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Senate

(Legislative day of Monday, July 21, 2003)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. STEVENS).

The PRESIDENT pro tempore. This morning, the Senate will be led in prayer by the Reverend Campbell Gillon, Pastor Emeritus of the Georgetown Presbyterian Church.

PRAYER

The guest Chaplain offered the following prayer:

Let us pray.

Eternal God, before Whom the children of humanity rise and pass away, the living who seek Thee find a faithfulness that knows no end. Thy love transcends not only time and space, but human evil in its arrogance and cruelty, prejudice and pride. Teach us that we do not exist by ourselves, in ourselves and for ourselves, but only learn what life means when in a true relationship with others and with Thee. Teach us that our context is not an accidental cosmos but a purposeful Creator; our destiny no cosmic accident but a love-fashioned creation, and Thy self-revelation, O God, the key to our knowledge of the dust and the divine.

We mortals are made in Thine image, which is certainly not dust. If we deny or ignore the revelation of Thy Word, then we make the dust our final goal and our way to it paved, at best, with ephemeral success, or, at worst, with evil done and its sad harvest multiplied. Lord, we know that this need not be so. When we acknowledge that our destiny is in Thee then the past can be forgiven, the present empowered and the future unchecked by death. Increase this faith in all homes whose loved ones have died and in particular those whose beloved have been serving this Nation's present and future safety. Death is pointless especially to those for whom life is ultimately pointless, but when any life, long or short, is faithfully spent for the good of others and Thou, O God, art its goal, then powerless death is swallowed up in the victory of life eternal.

Grant to these Senators of this 108th Congress a daily awareness of this larger context, as they use talents entrusted and opportunities sent. Help them to match the one with the other as they strive for this peoples' long-term good and the human family's gain. And upon them individually and together we ask Thy blessing. Amen.

PLEDGE OF ALLEGIANCE

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

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

RESERVATION OF LEADER TIME

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

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The Senator from Idaho is recognized.

SCHEDULE

Mr. CRAIG. Mr. President, this morning the Senate will resume consideration of S. 14, the Energy bill. Three fuel standard amendments were offered last night. Senators are encouraged to come to the floor during today's session to debate these pending amendments. Other amendments are expected during today's session with the hope of making further progress on the bill.

There will be no rollcall votes today. But it is still the expectation that Members will be available to debate the amendments.

Also, today it is expected that the Senate will debate the Free Trade Agreement relative to Chile and Singapore. Some Members have indicated that they desire to speak on these agreements today, and they will have that opportunity following the Energy bill.

Under an order from last night, the next rollcall vote will occur on Monday at 5 p.m. That vote will be the nomination of Earl Yeakel to be a United States District Judge for the Western District of Texas.

Following the 5 p.m. vote on Monday, the Senate will also vote in relation to any available amendments to the Energy bill, as well as the Chile and Singapore trade agreements.

Finally, a cloture motion will be filed today on Priscilla Owen's nomination to the United States Circuit for the Fifth Circuit. This will be the third cloture motion on this nomination. That vote will occur on Tuesday.

I thank Members for their attention.

MORNING BUSINESS

Mr. CRAIG. Mr. President, I ask unanimous consent to proceed in morning business for no longer than 2 minutes.

The PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

A TRIBUTE TO THE IDAHO FALLEN FIREFIGHTERS

Mr. CRAIG. Mr. President, the reason I ask for this privilege is to speak to my colleagues in the Senate about two families in Idaho who have just lost their sons fighting wildfires. My sympathy to the families of Jeff Allen of

Salmon, ID, and Shane Heath of the Treasure Valley of Idaho. These brave men lost their lives while trying to save our public lands from a catastrophic wildfire in the Salmon-Challis National Forest, this past Tuesday, July 22. Both men were experienced firefighters of the Indianola Helitack Crew.

My heart and prayers are with the family and friends of these two firefighters and the Forest Service firefighting family.

