee program is exempt from annual limits on obligations set in appropriation acts, and the resulting outlays are therefore considered mandatory. S. 1072 would eliminate funding for this program. CBO assumes that eliminating funding for the Minimum Guarantee program would lower direct spending by \$5.2 billion over the 2004–2013 period relative to the current baseline.

Emergency Relief Program. Current law provides permanent authority for the Emergency Relief program and limits the program's obligations to \$100 million each year. Because appropriation acts do not control spending from the program, its outlays are considered mandatory. S. 1072 would raise the limit on obligations to \$300 million each year. CBO estimates that this provision would increase direct spending by \$1.7 billion over the 2004–2013 period.

TABLE 2.—ESTIMATED EFFECTS ON DIRECT SPENDING AND REVENUES FOR S. 1072

	By fiscal year, in millions of dollars—									
	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
<b>DIRECT SPENDING</b>										
Baseline Spending for the Federal-Aid Highway Program:										
Estimated Budget Authority	26,264	30,633	30,633	30,633	30,633	30,633	30,633	30,633	30,633	30,633
Estimated Outlays	1,145	1,056	955	869	794	775	764	757	751	748
Proposed Changes:										
Federal-Aid Highway Program Components Subject to Obligation Limitations:										
Estimated Budget Authority	6,352	5,953	7,236	6,834	6,933	5,528	5,528	5,528	5,528	5,528
Estimated Outlays	0	0	0	0	0	0	0	0	0	0
Minimum Guarantee:										
Estimated Budget Authority	–320	–639	–639	–639	–639	–639	–639	–639	–639	–639
Estimated Outlays	–86	–308	–495	–569	–601	–620	–633	–639	–639	–639



TABLE 2.—ESTIMATED EFFECTS ON DIRECT SPENDING AND REVENUES FOR S. 1072—Continued

	By fiscal year, in millions of dollars—									
	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Emergency Relief:										
Estimated Budget Authority .....	200	200	200	200	200	200	200	200	200	200
Estimated Outlays .....	54	138	172	184	192	196	200	200	200	200
Spending of Fees:										
Estimated Budget Authority .....	0	5	5	5	5	5	5	5	5	5
Estimated Outlays .....	0	5	5	5	5	5	5	5	5	5
Spending of Judgments:										
Estimated Budget Authority .....	0	4	4	4	4	4	4	4	4	4
Estimated Outlays .....	0	4	4	4	4	4	4	4	4	4
Total Changes:										
Estimated Budget Authority .....	6,232	5,523	6,806	6,404	6,503	5,098	5,098	5,098	5,098	5,098
Estimated Outlays .....	-32	-161	-314	-376	-400	-415	-424	-430	-430	-430
Direct Spending Under S. 1072 for the Federal-Aid Highway Program:										
Estimated Budget Authority .....	32,496	36,156	37,439	37,037	37,136	35,731	35,731	35,731	35,731	35,731
Estimated Outlays .....	1,113	895	641	493	394	360	340	327	321	318
CHANGES IN REVENUES										
Estimated Revenues <sup>1</sup> .....	-1	-3	-7	-10	-14	-17	-19	-20	-20	-20

<sup>1</sup> Estimate provided by Joint Committee on Taxation.

**Spending of Certain Fees.** Under current law, DOT collects fees from participants in classes held by the National Highway Institute and participants in the TIFIA program. These fees cover a portion of the administrative costs of the classes and the TIFIA program. S. 1072 would provide DOT the authority to spend the fees without further appropriation. Based on information from DOT, CBO estimates the department will collect—beginning in 2005—\$4 million each year from participants in classes held by the National Highway Institute and \$1 million each year from participants in the TIFIA program. CBO estimates that this provision would increase direct spending by about \$45 million over the 2005–2013 period.

**Monetary Judgments.** S. 1072 would provide DOT the authority to share monetary judgments pertaining to fraud in the federal highway and transit programs with state and local agencies. This provision would apply to judgments in criminal prosecutions as well as civil judgments. Under current law, monetary judgments that result from criminal prosecutions are deposited in the Crime Victims Fund and later spent. Civil judgments, however, are not spent under current law. The federal government received an average of \$18 million each year in monetary judgments from civil cases over the 1999–2003 period. Because the federal government pays most costs associated with fraud investigations and generally requires states to provide only 20 percent of the total cost for most surface transportation projects, we expect that DOT would share 20 percent of such judgments with the states. Hence, CBO estimates that this provision would increase direct spending by \$4 million each year, beginning in 2005, and by \$36 million over the 2005–2013 period.

**Revenues.** Enacting S. 1072 would lower revenue collections by expanding the State Infrastructure Banks (SIBS) and the TIFIA programs. JCT estimates that enhancing both provisions would lower revenues by \$52 million over the 2004–2009 period and \$130 million over the 2004–2013 period.

Under current law, five states can use grants from the Federal-Aid Highway program to fund a state infrastructure bank. States use infrastructure banks to finance transportation projects by providing loans to local governments or repaying bonds. S. 1072 would extend that authority to all states. JCT estimates that this provision would increase the use of tax-exempt bonds and therefore decrease federal revenues by \$73 million over the 2004–2013 period.

For a project to receive credit assistance under the TIFIA program, current law requires the projects' total cost to equal or exceed the lower of the following two amounts: \$100 million, or 50 percent of the states' grants from certain highway programs in the

previous fiscal year. S. 1072 would change those two amounts to \$50 million and 20 percent of the states' highway grants. Credit assistance under the TIFIA program can cover a portion of the remaining cost with tax-exempt bonds. JCT estimates that enacting S. 1072 would increase the number of projects that receive credit assistance under TIFIA and, therefore, increase the use of tax-exempt bonds, reducing revenue collections by \$57 million over the 2004–2013 period.

**Intergovernmental and private-sector impact:** S. 1072 contains no intergovernmental or private-sector mandates as defined in UMRA. Any additional costs to state or local governments to comply with grant conditions would be incurred voluntarily. In general, the bill would benefit states by reauthorizing federal highway programs for the next six years.

**Subtitle E, Environmental Planning and Review,** would clarify and expand existing conditions of aid by requiring Metropolitan Planning Organizations (MPOs) and states to consider additional environmental factors during the planning process and to update long-range transportation plans more frequently. MPOs and states have to comply with various transportation planning requirements in order to receive federal assistance. According to MPO representatives, the provisions of the bill may require smaller organizations to hire additional staff, however, CBO does not expect those costs to be significant. Furthermore, states and MPOs receive various forms of funding under title 23 and title 49 that would cover planning-related expenses. S. 1072 would increase the amount of title 23 funds set aside for MPOs.

States would benefit from other provisions of the bill, including funding to establish or update systems to report incidents more quickly, to develop intermodal passenger facilities, and to encourage the collection of tolls on certain interstate highways and high-occupancy-vehicle lanes.

Estimate prepared by: Federal Spending: Rachel Milberg and Deborah Reis. Federal Revenues: Mark Booth. Impact on State, Local, and Tribal Governments: Gregory Waring. Impact on the Private Sector: Jean Talarico and Cecil McPherson.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

#### ANNOUNCING THE BIRTH OF PRESTON CHARLES LUGAR

Mr. LUGAR. Mr. President, during this past recess of the Senate, my wife, Charlene, and I received the joyous news that Preston Charles Lugar, the newborn son and first child of our son, John Hoereth Lugar and his wife, Kelly

Smith Lugar, had been born on February 20, 2004, at Sibley Hospital, in Washington, DC. Preston was a healthy 8 pounds, three and eight-tenths ounces at birth. Kelly's parents, Robert Lee Smith and Renee' Camille Smith, Charlene, and I were present to greet our new grandson and his parents as they returned to their Arlington, VA, residence on February 22.

Kelly and John were married on November 5, 2001, in the Washington Cathedral with Dr. Lloyd Ogilvie, former Chaplain of the Senate, presiding. They and their families and guests had enjoyed a rehearsal dinner in the Mansfield room of the Capitol on the night before the wedding. Kelly has worked with many of our colleagues during her current service to the administration of President George Bush and our former colleague, Secretary of Energy, Spencer Abraham, as Assistant Under Secretary with responsibilities for Congressional Relations. A graduate of the University of Texas, she was once a member of the staff of Congressman RALPH HALL of Texas. John Lugar came with us to Washington, along with his three brothers, 27 years ago. He graduated from Langley High School in McLean, VA, Indiana University, and received his Masters of Business Administration degree from Arizona State University. He has been active in the private equity industry in recent years.

We know that you will understand our excitement and our gratitude that they and we have been given divine blessing and responsibility for a glorious new chapter in our lives.

#### ADDITIONAL STATEMENTS

##### THE STATE OF PUBLIC EDUCATION

• Mr. INOUE. Mr. President, the Hawaii State Legislature took a historic step on January 28, 2004, and invited education Superintendent Patricia Hamamoto to address a joint session of the house and senate, underscoring the priority public education will be accorded during their legislative session.

As a teacher first, then principal and now superintendent, her words were

progressive, and at times, provocative. She was honest about the system's shortcomings, clear on the improvements that need to be made, and focused on increasing student achievement by enhancing and supporting the relationship between teacher and student.

Hawaii Superintendent Hamamoto's words are worthy of both local action and national consideration. I ask that the full text of her statement be printed in the RECORD.

The statement follows.

SUPERINTENDENT PATRICIA HAMAMOTO  
THE STATE OF PUBLIC EDUCATION  
JANUARY 28, 2004

President Bunda, Speaker Say, members of the Legislature, Lieutenant Governor Aiona, Congressman Abercrombie, distinguished guests from our business, labor, military and education communities, fellow citizens of Hawai'i, good morning.

My name is Pat Hamamoto and I am a teacher, a principal, and an educator. I believe teaching is one of our greatest callings, and I spent 12 happy and productive years teaching at Ilima Intermediate, Highlands Intermediate and Pearl City High School.

As a classroom teacher, I was often frustrated with the DOE bureaucracy. My 7th graders at Ilima struggled with math. I wanted to make math "real" by relating it to something they cared about, namely, money. So I set up a little in-class economics lesson. When my students turned in work that was acceptable, they got tokens they could use to buy classroom supplies like pencils, rulers and notebooks. I'll tell you—the lesson worked. The students saw the connection between math and money and buying things, and they did enough good work to empty out my supply closet. Now technically, I was supposed to just give out those supplies, no strings attached. So before I embarked on this program, I asked my principal for permission. He said, "Don't tell me! If I don't know, I can't tell you no. Just do it." And so I learned to work around the system. But teachers shouldn't have to work around a system; the system should work for them.

As principal of McKinley High School, I thought things would get easier within the system. When we were renovating McKinley's historic administration building, the whole campus was dug up to put in new wiring. Since the trenches were dug anyway, I thought it would be a perfect time to put in conduit pipes to wire our campus for computer technology. I was told no. The reason? It wasn't on the blueprints. Finally, in frustration, I called the head of the Department of Accounting & General Services, and asked for help. And he helped. McKinley's students now have a school fully wired for fiber optics. But principals shouldn't have to work around a system or use personal connections; the system should work for them.

As Superintendent of Schools, I recognize that a lot of people consider me, and the people who work with me in the DOE offices nearby, to be symbolic of the problem and unwilling to change. Nothing could be further from the truth. We have been changing this bureaucracy since the day I was named Superintendent two years ago. Before I talk about how we have changed and will continue to change, let me talk for a moment about something that hasn't changed—our principals, teachers and students who represent the best of what we are.

Our teachers work long hours, and pay for classroom supplies out of their own pockets. Our principals are dedicated to "finding a way around the system" to make their

schools rich learning environments. Our students are excellent scholars, future scientists, inventors and CEOs, future legislators and perhaps a Governor or two. They have come from across the state to be here this morning, to remind us of why we are here, and why public education deserves every ounce of attention and support we can give it. Principals, teachers, and students of Hawai'i's public school system, will you please rise and receive the acknowledgement you deserve!

Despite the many achievements of our public education system, I come before you today to report that Hawai'i's public education is simply not working as it should. It is, in fact, obsolete. And in my view, this is the single biggest problem we face as a state. Why? Because we are not properly preparing Hawai'i's citizens of the future, our workforce of the future, our business and civic leaders of the future.

Too many of our teenagers fail basic eighth grade English and math tests. They cannot qualify for journeyman apprenticeships in the building trades. They have little hope of decent-paying jobs that will allow them to raise and care for their families. We are failing them, the next generation. And that is not acceptable. I am not here to defend the status quo. I am here to tell you we must all work together, to transform public education in these Islands we call home.