Jeff Allen was 23 years old and had been a firefighter since 1999. He started working on the Salmon-Challis National Forest on a thinning crew on the Salmon-Cobalt District in 1998. He served successfully in fighting devastating fires on the Salmon-Challis National Forest during the 2000 fire season. Jeff was a marketing major at Boise State University.

Shane Heath was 22 years old and this was his fourth season with the Forest Service. He served on the Helitack crew as a certified sawyer and was also a student at Boise State University.

The tragic loss of these two men will be felt throughout their communities and their selfless acts of true bravery will not be forgotten. I commend the men and women who risk their lives every day by undertaking this terribly dangerous job with courage and professionalism.

Thousands of young men and women are on the fire fronts of the wildfires that are now sweeping across the West. As we enter the middle of fire season, with the devastating heat that we are having in the Great Basin, and the West, I hope that we do not lose another fire fighter to wildfire.

THANKING APPROPRIATIONS COMMITTEE STAFF FOR HOMELAND SECURITY APPROPRIATIONS BILL

Mr. COCHRAN. Mr. President, I take this opportunity to commend the hardworking members of the staff of the Appropriations Committee for assisting in the passage of the Homeland Security appropriations bill last night.

For over 3 days we were on the floor debating the bill and considering amendments. They did a masterful job helping guide those of us who were in charge of managing the bill along the path toward final passage.

I also thank the President pro tempore, the distinguished chairman of the Appropriations Committee, for his active involvement in helping to bring that bill to final passage. And my friend from West Virginia, the ranking minority member of the subcommittee, and his able staff all worked hard to help guide this bill through the subcommittee, the full committee, and then, even though we had disagreements on a number of subjects during the consideration of the bill on the floor, the Senate worked its will. We passed the bill, and I know we will go to conference with the House.

But those members of the subcommittee staff I particularly want to single out for praise and my expression of appreciation this morning are: Rebecca Davies, Carol Cribbs, James Hayes, Les Spivey, Rachelle Schroeder, Josh Manley, and our intern Ferriday Mansel. I am deeply grateful to them.

ENERGY POLICY ACT OF 2003

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

The assistant legislative clerk read as follows:

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

Pending:

Campbell amendment No. 886, to replace ''tribal consortia'' with ''tribal energy resource development organizations.''

Durbin amendment No. 1384, to amend title 49, United States Code, to improve the system for enhancing automobile fuel efficiency.

Durbin modified amendment No. 1385, to amend the Internal Revenue Code of 1986 to provide additional tax incentives for enhancing motor vehicle fuel efficiency.

Bond amendment No. 1386, to impose additional requirements for improving automobile fuel economy and reducing vehicle emissions.

Mr. CRAIG. Mr. President, Senator DOMENICI, chairman of the Energy and Natural Resources Committee, will be here soon to manage this bill for the remainder of the morning. But I want to say at the outset, we are now involved in a national energy policy debate that will run through the balance of next week.

I thank to Senator DOMENICI, as chairman of the Energy and Natural Resources Committee, for the way he has handled this critical issue for our Nation. He held thorough hearings on the importance of a balanced national energy policy for our country. Much of the lead was taken by our President when he took office over 2 years ago as he outlined this issue as one of the highest priorities for our country.

Senator DOMENICI then began to work with all of us on that committee, Democrats and Republicans, to craft a truly bipartisan and balanced piece of legislation. That is S. 14, the bill we have before us, a national energy policy for our country. When I say ''balanced,'' Mr. President, as you know, one of the true problems in our country today is the failure to keep our energy production levels up with the demands of a growing economy.

Largely through the decade of the 1990s, we lived off the surpluses we had generated by increased capacity being built in the decades of the 1960s and 1970s and 1980s. But that surplus ran out in the late 1990s. We began to see the blackouts and the brownouts in California. We began to see energy prices increase. Our dependency on oil from foreign nations progressively grew during the decade of the 1990s, from percentages in the low 40s to the 60s. And, of course, as the Presiding Officer knows, the senior Senator from Alaska, Alaska became during that period of several decades a prime producer of high-quality crude for this Nation, and still has tremendous oil reserves in Alaska that could be made available if the politics were allowed to let that happen. But that has not happened.