I feel very fortunate to be standing here today because I have never seen so much focus on public education in the news media, on the fifth floor of this building and in these legislative chambers. That attention is an opportunity for all of us. It shows that the leaders in this state want the best possible education for the boys and girls of these Islands. It shouts loud and clear that the opportunity for change is upon us, and we must embrace it!

In everything we do from this day forward as we go about the business of "reinventing" our education system, we need to focus not on school boards or superintendents or labor unions, not on Republicans or Democrats, but on the 184,000 students in our charge. The question isn't who is right, but what is right. I ask you to listen this morning with open minds and open hearts, so that collectively we can make informed decisions on what is best for our children.

Yes, the system of education governance is important. But it is a political decision, to be made by you. So I won't spend any of my time debating that issue. I will tell you that I believe education reform in Hawai'i is only going to happen at the most basic level—at the school and in the classroom. I am opposed to additional Boards of Education that add more layers of bureaucracy between our state school board and the schools. More school boards will not improve student achievement. I will forever champion the most direct and unfettered route from that state governing board to that individual school and ultimately the child in the classroom.

I couldn't agree more with Consultant William Ouchi's conclusion from his book, "Making Schools Work", page 17, which reads "If you focus only on decentralization, you'll get a decentralized district, but with low student achievement." That is, obviously, not our goal!

Differences over school board structure have received a lot of media and community attention, but it's encouraging to me that there is consensus on so many issues that will make more of a difference in the classroom.

Just look at areas where we already seem to be on the same page:

One: Empowering principals and school communities by providing more lump-sum

funding directly to the schools and giving them the authority and the flexibility to decide how school funds are spent.

Two: Adopting the "weighted student formula" funding plan. Hawai'i is known for equity in public education. Our statewide funding system has provided that. Keiki in the poorest communities are guaranteed the same level of resources as those in wealthy neighborhoods. That's not true in other states, where local property taxes finance education. Hawai'i should be proud of having equalized resources at the school level. But not all students are created equal. Some have physical or psychological needs that require special education. Others speak no English, come from broken families or live with foster parents, and go home to drugs and drug users. The "Weighted Student Formula" plan allocates money based on the unique needs of each student. That funding follows that student wherever he or she goes to school, and equalizes opportunity at the student level. I applaud everyone, from the Board, the Legislature, and the Governor's CARE group, for their general agreement to adopt this plan. It is the right thing to do, and I hope we do it this year!

Three: Giving principals more training in finance and administration so that they can, in fact, become true CEO-educators on their own campuses. The Board of Education has now made this a priority for DOE implementation.

Four: Providing parents a choice to send their children to any public school that has room for them. Along with that choice comes the responsibility to get your child to and from school safely. Therefore, I believe in the long run, most parents will go to the quality schools with quality programs in their neighborhoods precisely because they are in their neighborhoods, easy to get to, and part of the fabric of their community. A logical extension of that belief is that parents will do what they can to make their own neighborhood schools better.

The new Board of Education, its leadership and members who sit behind me on this dais, are to be commended for the many hours of unselfish service they give to Hawai'i's children. They have indicated by their words and their actions that they are committed to reinventing Hawai'i's Public Education System. This is an endeavor that must be undertaken jointly by the Board, which sets policy, and by the Superintendent and her team, who implement that policy. I am invigorated by the leadership and courage I have seen coming from this Board, and I look forward to working together in this challenging and noble pursuit.

So, the Board and the Department are calling for help as we reinvent our schools.

First: We must empower schools and principals in the way I spoke of earlier, and accountability must go with the power. That means requiring principals and teachers to make sure that students meet standards. For example, by the end of Grade 3, every student must read.

Second: Parents must know how their child is doing. We will give parents and children user-friendly feedback—report cards that parents and students can understand easily. Parents are responsible to get their kids to school ready to learn, and students need to be responsible for their own learning.

Third: We will overhaul SCBM—School/Community-Based Management. In its current form, it simply doesn't work the way the framers of this policy had originally intended and that was to improve student achievement. Therefore, as we empower individual schools, we must arm School-Community Councils with shared decision-making power, and give them meaningful responsibilities over spending, and through weighted student funding, insure student achievement. This will mean training participants

to make these important choices and then trusting them to do the right thing. A nameless worker in an office in Honolulu should not be telling a principal in Honoka'a how to best spend his or her school's budget. Therefore, I envision a Board of Directors for each school, much like the models we see in the business world, in churches, or at our private schools. This Board would be made up of school and community members, elected by the parents, staff, teachers, principals, and even students in the older grades. They would have two main responsibilities: develop their academic plan for success which will get the educational results they desire for their children and decide how best to spend their own school's budgets! That, my friends, is local school governance at the most basic and important level—every school, with the parents, principals, teachers, staff and students making their own decisions!

Fourth: We expect quality, and we need to pay for performance. Principals should be put on performance contracts so we can reward the top performers with incentives, pay raises, time off, paid training or sabbaticals, and move non-performers to another line of work. Our professionals need to know that hard work and success pay off. We must do this while respecting collective bargaining and in cooperation with our partners in organized labor.

Fifth: As we empower principals, we need to have them on the job for 12 months and pay them for it. CEOs in private business don't work 10-month years. Every sector of our society operates on a year-round basis. If business, government, tourism, transportation, and utilities do it, then principals, as CEOs of their schools, need to be on the job year round. Teachers should be treated similarly and have a financial incentive for professional development. Teachers should be put on 11-month contracts—10 months of teaching, plus an additional month for 20 days of paid training.

Sixth: In order to make these ideas work, we need a common public school calendar. Our current calendar, which has long summer breaks, reflects a different age when parents needed their children free to harvest the crops and support the family. But we're in the technology and information age now. A common year-round school calendar would include more frequent breaks and vacation time for families and much-needed opportunities to train teachers so that they may serve your children better. And, it's more efficient.

Seventh and most important: If we are to truly reinvent our system and make deep structural changes, it is time to unshackle the DOE from other state departments that have so much control over the quality of life in our schools in the following ways:

In budgeting: Principals can never be sure how much appropriated money will be released for their use and when it comes, it comes too late. It's almost impossible to plan for educational excellence that way. We envision a law that requires that the Department of Budget and Finance release at least 80% of a fiscal year's appropriation to the schools, once that law is passed and signed by the governor, and early enough for school councils to have the time to plan.

In the area of hiring: If the State Department of Human Resources Development doesn't have a specific job description in its civil service system that meets our needs, we cannot hire for that job, even if we have identified the need and have the money to do so. That makes no sense whatsoever, and it's wrong. We want the authority and resources to set up our own employment system to meet the unique needs of education. The State Judiciary can do it now. Why not the Department of Education?

With regard to construction and repairs: The current process for school construction, repair and maintenance is obsolete—just like the toilets, windows and doors in so many public schools. The system, if you call something that dysfunctional a "system", makes our kids wait too long for decent basic facilities. We are at the mercy of the Department of Accounting & General Services and Budget & Finance for capital improvement projects and to repair bathrooms. That's not right. Give us both the money and the authority to do the capital projects, and the repair and maintenance we know we need for better, safer and more efficient campuses.

Finally, a word about centralized services: The DOE spends 1.7 billion tax dollars each year and we need to be managed. If teachers are to be free to teach, and principals free to lead that teaching, a lot of support work has to be done by somebody—bus routes, custodial service, school lunch programs, textbook purchases, compliance with the law and union contracts. Services like this do lend themselves to the efficiency of centralization. Schools will always need a central administration to take care of these necessities, or else the educators on campus will have to take time away to do it. Our pledge to you is that we will continue to aggressively look for ways of managing our needs cost-effectively and responsibly.

The CARE committee's report rightly stated: "So long as responsibility is diffused, no one can be held accountable." That's true. Hold me accountable and expect results.

But first, you must give me the tools and the space to do the job. And you must give the Board the authority it needs to do its job as well. While we need the help of the Legislature and Governor Lingle and her Administration to empower the schools so they can prepare our children for success, we also need to be able to do the job without interference or being told what our job is and how to do our job. Don't tie our hands!

Now let's talk about what these changes I've proposed could mean for the future. I see greater involvement in our public school system by every sector of our economy. Not every child is suited for or wants to attend college. We could benefit greatly from smaller schools within schools dedicated to teaching our young people trades and professions they can pursue after graduation. I invite our partners in organized labor unions, with their fine apprenticeship programs, to expand their role in preparing our youth at the high school level. I invite our business and professional communities to allow us to place more students in their businesses, to be "learning labs" for the future.

The private school system in the state can help us, too. Our gifted and talented teachers, the finest we have, would love to have the opportunity to exchange ideas with some of your finest minds. I know there are other partnerships toward which we could work.

We are already partnering in several ways with one of the most valuable and influential educational organizations in our state . . . The Kamehameha Schools. Our State Department of Education is proud of our own Hawaiian Language Immersion Program—the Kula Kaiapuni, along with the Aha Punana Leo and the many Hawaiian Immersion Charter schools. These schools are known around the world as the model for indigenous education. A partnership between Kamehameha Schools, Aha Punana Leo and the DOE in sustaining this program seems a natural extension to improve this important and unique aspect of life in Hawai'i.

And think for a moment. In every one of the instances I just mentioned, when you partner with the Department of Education, you free up resources and funding that can go to those who are truly the most needy in

our system which allows for the flexibility for us to do our job. I ask you as you leave here to think about how you can support your neighborhood public school.

I said at the beginning of my remarks that public education is the concern of all of us; that one person cannot find all the solutions to all our problems. Therefore I ask every one of you here today, and every one of you listening from your homes or your places of work, to link arms with us, to help us along the road of change to our destiny of a free, first-class public education for every child of Hawai'i. I am announcing today that on March 27, 2004, less than two months from now, the Board of Education and the Superintendent will convene the first-ever statewide Education Summit to be held here in Honolulu. It will consist of representatives from every walk of life, from business and labor, from public and private sectors, from the early education/pre-school community, the University System and from our distinguished private schools. I invite representatives from the Hawaiian Community to join us in this effort. I invite teachers, parents, principals, students, graduates, members of our military community, whose children attend our public schools. We will come together, we will come with our own ideas and we will come prepared to listen to others' ideas. And we—we will collectively decide what we need to do to reinvent our public school system.

Let me conclude by saying the initiatives I've proposed here, and the ones that will come out of the Education Summit in March, will require new thinking, courage, a willingness to take risk, and it will require change in the entire government system, not just the Department of Education. I challenge you to stand with me, to take the risk, to embrace the change that is coming our way, and above all, to live up to our obligation to the young people of our islands. We CAN do it . . . and WE WILL!

Thank you and aloha.●

#### 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.

In January 1999, Frank Breton, age 47, was convicted of hate crime assault for assaulting his neighbor in March because he believed the man was gay.

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.●

#### TRIBUTE TO DUANE HALVERSON

● Mr. GRASSLEY. Mr. President, is my great honor and pleasure to be acquainted with Duane Halverson. In his 33-year career with Land O'Lakes, he has helped sustain agriculture, independent producers, and local economies through his dedication and commitment to rural America and the cooperative way of doing business.

Through his leadership, farmers across America now control a powerhouse supplier of agricultural inputs—feed, seed, crop nutrients, and protection products as well as state-of-the-art technical advice and expertise.

Duane learned his love of agriculture and the people who work in it from growing up on a family farm near Eagle Grove, IA. Like most farm kids, Duane was active in 4-H and FFA. He earned a bushel full of ribbons from showing pigs and calves, and his 4-H projects focused on helping improve his dad's hog operation.

Through 4-H and school, Duane also began honing his leadership skills. He was elected president of the Webster County Boys' 4-H Clubs, and during his senior year at Eagle Grove High School he was chosen Mr. Future Business Executive of 1963 by the Future Business Leaders of America.

It was in high school that he met his future wife Mary Voigt. They now have two sons, Christian and Nicholas, and grandson, Jon.

After high school, he headed to Iowa State University where he earned his bachelor's and master's degrees in agricultural economics.

In 1970, Duane was hired by Land O'Lakes as a corporate planner. It was there where his illustrious career began. In 1978, he was named vice president of the petroleum division—the youngest vice president in the company's history. He rose through the ranks, heading up feed, seed, agronomy, international development and member services. By 1993, he was executive vice president and managing Land O'Lakes combined ag. services and dairy foods businesses. During his 5 years at the helm, total sales of Land O'Lakes doubled.

By the time he retired in December last year, Duane had helped build one of the most dynamic cooperative business systems in the world.

Duane has dedicated his life and his career to the agriculture industry. His legacy is a strong ag-supply cooperative system owned and controlled by those who do business with Land O'Lakes. Through his leadership, America will continue to be the bread basket of the world.

All of this is why it has been an honor for me to share his accomplishments today. We thank Duane Halverson. He deserves it.●

#### RECOGNITION OF ISIDORE NEWMAN SCHOOL

● Ms. LANDRIEU. Mr. President, I am honored to recognize Isidore Newman School as it celebrates 100 years of educating the children of New Orleans.

When the school opened its doors on October 3, 1904, it was in a class by itself. Then called Isidore Newman Manual Training School, it adopted a philosophy, in vogue at the time, that teaching children skills such as sewing and woodworking would enhance their minds. It was the only school of its

kind in New Orleans. On Newman's opening day, the principal, James Edwin Addicott, explained the little-understood teaching concept to *The New Orleans Times-Democrat*: "The manual training school does not attempt to teach any particular art or trade. What it does attempt is to educate the hand as an invaluable and necessary aid in the development of the brain."

The school was unique for another reason: its unusual assortment of pupils. On that historic first day, the young Mr. Addicott stood at the doors of his brandnew school and waited for 102 children to arrive from a Jewish orphanage a few blocks away. It was for them that Isidore Newman, a German-Jewish, rags-to-riches immigrant, had endowed the school. But Mr. Addicott also waited for 23 children from private homes, Jewish and non-Jewish. For Mr. Newman had specified that this school be open to all children, regardless of religion.

The school's reputation for academic excellence and top-notch facilities spread, and within a few years, children from private homes outnumbered those from the orphanage. Gathered together in this unique environment—for New Orleans society was quite segregated at the time—the children did just what the founders dreamed they would do: they got along. The school became a haven of inclusiveness, and friendships formed on the playground lasted a lifetime.

By the 1930s, Newman had become a college preparatory school, no longer offering courses in the manual arts. By the 1940s, the orphanage had closed. But Newman continued to be the most religiously mixed prep school in the city.

Newman's first century has been filled with triumphs, tragedies, and lots of laughs. The school has always felt like a large, extended family, where the development of the individual and the individual's devotion to the whole are stressed equally. Newman instills in its students the value of service to one's community, while at the same time encouraging the personal growth, intellectual and otherwise, of each child. The results have been remarkable. In 1985, Newman was recognized as 1 of 281 exemplary schools in the United States by the U.S. Secretary of Education. It was one of only seventeen private, nonsectarian schools chosen. And Newman has been a model of diversity. In 1968, Newman became the first private, nonparochial school in New Orleans to desegregate.

Today, Newman is an accredited, independent, coeducational school serving more than 1,100 students from prekindergarten through 12th grade. The school's record of academic excellence is on a par with the best prep schools in the Nation. Its graduates have gone on to the finest colleges and universities. They have presided over Federal courts. They counsel Presidents. They write bestsellers. They are

Rhodes scholars. They play professional sports. They run large media conglomerates and Fortune 500 companies, and they have been generous, important philanthropists and civic leaders in New Orleans and beyond.

I congratulate the school on reaching this important milestone, and I wish Newman all the best for another century of excellence.●

#### TRIBUTE TO PAUL LAURENCE DUNBAR HIGH SCHOOL VARSITY CHEERLEADING SQUAD

● Mr. BUNNING. Mr. President, I rise today in the Senate to pay tribute to the Paul Laurence Dunbar High School Varsity Cheerleading Squad from Lexington, KY. On February 8, the Paul Laurence Dunbar High School Varsity Cheerleading Squad won the Universal Cheerleading Association's National Championship in Orlando, FL.

For the young women on this squad this is not just a trophy, it is an affirmation that with hard work and determination, anything is possible. To accomplish this goal the members not only have to juggle long practices and games, but they continue to achieve academic excellence. Not only are these young women excellent athletes and students but they pride themselves in giving back to their community for all the support they have received by doing community service, fundraising, and school public relations. The citizens of Lexington, KY, are fortunate to have the 2004 National Champions living and learning in their community. Their example of hard work and determination should be followed by all in the Commonwealth.

I am very proud of the accomplishments these young women have made. I would like to congratulate the members of the Paul Laurence Dunbar High School Varsity Cheerleading Squad for their success. But also, I want to congratulate their peers, coaches, teachers, administrators, and parents for the support and sacrifices they've made to help the Paul Laurence Dunbar High School Varsity Cheerleading Squad make their dreams a reality.●

#### 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, a treaty and a withdrawal which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

# MESSAGE FROM THE HOUSE DURING ADJOURNMENT

Under authority of the order of the Senate of February 12, 2004, the Secretary of the Senate, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills:

S. 523. An act to make technical corrections to law relating to Native Americans, and for other purposes.

H.R. 743. An act to amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes.

Under the authority of the order of February 12, 2004, the enrolled bills were signed by the President Pro Tempore (Mr. STEVENS).

## MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 2095. A bill to enhance energy conservation and research and development and to provide for security and diversity in the energy supply for the American people.

## ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, February 23, 2004, she had presented to the President of the United States the following enrolled bill:

S. 523. An act to make technical corrections to law relating to Native Americans, and for other purposes.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

From the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 741. A bill to amend the Federal Food, Drug, and Cosmetic Act with regard to new animal drugs, and for other purposes (Rept. No. 108-226).

## 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. LUGAR:

S. 2096. A bill to promote a free press and open media through the National Endowment for Democracy and for other purposes; to the Committee on Foreign Relations.

By Mr. INOUE:

S. 2097. A bill to establish formally the United States Military Cancer Institute, to require the Institute to promote the health of members of the Armed Forces and their dependents by enhancing cancer research and treatment, to provide for a study of the epidemiological causes of cancer among various ethnic groups for cancer prevention and early detection efforts, and for other purposes; to the Committee on Armed Services.

By Mr. INOUE:

S. 2098. A bill to amend title XIX of the Social Security Act to provide 100 percent reimbursement for medical assistance provided to a Native Hawaiian through a federally-qualified health center or a Native Hawaiian health care system; to the Committee on Finance.

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

S. 2099. A bill to amend title 38, United States Code, to provide entitlement to educational assistance under the Montgomery GI Bill for members of the Selected Reserve who aggregate more than 2 years of active duty service in any five year period, and for other purposes; to the Committee on Veterans' Affairs.

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

S. 2100. A bill to amend title 10 United States Code, to increase the amounts of educational assistance for members of the Selected Reserve, and for other purposes; to the Committee on Armed Services.

By Mr. LEVIN:

S. 2101. A bill to decrease the matching funds requirement and authorize additional appropriations for Keweenaw National Historical Park in the State of Michigan; to the Committee on Energy and Natural Resources.

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

S. 2102. A bill to amend title 18, United States Code, to prohibit the sale of a firearm to a person who has been convicted of a felony in a foreign court, and for other purposes; to the Committee on the Judiciary.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. NELSON of Florida:

S. Res. 305. A resolution designating February 14, 2004, as "National Donor Day"; to the Committee on the Judiciary.

By Mr. LEVIN (for himself and Mr. VOINOVICH):

S. Con. Res. 90. A concurrent resolution expressing the Sense of the Congress regarding negotiating, in the United States-Thailand Free Trade Agreement, access to the United States automobile industry; to the Committee on Finance.

## ADDITIONAL COSPONSORS

S. 56

At the request of Mr. JOHNSON, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 56, a bill to restore health care coverage to retired members of the uniformed services.

S. 333

At the request of Mr. BREAUX, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 333, a bill to promote elder justice, and for other purposes.

S. 427

At the request of Mr. AKAKA, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 427, a bill to amend the Homeland Security Act of 2002 to assist States and communities in preparing for and responding to threats to the agriculture of the United States.

S. 430

At the request of Mr. AKAKA, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 430, a bill to amend the Homeland Security Act of 2002 to enhance agricultural biosecurity in the United States through increased prevention, preparation, and response planning.

S. 596

At the request of Mr. ENSIGN, the names of the Senator from Ohio (Mr. DEWINE), the Senator from New Jersey (Mr. CORZINE) and the Senator from South Carolina (Mr. GRAHAM) were added as cosponsors of S. 596, a bill to amend the Internal Revenue Code of 1986 to encourage the investment of foreign earnings within the United States for productive business investments and job creation.

S. 604

At the request of Mr. BAYH, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 604, a bill to amend part D of title IV of the Social Security Act to provide grants to promote responsible fatherhood, and for other purposes.

S. 640

At the request of Mr. LEAHY, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 640, a bill to amend subchapter III of chapter 83 and chapter 84 of title 5, United States Code, to include Federal prosecutors within the definition of a law enforcement officer, and for other purposes.

S. 750

At the request of Mr. MCCAIN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 750, a bill to amend title II of the Social Security Act to increase the level of earnings under which no individual who is blind is determined to have demonstrated an ability to engage in substantial gainful activity for purposes of determining disability.

S. 846

At the request of Mr. SMITH, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 846, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for premiums on mortgage insurance, and for other purposes.

S. 983

At the request of Mr. CHAFEE, the name of the Senator from North Carolina (Mr. EDWARDS) was added as a cosponsor of S. 983, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 1001

At the request of Mr. BIDEN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1001, a bill to make the protection of women and children who are affected

by a complex humanitarian emergency a priority of the United States Government, and for other purposes.

S. 1034

At the request of Mrs. FEINSTEIN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1034, a bill to repeal the sunset date on the assault weapons ban, to ban the importation of large capacity ammunition feeding devices, and for other purposes.

S. 1298

At the request of Mr. AKAKA, the names of the Senator from Hawaii (Mr. INOUE), the Senator from Illinois (Mr. FITZGERALD) and the Senator from North Carolina (Mr. EDWARDS) were added as cosponsors of S. 1298, a bill to amend the Farm Security and Rural Investment Act of 2002 to ensure the humane slaughter of non-ambulatory livestock, and for other purposes.

S. 1431

At the request of Mr. LAUTENBERG, the names of the Senator from California (Mrs. FEINSTEIN) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 1431, a bill to reauthorize the assault weapons ban, and for other purposes.

S. 1485

At the request of Mr. KENNEDY, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 1485, a bill to amend the Fair Labor Standards Act of 1938 to protect the rights of employees to receive overtime compensation.

S. 1615

At the request of Mr. DASCHLE, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1615, a bill to amend title 37, United States Code, to make permanent the rates of hostile fire and imminent danger special pay and family separation allowance for members of the uniformed services as increased by the Emergency Wartime Supplemental Appropriations Act, 2003.

S. 1630

At the request of Mrs. CLINTON, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1630, a bill to facilitate nationwide availability of 2-1-1 telephone service for information and referral services, and for other purposes.

S. 1700

At the request of Mr. LEAHY, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1700, a bill to eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, to provide post-conviction testing of DNA evidence to exonerate the innocent, to improve the

performance of counsel in State capital cases, and for other purposes.

S. 1913

At the request of Mr. FEINGOLD, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1913, a bill to amend the Internal Revenue Code of 1986 to reform the system of public financing for Presidential elections, and for other purposes.

S. 1916

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 1916, a bill to amend title 10, United States Code, to increase the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, to provide for a one-year open season under that plan, and for other purposes.

S. 1925

At the request of Mr. KENNEDY, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1925, a bill to amend the National Labor Relations Act to establish an efficient system to enable employees to form, join, or assist labor organizations, to provide for mandatory injunctions for unfair labor practices during organizing efforts, and for other purposes.

S. 1963

At the request of Mr. SPECTER, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1963, a bill to amend the Communications Act of 1934 to protect the privacy right of subscribers to wireless communication services.

S. 1980

At the request of Mr. GRAHAM of Florida, the names of the Senator from New York (Mr. SCHUMER) and the Senator from Florida (Mr. NELSON) were added as cosponsors of S. 1980, a bill to amend the Help America Vote Act of 2002 to require a voter-verified permanent record or hardcopy under title III of such Act, and for other purposes.

S. 1998

At the request of Mr. BINGAMAN, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 1998, a bill to amend title 49, United States Code, to preserve the essential air service program.