Senator DOMENICI recognizes that, and in the crafting of this bill did a combination of things, in cooperation with all of us, to recognize the need to get this country back into the production of energy while at the same time recognizing the importance of conservation, recognizing the importance of our environment, and that the energies we produce in the decade of 2000 to 2010 and beyond be clean sources of energy, and also recognizing the application of technology and the development of hydrogen fuel cells and wind and photovoltaic.

Also, the Senator from New Mexico and I have worked very closely over the last nearly two decades building a case for the return of the cleanest, most abundant source of energy for our country: electricity generated by the nuclear generation process and nuclear reactors.

There has been a schism or a belief in our country that somehow this was not a safe way to generate electricity, and that we could not manage the waste stream produced from nuclear reactors. Quite the opposite is now true. Not only have we moved significantly in the development of a clean waste stream, but this legislation also speaks to what we now call Generation IV or new passive reactors this legislation would authorize the design and development of for future generations. This is, without question—other than wind, solar, and hydro—the cleanest form of energy we have because it can produce energy at high, sustained levels to meet the demand of a high-tech economy and, at the same time, do it very cleanly.

This bill is a complete and balanced energy policy for our Nation. As I have said, it puts us back into the business of producing energy. It recognizes conservation. It recognizes technology. Our President has challenged us to develop hydrogen as a new source of transportation fuel for our country. This legislation deals with those issues, and I think it does so in not only a comprehensive and environmentally sensitive way, but it clearly recognizes that this economy runs on energy, period, end of statement.

Every one of us today started our day using energy. The clock that awakened us, the radio that turned on was turned on by energy. The cool room we slept in last night was cooled by energy. Many of you probably brushed your teeth with an electric toothbrush this morning fueled by energy. The water that surged out of the tap in your bathroom or from the nozzle of your shower

this morning—the pressure was produced by energy. And it goes on and on.

When you went into your kitchen and opened the refrigerator to get out a glass of orange juice, the refrigerator was cooled by energy. The orange juice was processed by energy—and so on.

Did you walk here this morning? If you did, you used your own energy, but it was generated by all those other sources of energy. But if you drove here, then you used the standard form of energy that has kept this economy so vibrant for so many decades. Without question, we are an energy-intensive, extensive, involved economy. Without an abundant, available source of energy in all forms, this economy does not function well or it becomes increasingly dependent on those nations that produce energy and sell it to us.

Senator DOMENICI, myself, and others serving on the Energy Committee have recognized that, I believe, in a responsible way in S. 14. Now we have the opportunity to complete the debate on this legislation. There are hundreds of amendments that have been filed, and we will work very hard to get through all of them. But then all of them are not intended ever to be offered. They are merely offered as placeholders or for the political statement one of our colleagues may want to make as it relates to a constituent or to his or her particular views on energy.

So we hope—and I think the Senator from New Mexico, who is now in the Chamber hopes—we can work our way through those amendments over the course of the next week as we move toward completion of this bill before the August recess.

This bill has already been on the floor for hours over the course of the last several months, and we have had a variety of amendments already. So for anyone who will stand and wring their hands and say it cannot be completed by next week, they are simply saying: I don't want to complete it by next week—for whatever political purpose that might serve the individual.

Our leader, Majority Leader FRIST, says we will start early and work late; and we are prepared to do just that, starting on Monday with votes on this legislation and working through the remainder of the week.

At this time I will yield the floor to the chairman of the Energy and Natural Resources Committee and, once again, recognize him for the phenomenally hard work he has put into building a balanced national energy policy, reflected in S. 14.

I hope by next Friday evening we will have finalized this bill, gone to final passage, and that this will be the year when we put on the desk of the President of the United States a futuristic program for the assurance of the development of energy for generations of Americans to come—that product which will fuel a vibrant economy for our country.

I yield the floor.