S. 2011

At the request of Mr. HAGEL, the names of the Senator from Hawaii (Mr. INOUE), the Senator from Hawaii (Mr. AKAKA) and the Senator from Missouri (Mr. BOND) were added as cosponsors of S. 2011, a bill to convert certain temporary Federal district judgeships to permanent judgeships, and for other purposes.

S. 2032

At the request of Mrs. BOXER, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 2032, a bill to provide assistance and security for women and children in Afghanistan and for other purposes.

S. 2061

At the request of Mr. FRIST, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 2061, a bill to improve women's health access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the delivery of obstetrical and gynecological services.

At the request of Mr. CORNYN, his name was added as a cosponsor of S. 2061, *supra*.

S. 2063

At the request of Mr. CONRAD, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 2063, a bill to require the Secretary of Veterans Affairs to carry out a demonstration project on priorities in the scheduling of appointments of veterans for health care through the Department of Veterans Affairs, and for other purposes.

S. 2068

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. 2068, a bill to enhance and improve benefits for members of the National Guard and Reserves who serve extended periods on active duty, and for other purposes.

S. 2076

At the request of Mr. BAUCUS, the names of the Senator from Massachusetts (Mr. KENNEDY) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 2076, a bill to amend title XI of the Social Security Act to provide direct congressional access to the office of the Chief Actuary in the Centers for Medicare & Medicaid Services.

S. 2077

At the request of Mr. CRAIG, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 2077, a bill to amend title XIX of the Social Security Act to permit additional States to enter into long-term care partnerships under the Medicaid Program in order to promote the use of long-term care insurance.

S. 2090

At the request of Mr. DASCHLE, the names of the Senator from New Mexico (Mr. BINGAMAN), the Senator from Vermont (Mr. LEAHY), the Senator from Michigan (Mr. LEVIN) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 2090, a bill to amend the Worker Adjustment and Retraining Notification Act to provide protections for employees relating to the offshoring of jobs.

S.J. RES. 19

At the request of Mr. SPECTER, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S.J. Res. 19, a joint resolution recognizing Commodore John Barry as the first flag officer of the United States Navy.

S.J. RES. 26

At the request of Mr. ALLARD, the name of the Senator from Illinois (Mr.



FITZGERALD) was added as a cosponsor of S.J. Res. 26, a joint resolution proposing an amendment to the Constitution of the United States relating to marriage.

S. CON. RES. 8

At the request of Ms. COLLINS, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. Con. Res. 8, a concurrent resolution designating the second week in May each year as "National Visiting Nurse Association Week".

S. CON. RES. 72

At the request of Mr. DASCHLE, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. Con. Res. 72, a concurrent resolution commemorating the 60th anniversary of the establishment of the United States Cadet Nurse Corps and voicing the appreciation of Congress regarding the service of the members of the United States Cadet Nurse Corps during World War II.

S. CON. RES. 81

At the request of Mrs. FEINSTEIN, the names of the Senator from Maine (Ms. COLLINS), the Senator from Iowa (Mr. GRASSLEY) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. Con. Res. 81, a concurrent resolution expressing the deep concern of Congress regarding the failure of the Islamic Republic of Iran to adhere to its obligations under a safeguards agreement with the International Atomic Energy Agency and the engagement by Iran in activities that appear to be designed to develop nuclear weapons.

S. RES. 298

At the request of Mr. CAMPBELL, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. Res. 298, a resolution designating May 2004 as "National Cystic Fibrosis Awareness Month".

S. RES. 299

At the request of Mr. CAMPBELL, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. Res. 299, a resolution recognizing, and supporting efforts to enhance the public awareness of, the social problem of child abuse and neglect.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LUGAR:

S. 2096. A bill to promote a free press and open media through the National Endowment for Democracy and for other purposes; to the Committee on Foreign Relations.

Mr. LUGAR. Mr. President, I rise today to introduce the International Free Press and Open Media Act of 2004.

This legislation will provide greater focus on, and more coordination of, initiatives to develop free, fair, legally protected, and self-sustaining press and media in the world.

A free press is enshrined as a cornerstone of democracy in the First Amendment to the United States Con-

stitution. The Universal Declaration of Human Rights, passed by the United Nations in 1948, also proscribes free press and media.

The United States government through various agencies and programs has long been involved in helping to train journalists around the world, and establish newspapers, magazines, and radio and television stations.

These programs, however, are not centralized in one bureau or agency. Many are orphans to other assistance programs. They are effective in training journalists, but they stop short of ensuring that the media in a developing country has the necessary legal protections, follows basic rules of fairness and equal access, and can sustain itself financially.

In addition, these existing media programs are not established in ways to leverage federal government spending with the assistance of America's vibrant media sector. There is a strong desire by our finest journalism schools, newspapers, broadcasters, and marketing and advertising enterprises to help build free press and open media in the world. We also need to engage all the new media, like Internet companies and wireless forms of communications.

To better organize and focus these efforts, this legislation directs the Secretary of State to provide funding to the National Endowment for Democracy for the work a free press institute. For more than 20 years the National Endowment for Democracy has been leading American efforts to help build the required democratic institutions of a free society. The President's proposed 2005 budget wisely doubles the funding for the work of the Endowment.

It is important to note that the National Endowment for Democracy and its four existing institutes—representing the two major political parties, business, and labor—have established a reputation in the world for integrity and transparency. They are ambassadors of the best traditions of American democracy, and they have provided continuity to democratization efforts, even as administrations and policies have changed.

Having served on the board of the Endowment for a number of years, as have some of my colleagues, I can attest that the independence of the NED is central to the success of its initiatives to help develop a free press in the world. This bill seeks to employ the uniquely independent organization of the NED to accomplish a mission that complements public diplomacy, but is separate from it. The U.S. government maintains important public diplomacy programs, where the goal is to communicate American views to the world. But developing a free press in emerging democracies goes beyond advocacy of American views. It requires us to have a tolerance for criticism, to take into account cultural differences, and to commit to long-term projects. The NED is suited to this mission.

A fully successful U.S. foreign policy requires that we make progress in building democratic institutions internationally, especially free and open media. Societies that are built on the foundation of a free press are far less likely to abuse human rights or threaten American security.

I look forward to the support of my colleagues on this legislation, and hope for speedy consideration.

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. 2096

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

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "International Free Press and Open Media Act of 2004".

#### SEC. 2. FINDINGS.

Congress makes the following findings:

(1) It is in the national interest of the United States to promote the development of free press and open media around the world, as such development increases the national security of the United States.

(2) A free press and open media, including traditional forms of communications such as print media, television, and radio programming, and films and entertainment media, as well as emerging forms of communication such as media transmitted on the Internet and by wireless transmissions, are among the foundations of democratic institutions in an open society that respects human rights.

(3) A free press and open media can best be achieved if the press and media—

(A) are located in a country that—

(i) has legal protections to ensure that the press and media are independent of government control or subversion and are able to deliver information without impediment; and

(ii) has journalists, editors, publishers, producers, and business executives who are practiced in the basic concepts of fairness and equal access in a civil society; and

(B) are able to be financially self-sufficient through subscription fees, advertising revenues, donations, or other funding mechanisms.

(4) Private sector groups in the United States, including businesses and nongovernmental organizations, have carried out a variety of activities to promote free press and open media in foreign countries.

(5) There is a need to establish an entity—

(A) to address issues related to the development of a free press and open media; and

(B) to bring together individuals and institutions to organize and focus greater attention on the establishment of new, and the enhancement of existing, free media programs throughout the world.

(6) The National Endowment for Democracy (in this section referred to as the "NED") is a nonprofit, federally funded, grantmaking, nongovernmental organization recognized by Congress in the National Endowment for Democracy Act (22 U.S.C. 4411 et seq.).

(7) The NED has historically provided support and coordination of the activities of private sector groups and nongovernmental organizations that promote democratic institutions.

(8) The NED has received strong bipartisan support from Presidents and Congress since it was established in 1983.

(9) The NED is the appropriate entity—

(A) to address issues related to the development of a free press and open media; and

(B) to bring together individuals and institutions to organize and focus greater attention on the establishment of new, and enhancement of existing, free media programs throughout the world.

**SEC. 3. AMENDMENTS TO THE NATIONAL ENDOWMENT FOR DEMOCRACY ACT.**

(a) **PURPOSES OF THE ENDOWMENT.**—Section 502(b) of the National Endowment for Democracy Act (22 U.S.C. 4411(b)) is amended—

(1) in paragraph (1), by striking “rights”) and inserting “rights and freedom of the press and other media”;

(2) in paragraph (2), by striking “and business,” and inserting “business, and media”;

(3) in paragraph (3), by inserting “media,” after “business,”; and

(4) in paragraph (5), by inserting “media,” after “business.”.

(b) **FUNDS TO PROMOTE FREEDOM OF THE PRESS.**—Section 503 of the National Endowment for Democracy Act (22 U.S.C. 4412) is amended by striking subsection (e) and inserting the following:

“(e) Not less than 10 percent of the amounts made available to the Endowment for fiscal year 2005 should be made available for programs to promote freedom of the press and other media.”.

By Mr. INOUE:

S. 2097. A bill to establish formally the United States Military Cancer Institute, to require the Institute to promote the health of members of the Armed Forces and their dependents by enhancing cancer research and treatment, to provide for a study of the epidemiological causes of cancer among various ethnic groups for cancer prevention and early detection efforts, and for other purposes; to the Committee on Armed Services.

Mr. INOUE. Mr. President, today I introduce the U.S. Military Cancer Institute Research Collaborative Act of 2004. This legislation would formally establish the U.S. Military Cancer Institute (USMCI), and support the collaborative augmentation of research efforts in cancer epidemiology, prevention and control. Although the USMCI already exists as an informal collaborative effort, this bill will formally establish the institution with a mission of providing for the maintenance of health in the military by enhancing cancer research and treatment, and studying the epidemiological causes of cancer among various ethnic groups. By formally establishing the USMCI, it will be in a better position to unite military research efforts with other cancer research centers.

Cancer prevention, early detection, and treatment are significant issues for the military population, thus the USMCI was organized to coordinate the existing military cancer assets. The USMCI has a comprehensive database of its beneficiary population of 9 million people. The military's nationwide tumor registry, the Automated Central Tumor Registry, has acquired more than 180,000 cases in the last 14 years, and a serum repository of 30 million specimens from military personnel collected sequentially since 1987. This population is predominantly Caucasian, African American, and Hispanic.

The Director of the USMCI, Dr. John Potter, is a professor of surgery at the Uniformed Services University of the Health Sciences (USUHS). A highly talented cancer epidemiologist, Dr. Kangmin Zhu, has also been recruited to lead the USMCI Prevention and Control Programs.

The USMCI currently resides in the Washington, DC area, and its components are located at the National Naval Medical Center, the Malcolm Grow Medical Center, the Armed Forces Institute of Pathology, and the Armed Forces Radiobiology Research Institute. There are more than 70 research workers, both active duty and Department of Defense civilian scientists, working in the USMCI.

The USMCI intends to expand its research activities to military medical centers across the Nation. Special emphasis will be placed on the study of genetic and environmental factors in carcinogenesis among the entire population, including Asian, Caucasian, African American and Hispanic subpopulations.

I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 2097

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “United States Military Cancer Institute Act of 2004”.

**SEC. 2. RESEARCH BY UNITED STATES MILITARY CANCER INSTITUTE.**

(a) **FORMAL ESTABLISHMENT OF UNITED STATES MILITARY CANCER INSTITUTE.**—(1) There is a United States Military Cancer Institute in the Uniformed Services University of the Health Sciences (USUHS).

(2) The Institute is composed of clinical and basic scientists in the Department of Defense who have an expertise in research, patient care, and education relating to oncology and who meet applicable criteria for participation in the Institute.

(3) The components of the Institute include military treatment and research facilities that meet applicable criteria and are designated as affiliates of the Institute.

(b) **RESEARCH.**—(1) The United States Military Cancer Institute shall carry out research studies on the following:

(A) The epidemiological features of cancer, including assessments of the carcinogenic effect of genetic and environmental factors, and of disparities in health, inherent or common among populations of various ethnic origins.

(B) The prevention and early detection of cancer.

(C) Basic, translational, and clinical investigation matters relating to the matters described in subparagraphs (A) and (B).

(2) The research studies under paragraph (1) shall include complementary research on oncologic nursing.

(c) **COLLABORATIVE RESEARCH.**—The United States Military Cancer Institute shall carry out the research studies under subsection (b) in collaboration with other cancer research organizations and entities selected by the Institute for purposes of the research studies.

(d) **REPORTS.**—(1) Not later than one year after the date of the enactment of this Act,

and annually thereafter, the Director of the United States Military Cancer Institute shall submit to the President of the Uniformed Services University of the Health Sciences a report on the results of the research studies carried out under subsection (b).

(2) Not later than 60 days after the receipt of a report under paragraph (1), the President of the University shall transmit such report to Congress.

By Mr. INOUE:

S. 2098. A bill to amend title XIX of the Social Security Act to provide 100 percent reimbursement for medical assistance provided to a Native Hawaiian through a federally-qualified health center or a Native Hawaiian care system; to the Committee on Finance.

Mr. INOUE. Mr. President, today I introduce the Native Hawaiian Medicaid Coverage Act of 2004. This legislation would authorize a Federal Medicaid Assistance Percent (FMAP) of 100 percent for the payment of health care costs of Native Hawaiians who receive health care from Federally Qualified Health Centers or the Native Hawaiian Health Care System.

This bill was originally a provision within the Medicare Prescription Drug Bill, which the Senate passed by an overwhelming majority of 76 to 21, but was dropped from the final Medicare Prescription Drug Conference Report.

This bill is modeled on the Native Alaskan Health Care Act, which provides for a Federal Medicaid Assistance Percent (FMAP) of 100 percent for payment of health care costs for Native Alaskans by the Indian Health Service, an Indian tribe, or a tribal organization.

Community health centers serve as the “safety net” for uninsured and medically underserved native Hawaiians and other United States citizens, providing comprehensive primary and preventive health services to the entire community. Outpatient services offered to the entire family include comprehensive primary care, preventive health maintenance, and education outreach in the local community. Community health centers, with their multi-disciplinary approach, offer cost effective integration of health promotion and wellness with chronic disease management and primary care focused on serving vulnerable populations.

I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 2098

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Native Hawaiian Medicaid Coverage Act of 2004”.

**SEC. 2. 100 PERCENT FMAP FOR MEDICAL ASSISTANCE PROVIDED TO A NATIVE HAWAIIAN THROUGH A FEDERALLY-QUALIFIED HEALTH CENTER OR A NATIVE HAWAIIAN HEALTH CARE SYSTEM UNDER THE MEDICAID PROGRAM.**

(a) **MEDICAID.**—The third sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) is amended by inserting “, and with respect to medical assistance provided to a Native Hawaiian (as defined in section 12 of the Native Hawaiian Health Care Improvement Act) through a federally-qualified health center or a Native Hawaiian health care system (as so defined) whether directly, by referral, or under contract or other arrangement between a federally-qualified health center or a Native Hawaiian health care system and another health care provider” before the period.

(b) **EFFECTIVE DATE.**—The amendment made by this section applies to medical assistance provided on or after the date of enactment of this Act.

By Mr. LEVIN:

S. 2101. A bill to decrease the matching funds requirement and authorize additional appropriations for Keweenaw National Historical Park in the State of Michigan; to the Committee on Energy and Natural Resources.

Mr. LEVIN. Mr. President, I ask unanimous consent that the text of the Keweenaw National Historical Park bill be printed in the RECORD.

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

S. 2101

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

**SECTION 1. FUNDING FOR KEWEENAW NATIONAL HISTORICAL PARK.**

(a) **MATCHING FUNDS.**—Section 8(b) of Public Law 102-543 (16 U.S.C. 410yy-7(b)) is amended by striking “\$4” and inserting “\$1”.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—Section 10 of Public Law 102-543 (16 U.S.C. 410yy-9) is amended—

(1) in subsection (a)—

(A) by striking “\$25,000,000” and inserting “\$50,000,000”; and

(B) by striking “\$3,000,000” and inserting “\$25,000,000”; and

(2) in subsection (b), by striking “\$100,000” and inserting “\$250,000”.

**SUBMITTED RESOLUTIONS**

**SENATE RESOLUTION 305—DESIGNATING FEBRUARY 14, 2004, AS “NATIONAL DONOR DAY”**

Mr. NELSON of Florida submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 305

Whereas National Donor Day is the largest annual 1-day lifesaving donation drive in the United States;

Whereas almost everyone is a potential organ, tissue, bone marrow, or blood donor;

Whereas at any given moment more than 80,000 people of the United States await a lifesaving organ transplant;

Whereas each day about 68 individuals receive an organ transplant, but another 18 individuals on the waiting list die because not enough organs are available;

Whereas of the nearly 30,000 people of the United States diagnosed each year with life-threatening diseases that are potentially treatable by marrow or blood stem cell transplants, ⅔ will not find a donor match within their family;

Whereas blood transfusions save 10,000 people of the United States every day;

Whereas although 60 percent of the people of the United States are eligible to donate blood, only 5 percent do;

Whereas the first 6 celebrations of National Donor Day informed millions of individuals across the United States of the need for organ and tissue donors;

Whereas as a result of past National Donor Day education efforts, more than 8,000 potential marrow and blood stem cell donors were added to the National Marrow Donor Program Registry and approximately 48,000 units of blood were collected; and

Whereas the following organizations are all partners in the National Donor Day efforts: the American Association of Blood Banks; the American Liver Foundation; the American Society of Transplant Surgeons; America's Blood Centers; the Association of Organ Procurement Organizations; the Children's Organ Transplant Association; the Coalition on Donation; the Emergency Nurses Association; the Juvenile Diabetes Research Foundation International; the Leukemia & Lymphoma Society; LifeSouth Community Blood Centers; the Marrow Foundation; the National Kidney Foundation; the National Marrow Donor Program; the National Minority Open Tissue Transplant Education Program; Saturn Corporation; United Auto Workers; and the Department of Health and Human Services: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates February 14, 2004, as “National Donor Day”;

(2) supports the goals and ideals of National Donor Day;

(3) urges everyone to learn about organ, tissue, bone marrow, and blood donations, and discuss such donations with their families and friends; and

(4) requests that the President issue a proclamation calling on the people of the United States to conduct appropriate ceremonies, activities, and programs to demonstrate support for organ, tissue, bone marrow, and blood donations.

**SENATE CONCURRENT RESOLUTION 90—EXPRESSING THE SENSE OF THE CONGRESS REGARDING NEGOTIATING, IN THE UNITED STATES-THAILAND FREE TRADE AGREEMENT, ACCESS TO THE UNITED STATES AUTOMOBILE INDUSTRY**

Mr. LEVIN (for himself and Mr. VOINOVICH) submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. CON. RES. 90

Whereas the United States Trade Representative recently announced an intention to negotiate a free trade agreement (FTA) with Thailand;

Whereas properly structured FTAs may have important benefits for the United States, and a bilateral free trade agreement program pursued under a coherent policy and strategy may play an important role in United States trade policy;

Whereas the global automobile market is subject to inherently multilateral problems that need to be addressed on a multilateral basis, including numerous, widespread, and complex nontariff barriers maintained by major producing countries;

Whereas providing Thailand privileged access to critical segments of the United States automobile market would significantly erode United States leverage to negotiate reductions to global automobile market distortions in multilateral negotiations, because producers from third countries would be able to benefit from the privileged access of Thailand under the FTA;

Whereas Thailand is the second largest source of pick-up truck production in the world, with many major automobile manufacturers from outside of Thailand producing pick-up trucks there;

Whereas Thailand's Board of Investment has actively been recruiting automobile producers from outside of Thailand, including Japan, South Korea, and India, to produce automobiles in Thailand, and some of these producers have cited Thailand's privileged access to foreign markets through FTAs as a rationale for setting up production in Thailand;

Whereas many of these producers from outside of Thailand have moved their pick-up truck production out of their home countries and into Thailand in order to make Thailand their global pick-up truck production and export bases;

Whereas as a result of this activity by automobile producers from outside of Thailand, pick-up truck production in Thailand will soon approach 1,000,000 units annually, and could grow even larger;

Whereas given these facts, if Thailand were given privileged access to critical segments of the United States automobile market in an FTA, it could be used by third-country automobile producers as a backdoor into the United States market; however, Japan, South Korea, India, and other major producing countries would not be required to reduce their tariff and nontariff barriers to United States automobile producers, and in fact the tariff and nontariff barriers maintained by those countries would continue to distort global markets and restrict the access of United States exports to markets in those countries;

Whereas given that these third-country producers would already have privileged access to the United States market through the United States-Thailand FTA, their home countries would have less incentive to address the inherently multilateral problems in the global automobile market through negotiations on a multilateral basis; and

Whereas the United States automobile industry is a major driver of the United States economy—accounting annually for between 3 and 4 percent of the gross domestic product (GDP) of the United States, leading all United States industries in annual research and development spending, directly employing over 500,000 highly skilled and efficient workers in jobs that pay on average 60 percent higher than the average United States job, and supporting the jobs of over 7,000,000 other workers—and it has played a critical role in efforts to revive the United States economy: Now therefore be it

*Resolved by the Senate (the House of Representatives concurring)*, That it is the sense of the Congress that negotiations on access to critical segments of the United States automobile market should not take place on a piecemeal basis, but only—

(1) as part of negotiations that include all major automobile producing nations; and

(2) as part of comprehensive negotiations that address both tariff and nontariff barriers specific to the automobile industry, with progress on eliminating tariff barriers explicitly linked to concrete progress on eliminating nontariff barriers.

## NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON ENERGY AND NATURAL  
RESOURCES

Mr. DOMENICI. 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 Committee on Energy and Natural Resources.

The hearing will be held on Thursday, March 11, 2004, at 10 a.m., in room 366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the following bills: S. 2086, a bill to amend the Surface Mining Control and Reclamation Act of 1977 to improve the reclamation of abandoned mines; S. 2049, a bill to amend the Surface Mining Control and Reclamation Act of 1977 to reauthorize collection of reclamation fees, revise the abandoned mine reclamation program, promote remining, authorize the Office of Surface Mining to collect the black lung excise tax, and make sundry other changes.

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 a copy of their testimony electronically to kristin.whitman@energy.senate.gov.

For further information, please contact Karen Billups at (202) 224-2576 or Kristin Whitman at (202) 224-5305.

COMMITTEE ON ENERGY AND NATURAL  
RESOURCES

Mr. DOMENICI. 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 Committee on Energy and Natural Resources.

On Tuesday, February 24, at 10 a.m., in room SD-366, to receive testimony concerning the reliability of the Nation's electricity grid. Specifically, the recommendations in the February 10 "North American Reliability Council Report" regarding the August 14 blackout will be reviewed and implementation of the proposed solutions will be discussed.

(Contact: Lisa Epifani at 202-224-5269 or Shane Perkins at 202-224-7555.)

## SUBCOMMITTEE ON ENERGY

Mr. ALEXANDER. 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 Energy of the Committee on Energy and Natural Resources.

Thursday, March 4, at 2:30 p.m., in room SD-366, to receive testimony regarding "New Nuclear Power Generation" in the United States.

(Contact: Pete Lyons at 202-224-5861 or Shane Perkins at 202-224-7555.)

## 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 Tuesday, March 9, 2004, at 2:30 p.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: H.R. 1446 and S. 1306, to support the efforts of the California Missions Foundation to restore and repair the Spanish colonial and mission-era missions in the State of California and to preserve the artworks and artifacts of these missions, and for other purposes; and H.R. 1521, to provide for additional lands to be included within the boundary of the Johnstown Flood National Memorial in the State of Pennsylvania, 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, U.S. Senate, SD-364 Dirksen Senate Office Building, Washington, DC 20510-6150.

For further information, please contact Tom Lillie at (202) 224-5161 or Sarah Creachbaum at (202) 224-6293.

## PRIVILEGES OF THE FLOOR

Mr. CORNYN. Mr. President, I ask unanimous consent that Tiffany Kebodeaux, a member of my staff who does not currently have floor privileges, be given floor privileges for the duration of my remarks.

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

Mr. REID. Mr. President, I ask unanimous consent that Michael Hughes, a deputy U.S. marshal who is serving in Senator FRANK LAUTENBERG's office on a detail, be given floor privileges during consideration of S. 1805 and S. 1806.

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

MEASURE PLACED ON THE  
CALENDAR—S. 295

Mr. FRIST. Mr. President, I understand there is a bill at the desk that is due for a second reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 295) to enhance energy conservation and research and development and to provide for security and diversity in the energy supply for the American people.

Mr. FRIST. I object to further proceedings on the measure at this time.

The PRESIDING OFFICER. The bill will be placed on the calendar pursuant to rule XIV.

REMOVAL OF INJUNCTION OF SE-  
CRETACY—TREATY DOCUMENT NO.  
108-16

Mr. FRIST. As in executive session, I ask unanimous consent the injunction

of secrecy be removed from the following treaty transmitted to the Senate on February 23, 2004, by the President of the United States, U.N. Convention against Transnational Organized Crime, Treaty Document 108-16.

I further ask that the treaty be considered as having been read the first time; that it be referred with the accompanying papers to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

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

The message of the President is as follows:

*To the Senate of the United States:*

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the United Nations Convention Against Transnational Organized Crime (the "Convention"), as well as two supplementary protocols: (1) the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, and (2) the Protocol Against Smuggling of Migrants by Land, Sea and Air, which were adopted by the United Nations General Assembly on November 15, 2000. The Convention and Protocols were signed by the United States on December 13, 2000, at Palermo, Italy.

Accompanying the Convention and Protocols are interpretative notes for the official records (or "travaux preparatoires") that were prepared by the Secretariat of the Ad Hoc Committee that conducted the negotiations, based on discussions that took place throughout the process of negotiations. These notes are being submitted to the Senate for information purposes. I also transmit the report of the Department of State with respect to the Convention and Protocols.

The Convention and Protocols are the first multilateral treaties to address the phenomenon of transnational organized crime. Their provisions are explained in the accompanying report of the Department of State. The report also sets forth proposed reservations and understandings that would be deposited by the United States with its instruments of ratification. With these reservations and understandings, the Convention and Protocols will not require implementing legislation for the United States.

The Convention and Protocols will be effective tools to assist in the global effort to combat transnational organized crime in its many forms, such as trafficking and smuggling of persons. They provide for a broad range of cooperation, including extradition, mutual legal assistance, and measures regarding property, in relation to serious crimes committed by an organized group that has a transnational element.

The Convention also imposes on the States Parties an obligation to criminalize, if they have not already done so, certain types of conduct characteristic of transnational organized

crime. For the Convention, these are: participation in an organized criminal group (i.e., conspiracy), money laundering, bribery of domestic public officials, and obstruction of justice. The Protocols require parties to criminalize trafficking in persons and smuggling of migrants. These provisions will serve to create a global criminal law standard for these offenses, several of which (e.g., trafficking in persons) currently are not criminal in many countries. The Trafficking Protocol also includes important provisions regarding assistance to and protection of victims of trafficking.

I recommend that the Senate give early and favorable consideration to the Convention and Protocols, and that it give its advice and consent to ratification, subject to the reservations and understandings described in the accompanying report of the Department of State.

GEORGE W. BUSH.  
THE WHITE HOUSE, February 23, 2004.

#### ORDERS FOR TUESDAY, FEBRUARY 24, 2004

Mr. FRIST. I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. Tuesday, February 24. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of the motion to proceed to S. 2061, the OB/GYN medical malpractice bill.

I further ask consent that the Senate recess from 12:30 p.m. to 2:15 p.m. for the weekly party luncheons.

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

#### PROGRAM

Mr. FRIST. Tomorrow, the Senate will resume consideration of the motion to proceed to S. 2061, the OB/GYN medical malpractice bill. Senators who do wish to speak on this important bill are encouraged to come to the floor during tomorrow's session.

Under the previous order, at 5 p.m. tomorrow the Senate will vote on the motion to invoke cloture on the motion to proceed to that bill. It is my hope that our colleagues on the other side of the aisle will allow us to take up this important issue.

As a reminder, just a few minutes ago I filed cloture on the motion to proceed to S. 1805, the gun liability bill. While I did not want to have to file cloture, it became apparent that our Democratic colleagues would not let us move forward with this legislation either. The cloture vote on the motion to proceed to the gun liability bill will occur on Wednesday.

I inform my colleagues that the cloture vote on the medical malpractice

bill will be the first vote of the day tomorrow. Additional votes are possible and Members will be notified if any additional votes are scheduled.

#### ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:32 p.m., adjourned until Tuesday, February 24, 2004, at 9:30 a.m.

#### NOMINATIONS

Executive nominations received by the Senate February 23, 2004:

##### DEPARTMENT OF STATE

PAUL V. APPELGARTH, OF CONNECTICUT, TO BE CHIEF EXECUTIVE OFFICER, MILLENNIUM CHALLENGE CORPORATION. (NEW POSITION)  
JOHN CAMPBELL, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE FEDERAL REPUBLIC OF NIGERIA.

##### UNITED STATES SENTENCING COMMISSION

RICARDO H. HINOJOSA, OF TEXAS, TO BE CHAIR OF THE UNITED STATES SENTENCING COMMISSION, VICE DIANA E. MURPHY, RESIGNED.

MICHAEL O'NEILL, OF MARYLAND, TO BE A MEMBER OF THE UNITED STATES SENTENCING COMMISSION FOR A TERM EXPIRING OCTOBER 31, 2009. (REAPPOINTMENT)

##### IN THE COAST GUARD

THE FOLLOWING NAMED OFFICER TO SERVE AS THE DIRECTOR OF THE COAST GUARD RESERVE PURSUANT TO TITLE 14, U.S.C. SECTION 53 IN THE GRADE INDICATED:

##### TO BE REAR ADMIRAL (LOWER HALF)

RADM (L) JAMES C. VAN SICE, 3714

##### FOREIGN SERVICE

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASS STATED, AND ALSO FOR THE OTHER APPOINTMENTS INDICATED HEREWITH:

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS FOUR, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

##### DEPARTMENT OF STATE

CHRISTINA JEANNE AGOR, OF NEW YORK  
JEFFREY J. ANDERSON, OF PENNSYLVANIA  
SIMONE BAER, OF THE DISTRICT OF COLUMBIA  
BRADFORD JOSEPH BELL, OF PENNSYLVANIA  
NANCY BARICKMAN BRANNAMAN, OF IOWA  
CELESTE A. CONNORS, OF HAWAII  
JAMES TODD CROW, OF NEW MEXICO  
JENNIFER DENISE DAVIS, OF GEORGIA  
JEFFERSON KENNEDY DUBEL, OF FLORIDA  
MICHAEL BENJAMIN GOLDMAN, OF WASHINGTON  
MICHAEL C. GONZALES, OF CALIFORNIA  
MOLLY ANN GOWER, OF MARYLAND  
ELIAN HARKER HARRIS, OF VIRGINIA  
THOMAS R. HASTINGS, OF MARYLAND  
ELAINE JONES, OF OHIO  
JEANNETTE M. JURICIC, OF ILLINOIS  
KEVIN KABUMOTO, OF ILLINOIS  
WILLIAM HUGH KLEIN JR., OF CALIFORNIA  
ANDREW ROBERT LORENZ, OF MINNESOTA  
ALISON VICTORIA MAHER, OF MICHIGAN  
MARCOS CHRISTINA MANDOLANA, OF TENNESSEE  
KATHLEEN ANNE MCGOWAN, OF TEXAS  
EDWARD P. MESSMER, OF VIRGINIA  
KRISTINA INDIRA MIDHA, OF ILLINOIS  
JENNIFER H. MOORE, OF GEORGIA  
REBECCA HOSINGTON NEFF, OF MICHIGAN  
THOMAS W. OHLSON, OF FLORIDA  
DAVID A. OSGOOD, OF OREGON  
KRISTEN L. PISANI, OF NEW YORK  
KATHRYN PONGONIS, OF KENTUCKY  
CAMILLE C. PURVIS, OF TEXAS  
COLLEEN ANN QUINN, OF THE DISTRICT OF COLUMBIA  
TRACY ELIZABETH ROBERTS, OF MISSOURI  
DOROTHY BROWNING ROGERS, OF PENNSYLVANIA  
MATTHEW SCOTT ROSENSTOCK, OF PENNSYLVANIA  
REBECCA A. ROSS, OF FLORIDA  
KENNETH MICHAEL ROY, OF MICHIGAN  
ROBERT PATRICK SANDERS, OF CALIFORNIA  
STEPHEN C. SIMPSON, OF FLORIDA  
REGGIE SINGH, OF MARYLAND  
KEVIN D. SKILLIN, OF PENNSYLVANIA  
RAKESH SURAMPUDI, OF PENNSYLVANIA  
SHERRY ZALIKA SYKES, OF FLORIDA  
MICHAEL P. TAYLOR, OF WEST VIRGINIA  
LISSA CLAIRE WELDON, OF MINNESOTA

KIRSTEN S. WIVEL, OF MARYLAND  
DEREK SCHILLING WORMAN, OF MINNESOTA

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED:

CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

##### DEPARTMENT OF STATE

ELLEN M. AHRENS, OF VIRGINIA  
STACEY L. AKERS, OF FLORIDA  
TANYA A. ALLEN, OF MARYLAND  
ERIC R. ALLISON, OF VIRGINIA  
ANTHONY J. ALTIMORE, OF MICHIGAN  
ERIC S. ANTHONY, OF VIRGINIA  
JEFFREY L. BAKER, OF VIRGINIA  
TIMOTHY DAVID BIRNER, OF INDIANA  
ALISON B. BLOSSER, OF OHIO  
NEDA ANTOINETTE BROWN, OF NORTH CAROLINA  
TRACY R. BROWN, OF UTAH  
SANDRA F. CASTILLO, OF VIRGINIA  
FARAH N. CHERY-MEDOR, OF MARYLAND  
CHRISTOPHER WILLIAM CLAYTON, OF THE DISTRICT OF COLUMBIA  
CAROLYN N. COOLEY, OF GEORGIA  
WILLIAM STUART DARLING, OF VIRGINIA  
STEVEN B. DELAGE, OF VIRGINIA  
KAREN L. DENNEY, OF VIRGINIA  
MARK S. DIEKER, OF OHIO  
TRACIE L. DOBBINS, OF VIRGINIA  
H. BRETT DODY, OF VIRGINIA  
ANDREA LUZ DOYLE, OF VIRGINIA  
JON M. DURKOS, OF VIRGINIA  
ANA A. ESCROGIMA, OF NEW YORK  
STEVEN LYNN EVERETT, OF NORTH CAROLINA  
TED FATOVIC, OF VIRGINIA  
CYRIL M. FERENCHAK, OF FLORIDA  
CASEY D. FICKLIN, OF VIRGINIA  
DOUGLAS A. FISK, OF NEW MEXICO  
HARRISON S. FORD III, OF VIRGINIA  
DAVID M. FRIEDMAN, OF VIRGINIA  
NANCY GALLAGHER, OF THE DISTRICT OF COLUMBIA  
MICHAEL R. GASKELL, OF VIRGINIA  
MARILYN R. GAYTON, OF CALIFORNIA  
LORI J. GILL, OF INDIANA  
GEOFFREY N. GILES, OF THE DISTRICT OF COLUMBIA  
CLAUDIA D.V. GONZALES, OF VIRGINIA  
YVONNE MARIE GONZALES, OF CALIFORNIA  
RACHEL DIANE GRAAF, OF MARYLAND  
KHATERA HABIBZAI, OF VIRGINIA  
MARIELE HALLER MARTIN, OF INDIANA  
RAPHAEL HART, OF VIRGINIA  
DARRYL E. HASKELL, OF VIRGINIA  
HUGH F. HAWLEY, OF VIRGINIA  
ROBERT G. HECHLER, OF VIRGINIA  
CAMERON R. HECK, OF VIRGINIA  
CHERYL A. HEPBURN, OF VIRGINIA  
STEPHANIE M. HERGENROEDER, OF VIRGINIA  
SCOTT CHARLES HIGGINS, OF VIRGINIA  
JEFFREY HILSGEN, OF FLORIDA  
KATHRYN HOFFMAN, OF THE DISTRICT OF COLUMBIA  
LAURELY G. HOLT-HANSEN, OF CALIFORNIA  
TANYA L. YEVGENIYEVNA IOFFE, OF THE DISTRICT OF COLUMBIA  
DAVID JOHN JEA, OF FLORIDA  
TODD JOHNSON, OF THE DISTRICT OF COLUMBIA  
JEHAN SADIA JONES, OF VIRGINIA  
KEVIN V. JONES, OF NEVADA  
JEANNE D. KATZ, OF MARYLAND  
ANGELA B. KELLOGG, OF MARYLAND  
VIRGINIA KENT, OF TEXAS  
JOEY E. KLINGER, OF PENNSYLVANIA  
SEAMAN ARTHUR KNAPP IV, OF VIRGINIA  
JASON F. KNEELAND, OF VERMONT  
SRI KULKARNI, OF TEXAS  
MARY H. LANGFORD, OF VIRGINIA  
JILL MARY LARSON, OF THE DISTRICT OF COLUMBIA  
ANDREW NICHOLAS LENTZ, OF VIRGINIA  
HENRY L. LEW, OF VIRGINIA  
DEBRA LO, OF CALIFORNIA  
CHARLES A. LOBDELL III, OF FLORIDA  
KEITH ALAN LOMMEL, OF NORTH CAROLINA  
JULIANA L. MABREY, OF MISSOURI  
MITCHELL MAGE MABREY, OF MISSOURI  
ANDREW T. MACDONALD, OF TEXAS  
WILLIAM M. MACMILLAN, OF VIRGINIA  
ERIK J. MACDANZ, OF CALIFORNIA  
ELIZABETH MANNAK, OF VIRGINIA  
LAUREN MARCUS, OF THE DISTRICT OF COLUMBIA  
HOLLY P. MARKHAM, OF THE DISTRICT OF COLUMBIA  
JENNIFER N. MATHIS, OF VIRGINIA  
KEVIN L. MATHIS, OF VIRGINIA  
TAWNIE A. MCNEIL, OF ARIZONA  
MATTHEW CAVIN MEADOWS, OF WASHINGTON  
ERIC REDPATH MEHLER, OF WASHINGTON  
MICHAEL J. MEKEBOWN, OF VIRGINIA  
DENNY J. MERIDETH III, OF MISSOURI  
COLLEEN MIHAILOVICH, OF VIRGINIA  
MICHAEL A. MITCHEM, OF THE DISTRICT OF COLUMBIA  
MICHAEL P.L. MITCHEM, OF MARYLAND  
JAMES G. NORMAN, OF VIRGINIA  
JEFF OGREN, OF ILLINOIS  
TED M. ONEAL, OF VIRGINIA  
SUE ELLEN KRISTINE OSTREM, OF NEW JERSEY  
ROSS EMERSON PARK, OF IDAHO  
JONATHAN MATTHEW PERKINS, OF VIRGINIA  
EMILY E. PIFFNER, OF THE DISTRICT OF COLUMBIA  
MARTIAL PIERRE, OF VIRGINIA  
JEAN L. PIERRE-LOUIS, OF FLORIDA  
RICHARD ERIC POUND, OF VIRGINIA  
ANDREW RAHAMAN, OF TEXAS  
ROBERT ADRIAN RAINES, OF MAINE  
RONDA R. RANDLE, OF MARYLAND  
LAWRENCE M. RANDOLPH, OF MASSACHUSETTS

MARGOT JOSEPHINE RATCLIFFE, OF WASHINGTON  
 PAMELA LAZOE REED, OF VIRGINIA  
 JESSE LOREN REEDER, OF VIRGINIA  
 PHILIP FRANCIS REILLY, OF VIRGINIA  
 MARY BETH REINCKE, OF VIRGINIA  
 BRIAN ROBERT REYNOLDS, OF UTAH  
 MICHAEL J. RISHLING, OF VIRGINIA  
 MICHAEL R. J. ROTH, OF NEW MEXICO  
 DOUGLAS ANDREW SCHEERER, OF THE DISTRICT OF COLUMBIA  
 ELIZABETH A. SEWALL, OF TENNESSEE  
 THOMAS E. SHEALY, OF VIRGINIA  
 JOHN J. SHEEHAN, OF VIRGINIA  
 MATTHEW A. SINGER, OF MARYLAND  
 BRYANT DANIEL SMITH, OF VIRGINIA  
 ROBERT W. SMITH, OF VIRGINIA  
 KATHERINE CHASE SNOW, OF THE DISTRICT OF COLUMBIA  
 JOHN D. SPYKERMAN, OF THE DISTRICT OF COLUMBIA  
 VIRGINIA L. STAAB, OF CALIFORNIA  
 CHRISTOPHER M. STACK, OF VIRGINIA  
 JULIA A. STEWART, OF VIRGINIA  
 DANIEL STOIAN, OF CALIFORNIA  
 THOMAS J. SULLIVAN, OF ILLINOIS  
 JOHN A. SYLVESTER, OF VIRGINIA  
 JOHN C. TAYLOR, OF WYOMING  
 MICHAEL TODD, OF VIRGINIA  
 SANDRA A. TOMLINSON, OF VIRGINIA  
 NATHAN B. TRENT, OF FLORIDA  
 RUTH NIKOLA URRY, OF OREGON  
 DOUGLAS B. VAN ZANDT JR., OF VIRGINIA  
 PATRICK HAYDN VENTRELL, OF COLORADO  
 DANIEL WALD, OF CONNECTICUT  
 ROBERT M. WATERSON, OF INDIANA  
 ERIN E. WEBSTER-MAIN, OF CALIFORNIA  
 BENJAMIN M. WHITFIELD, OF VIRGINIA  
 MATTHEW W. ZIRBEL, OF VIRGINIA

THE FOLLOWING-NAMED CAREER MEMBERS OF FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

#### DEPARTMENT OF STATE

TED K. GONG, OF CALIFORNIA

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASS STATED, AND ALSO FOR THE OTHER APPOINTMENTS INDICATED HEREWITH:

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS ONE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

#### DEPARTMENT OF STATE

PAUL BELMONT, OF VIRGINIA  
 DIANNE GRAHAM, OF VIRGINIA

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED: FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS THREE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

#### AGENCY FOR INTERNATIONAL DEVELOPMENT

MARIBESS ARMSTRONG, OF TEXAS  
 MARK D. ELLIS, OF LOUISIANA  
 ABDOULAYE GUEYE, OF TEXAS  
 JERRY L. HINTZ, OF COLORADO  
 SUNIL R. KADAM, OF MARYLAND  
 RAUL J. RAYMUNDO, OF FLORIDA

#### DEPARTMENT OF STATE

RONALD D. ACUFF, OF FLORIDA  
 DESIREE A. BARON, OF FLORIDA  
 EDWARD BRERETON BESTIC, OF THE DISTRICT OF COLUMBIA  
 MARK JOSEPH BIEDLINGMAIER, OF FLORIDA  
 SCOTT ALLAN BRANDON, OF NEW JERSEY  
 JOYCE ANN BROOKS, OF NEW YORK  
 DANA M. BROWN, OF CALIFORNIA  
 CAROLE J. BUTLER, OF FLORIDA  
 MATTHEW VICTOR CASSETTA, OF VIRGINIA  
 ELIZABETH OVERTON COLTON, OF VIRGINIA  
 MATTHEW A. COTTRELL, OF WASHINGTON  
 ERIC G. FALLS, OF VIRGINIA  
 DANIEL J. FENNELL II, OF PENNSYLVANIA  
 TERRENCE ROBERT FLYNN, OF MINNESOTA  
 ELISE JEAN FOX, OF CALIFORNIA  
 DANIEL HANAN GERSHATOR, OF CALIFORNIA  
 JULIET S. COLE, OF FLORIDA  
 BRIAN M. GRIMM, OF PENNSYLVANIA  
 TRACY L. HAILLEY-GEORGIEVA, OF FLORIDA  
 TRACY HISER HARDING, OF TEXAS  
 CLIFFORD D. HEINZER, OF NEW JERSEY  
 ANDREW R. HERRUP, OF THE DISTRICT OF COLUMBIA  
 JENIFER JOYCE, OF NEW YORK  
 CRYSTAL TERRY KAPLAN, OF VIRGINIA  
 DEAN MARSHALL KAPLAN, OF VIRGINIA  
 LISA DOUGHERTY KENNA, OF VERMONT  
 JOSEPH C. KOEN, OF TEXAS  
 ANDREA MICHELLE LEWIS, OF FLORIDA  
 DENISE M. MARSH, OF THE DISTRICT OF COLUMBIA  
 RICHARD CHARLES MERRIN, OF CALIFORNIA  
 DAVID THOMAS MOORE, OF CALIFORNIA  
 KATHARINE PAYNE MOSLEY, OF THE DISTRICT OF COLUMBIA  
 TINA D. ONUFER, OF MARYLAND  
 RONALD SCOTT PACKOWITZ, OF ILLINOIS  
 ANDREW B. PAUL, OF OHIO  
 VERA PAULI-WIDENHOUSE, OF WASHINGTON

KATHERINE MOLLOY PEREZ, OF COLORADO  
 PEGGY LE-AM PLUNKETT, OF OHIO  
 BRIAN S. QUIGLEY JR., OF FLORIDA  
 MARK A. SCHAPIRO, OF NEW YORK  
 DAVID C. SCHROEDER, OF FLORIDA  
 PHILIP FRANZ D. SEITZ, OF VIRGINIA  
 MICHAEL K. SINGH, OF VIRGINIA  
 WENDY ROBIN SNEFF, OF VIRGINIA  
 CLAYTON MICHAEL STANGER, OF CALIFORNIA  
 KATHRYN ALLENE TAYLOR, OF NORTH CAROLINA  
 TRACY L. TAYLOR, OF NEW HAMPSHIRE  
 NICOLE D. THERIOT, OF LOUISIANA  
 MARKO GREGOR VELIKONJA, OF WASHINGTON  
 DANIEL JOSEPH WARTKO, OF NEW YORK  
 DANIEL RUSSELL WENDELL, OF CALIFORNIA  
 KAREN BETH ZARESKI, OF CALIFORNIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS FOUR, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

#### DEPARTMENT OF STATE

MARTHA PULTZ AMLIN, OF CALIFORNIA  
 MARTIN J. AVERSA, OF VIRGINIA  
 EDIE J. BACKMAN, OF VIRGINIA  
 JOHN A. BALLARD, OF VIRGINIA  
 MICHELLE MARIE BISKUP, OF ILLINOIS  
 CHARLES EDWARD BOULDIN, OF CALIFORNIA  
 CRAIG P. BRYANT, OF OKLAHOMA  
 SITA LIANE CHAKRAWARTI, OF MISSOURI  
 JOHN P. COONEY, OF NEW YORK  
 CHAD PARKER CUMMINS, OF CALIFORNIA  
 CHRISTOPHER K. DERRICK, OF TEXAS  
 NATHAN D. FLOOK, OF MARYLAND  
 MICHAEL JOSEPH GARUCKIS, OF FLORIDA  
 LISA CLAIRE GISVOLD, OF OREGON  
 HEATHER GOETHEART, OF VIRGINIA  
 LESLIE MICHELE HAYDEN, OF CALIFORNIA  
 PAUL JOHN HERMAN, OF NEW YORK  
 ELLEN PRISCILLA IRVINE, OF CALIFORNIA  
 GREGORY W. KAY, OF TEXAS  
 NATHANIEL P. LANE, OF CALIFORNIA  
 GREGORY DANIEL LOGERFO, OF NEW YORK  
 JENNY HAN MALHEIRO, OF LOUISIANA  
 GEOFFREY J. MARTINEAU, OF ILLINOIS  
 DONALD GENE MATTINGLEY, OF ARIZONA  
 JOHN H. MCCORMICK, OF MARYLAND  
 LAURA L. MCKINNEY, OF SOUTH CAROLINA  
 ANNE MARIE MOORE, OF NEW HAMPSHIRE  
 TIFFANY ANITA MURPHY, OF WASHINGTON  
 SHANE IAN MYERS, OF NEW JERSEY  
 BRIAN W. NAFZIGER, OF THE DISTRICT OF COLUMBIA  
 ANDREW HUANG NISSEN, OF MARYLAND  
 MARTIN JUAN LEYERLY OPPUS, OF CALIFORNIA  
 DAVID N. RICHELSON, OF CONNECTICUT  
 LEIGH A. RIEDER, OF VIRGINIA  
 GREGORY KENT SCHIFFER, OF TEXAS  
 RUTH ANNE STEVENS, OF OHIO  
 GREGORY M. WINSTEAD, OF NORTH CAROLINA  
 NOAH SAMUEL ZARING, OF CALIFORNIA

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED: FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS THREE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

#### DEPARTMENT OF COMMERCE

BRUCE W. BLAKEMAN, OF FLORIDA  
 SALLY A. HASTINGS, OF ILLINOIS  
 CHARLES R. RANADO, OF NEW YORK  
 CATHERINE P. SPILLMAN, OF PENNSYLVANIA

#### DEPARTMENT OF STATE

GREGORY ADAM ALMS, OF VIRGINIA  
 MARCIA ANGLARILL, OF MARYLAND  
 KIMBERLY KRISTINE ATKINSON, OF SOUTH DAKOTA  
 DEIDRA D. AVENDASORA, OF MINNESOTA  
 NATASHA M. BASLEY, OF CALIFORNIA  
 CHRISTOPHER GRAYDON BEARD, OF FLORIDA  
 CARLA ANN BETONI, OF VIRGINIA  
 TIMOTHY A. BETONI, OF VIRGINIA  
 SHERYL J. DUREN BISTRANSKY, OF VIRGINIA  
 RICHARD BLEE, OF THE DISTRICT OF COLUMBIA  
 HOLLY M. BOOTH, OF VIRGINIA  
 MICHAEL ALAN BRADECAMP, OF VIRGINIA  
 BRETT PLITT BRUEN, OF NEW YORK  
 MALGORZATA BULA-DUANE, OF NEW YORK  
 MARK COLBOURNE CARLSON, OF WASHINGTON  
 DANIEL R. CASTER, OF VIRGINIA  
 DELARAM M. CAVEY, OF VIRGINIA  
 MICHAEL ALBERT CHUNG, OF WASHINGTON  
 SARA M. COBB, OF FLORIDA  
 CHRISTOPHER JARED COFIN, OF MARYLAND  
 KATHLEEN MARIE COREY, OF WASHINGTON  
 SONATA N. COULTER, OF CALIFORNIA  
 HILARY CHISAO WATANABE DAUER, OF VIRGINIA  
 GARY THOMAS DEMPSEY, OF VIRGINIA  
 CHRISTOPHER M. DEUTSCH, OF VIRGINIA  
 BEVERLI J. DEWALT, OF WASHINGTON  
 LINDSEY D. DIEFENDERFER, OF WASHINGTON  
 SNEZANA DORDEJEVIC, OF VIRGINIA  
 JAMES A. DRAGON, OF VIRGINIA  
 DAVID C. EDMONTON, OF IOWA  
 ELLEN B. EISEMAN, OF NEW YORK  
 GUNTHER T. FEHR, OF NORTH CAROLINA  
 CHRISTIANA M. FOREMAN, OF CALIFORNIA  
 JILL FOSTER, OF CALIFORNIA  
 TOBIE DEON GASS, OF VIRGINIA  
 WARREN MITCHELL GRAY, OF MARYLAND  
 LUANN GRIER, OF CALIFORNIA  
 H. REBECCA GRUTZ, OF TEXAS  
 RICHARD PAUL HANSEN, OF MARYLAND  
 CASH A. HERBOLICH, OF ARIZONA

SABIN MANZEL HINTON, OF UTAH  
 HOWARD LEE HOLSOMBACH, OF VIRGINIA  
 AMY J. HOOD, OF VIRGINIA  
 JESSICA MARIE FRANZ HUARACAYO, OF CALIFORNIA  
 DORIAN HURTADO, OF FLORIDA  
 MOLLIE JAX JACKSON, OF OREGON  
 ADAM DEWAYNE JANSEN, OF VIRGINIA  
 ANDREW JAY, OF NEW YORK  
 TIFFNEY J. JOHNSON, OF TEXAS  
 JASON B. KHILE, OF ILLINOIS  
 LEANNE N. KOONTZ, OF THE DISTRICT OF COLUMBIA  
 JULIANNA JUNGHWA KIM, OF NEVADA  
 EMILY L. KING, OF VIRGINIA  
 FILIP B. LABAN, OF HAWAII  
 MARIA VIRGINIA LANE, OF COLORADO  
 JOHN S. LAROCHELLE, OF FLORIDA  
 WILLIAM A. LAWRENCE, OF MASSACHUSETTS  
 GUY M. LAWSON, OF TEXAS  
 SARA LECHTENBERG-KASTEN, OF VIRGINIA  
 ALICA EMIN LEJLIC, OF ILLINOIS  
 RYAN C. LEONG, OF THE DISTRICT OF COLUMBIA  
 NOAH BRADLEY LITVIN, OF TEXAS  
 INGA LITVINSKY, OF VIRGINIA  
 DONALD E. LOCKE, OF WISCONSIN  
 LOU ANN LORA-PLATT, OF NEW MEXICO  
 LAURA DE NELLE LUCAS, OF IDAHO  
 MARY ELIZABETH MADDEN, OF VIRGINIA  
 PAMELA JANE HACK MAGNANT, OF NEW HAMPSHIRE  
 HAGEN D. MARONEY, OF THE DISTRICT OF COLUMBIA  
 JAMES J. MATTHEWS, OF MARYLAND  
 PARTHA MAZUMDAR, OF PENNSYLVANIA  
 LISSA MEI-LIN MCATEE, OF WASHINGTON  
 NANCY HILLERY MCCARTHY, OF TEXAS  
 BRIAN J. MCGRATH, OF VIRGINIA  
 AUD-FRANCES MCKERNAN, OF CALIFORNIA  
 ROBERT RANDALL MEARKLE, OF MINNESOTA  
 SARA MARIE MERCADO, OF CALIFORNIA  
 LIA N. MILLER, OF NEW YORK  
 K.G. MOORE, OF COLORADO  
 JOHN K. MOYER, OF PENNSYLVANIA  
 MICHAEL P. MURRAY, OF THE DISTRICT OF COLUMBIA  
 MEGAN THANE MYERS, OF MINNESOTA  
 JOSEPH W. NAVARRE, OF VIRGINIA  
 THU NGUYEN, OF MASSACHUSETTS  
 DOUGLAS SCOTT O'NEILL, OF VIRGINIA  
 GINO P. PAGOTTO, OF VIRGINIA  
 THOMAS R. PALUMBO, OF THE DISTRICT OF COLUMBIA  
 RACHEL H. PARK, OF VIRGINIA  
 TODD W. PARMENT, OF VIRGINIA  
 SWATI MARSUKH PATEL, OF ALABAMA  
 JILL M. PETERSON, OF MARYLAND  
 ALEX JOHANN REPONEN, OF VIRGINIA  
 MICHAEL R. ROBERTS, OF NEW JERSEY  
 KRISTIN LYNN ROCKWOOD, OF CALIFORNIA  
 SUSAN ROSS, OF MARYLAND  
 MATTHEW ALBERT ROY, OF VIRGINIA  
 URSULA M. RUDD, OF MARYLAND  
 MATTHEW C. RUMFELT, OF VIRGINIA  
 BRENDAN M. SALMON, OF VIRGINIA  
 JENNIFER L. SAUERBRUNN, OF TEXAS  
 WILLIAM JOSEPH SCHMITT JR., OF FLORIDA  
 JASON DANIEL SEYMOUR, OF CALIFORNIA  
 FRANC X. SHELTON, OF TEXAS  
 WILLIAM D. SHINGLETON, OF MARYLAND  
 NOAH SIEGEL, OF OREGON  
 MATTHEW L. SONNTAG, OF VIRGINIA  
 SHANNON J. SPANN, OF VIRGINIA  
 JOHN THOMAS SPEAKS III, OF NEW YORK  
 SCOTT ADAM STERNBERG, OF FLORIDA  
 STEPHEN BRUCE STEWART, OF CALIFORNIA  
 PAUL M. STRONSKI, OF NEW YORK  
 RACHEL SUNDEN, OF NEW YORK  
 DIVYA L. SWAMY, OF VIRGINIA  
 WILLIAM H. SYLL, OF LOUISIANA  
 KATHLEEN S. SZPILA, OF MASSACHUSETTS  
 VICTORIA J. TAYLOR, OF MISSOURI  
 BERNARD CHITONGCO UADAN, OF FLORIDA  
 MATTHEW DAVID WALLACE, OF VIRGINIA  
 EVA KAY WALSH, OF ILLINOIS  
 ELIJAH J. WATERMAN, OF PENNSYLVANIA  
 JOEL R. WIEGERT, OF NEBRASKA  
 ELLEN WONG, OF MISSOURI  
 MARISA L. ZAVISLAK, OF VIRGINIA  
 NINGCHUAN ZHU, OF FLORIDA

THE FOLLOWING-NAMED CAREER MEMBERS OF FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER COUNSELOR, IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

#### DEPARTMENT OF STATE

JOSEPH D. STAFFORD III, OF FLORIDA

THE FOLLOWING-NAMED CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE DEPARTMENT OF AGRICULTURE FOR PROMOTION WITHIN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF CAREER MINISTER:

WILLIAM L. BRANT II, OF OKLAHOMA  
 LARRY M. SENER, OF WASHINGTON

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

SUZANNE E. HEINEN, OF MICHIGAN  
 RALPH IWAMOTO JR., OF HAWAII  
 DANNY J. SHEESLEY, OF COLORADO  
 GEOFFREY W. WIGGIN, OF VIRGINIA

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF AGRICULTURE FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:



CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

NICHOLAS GUTIERREZ, OF NEW MEXICO  
LISA A. HARDY-BASS, OF CALIFORNIA  
GRANT A. PETTRIE, OF VIRGINIA  
KENT D. SISSON, OF VIRGINIA  
WILLIAM W. WESTMAN, OF FLORIDA

#### IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

#### *To be brigadier general*

COLONEL ROBERT R. ALLARDICE, 0000  
COLONEL C.D. ALSTON, 0000  
COLONEL THOMAS K. ANDERSEN, 0000  
COLONEL BROOKS L. BASH, 0000  
COLONEL MICHAEL J. BASLA, 0000  
COLONEL MARK S. BORKOWSKI, 0000  
COLONEL FRANCIS M. BRUNO, 0000  
COLONEL HERBERT J. CARLISLE, 0000  
COLONEL GARY S. CONNOR, 0000  
COLONEL CHARLES R. DAVIS, 0000  
COLONEL DANIEL R. DINKINS JR., 0000  
COLONEL GREGORY A. FEEST, 0000  
COLONEL FRANK GORENC, 0000  
COLONEL BLAIR E. HANSEN, 0000  
COLONEL MARY K. HERTOG, 0000  
COLONEL JIMMIE C. JACKSON JR., 0000  
COLONEL FRANK J. KISNER, 0000  
COLONEL JAMES M. KOWALSKI, 0000  
COLONEL DONALD LUSTIG, 0000  
COLONEL WILLIAM N. MCCASLAND, 0000  
COLONEL CHRISTOPHER D. MILLER, 0000  
COLONEL HAROLD W. MOULTON II, 0000  
COLONEL JOSEPH F. MUDD JR., 0000  
COLONEL MARK H. OWEN, 0000  
COLONEL ELLEN M. PAWLAKOWSKI, 0000  
COLONEL ROBIN RAND, 0000  
COLONEL JOSEPH M. REHEISER, 0000  
COLONEL JOSEPH REYNES JR., 0000  
COLONEL ALBERT F. RIGGLE, 0000  
COLONEL PAUL G. SCHAFER, 0000  
COLONEL STEPHEN D. SCHMIDT, 0000

COLONEL MARK S. SOLO, 0000  
COLONEL LAWRENCE A. STUTZRIEM, 0000  
COLONEL JANET ANTHEA THERIANOS, 0000  
COLONEL ROBERT YATES, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

#### *To be brigadier general*

COL. MELISSA A. RANK, 0000  
COL. THOMAS W. TRAVIS, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

#### *To be brigadier general*

COL. CECIL R. RICHARDSON, 0000

#### IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

#### *To be colonel*

GARY W. STINNETT, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY JUDGE ADVOCATE GENERAL'S CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

#### *To be colonel*

JAMES M. IVES, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AND FOR REGULAR APPOINTMENT UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

#### *To be lieutenant colonel*

PAUL SWICORD, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY

MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

#### *To be lieutenant colonel*

STEPHEN A. BERNSTEIN, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AND FOR REGULAR APPOINTMENT UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

#### *To be lieutenant colonel*

JAMES R. HUDSON, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AND FOR REGULAR APPOINTMENT UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

#### *To be lieutenant colonel*

GARY J. GARAY, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

#### *To be major*

JOHN W. ERVIN, 0000

### WITHDRAWAL

Executive message transmitted by the President to the Senate on February 23, 2004, withdrawing from further Senate consideration the following nomination:

JAYMIE ALAN DURNAN, OF NEW HAMPSHIRE, TO BE AN ASSISTANT SECRETARY OF THE ARMY, WHICH WAS SENT TO THE SENATE ON NOVEMBER 21, 2003.