The PRESIDENT pro tempore. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I understand we will have a number of amendments this morning. Yesterday we had two CAFE amendments. I understand there is a third—at least a third—that will be presented this morning. We are hoping that will be the extent of the CAFE amendments and that we will eventually vote on those and the Senate will work its will, as it has already in the past on CAFE standards. I understand there is a good chance there will be a number of amendments offered this morning.

There is no desire on my part to ask for votes today. Every effort will be made to work out with the minority a method of stacking them for Monday which would be far more accommodating to Senators.

While we wait to untangle some matters, I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. SESSIONS. Mr. President, I ask unanimous consent to speak as in morning business for up to 10 minutes.

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

NOMINATION OF WILLIAM H. PRYOR

Mr. SESSIONS. Mr. President, I wish to bring my colleagues up to speed on the nomination of Attorney General Bill Pryor from the State of Alabama for U.S. District Court for the Eleventh Circuit Court of Appeals.

Bill Pryor is an extraordinary nominee, one of the finest, most decent, most intelligent, and most ethical individuals I have ever had the pleasure of knowing. His reputation throughout the State of Alabama is extraordinary. His career as a lawyer is extraordinary. He would make a magnificent judge on the court of appeals.

Bill grew up in Mobile, AL. He attended the Catholic school there, McGill-Toolen. His father was band director there. They were active in their church. They are the kind of family we ought to emulate and lift up and be proud of. I have heard it said that Mr. Pryor was a John Kennedy Democrat in the 1960s. After some of the problems we have had, he probably has changed some of his views about his politics in the last few days. But he is a remarkable man, and his mother and family are remarkable.

Bill went to Tulane Law School, one of America's great law schools. He worked very hard. He finished at the top of his class. He was the editor in chief of the Tulane Law Review. The most prestigious position a graduating law senior can have is to be the editor of the law review for the law school. It is a quite an honor.

He clerked after that for Judge John Minor Wisdom, one of the great justices on the old Fifth Circuit Court of Appeals. Judge Wisdom has been known as a champion of civil rights in the South. He was one of those judges on the court of appeals during the time of the end of segregation and the movement toward integration. It was not easy. The court was constantly in the arena, whether they wanted to be there or not. Judge Wisdom has been recognized by all as being a champion in that area.

Bill Pryor is a man of religious faith. He attends church regularly. His wife and children do so. He is a Catholic, and he believes in the doctrine of the church. It seems that some of those beliefs he shares with millions of Americans and millions of people throughout the world have caused some of the difficulties he has had.

He helped me. When I was attorney general of Alabama, I put him in charge of appellate litigation and constitutional litigation. He wrote briefs to the court of appeals. He argued those cases personally. He had already been with two of Alabama's best law firms before he agreed to join me, giving up a very lucrative law career. The firms wanted him to stay. He was in a position to be partner and make a great deal of money. But he believed in public service. He and his wife talked about it. They agreed to come to work.

After I was elected to the Senate 2 years later, Governor James, then Republican Governor of Alabama, appointed Bill to be my successor as attorney general. In that position, he has stood courageously for the values he believes in. He has done so with clarity and conviction, winning the confidence and respect of people throughout the State, even those who are of a different political party and race.

For example, when he was sworn in, he said in his inaugural address: ''The constitution and laws of this State should have not one thing in them that would discriminate against a person because of their race.'' We had in our Alabama Constitution an old amendment that said interracial marriages were banned. That had been declared unconstitutional by the Supreme Court, but Bill thought it ought not to be in there. He joined with State Representative Alvin Holmes who worked on the team of Dr. Martin Luther King, Jr., during those very tough days of civil rights. Together they led the battle, and the people of Alabama removed that amendment from the constitution.

Alvin Holmes said: No other politician in Alabama, Republican or Democrat, White politician, supported me in that effort but Bill Pryor.

He wrote one of the most powerful, moving letters anybody would ever want to see explaining the character of Bill Pryor and why he should be a Federal judge.

Along that line, Mr. Joe Reed, Representative Joe Reed, Dr. Joe Reed,

who is the vice chairman of the Alabama teachers union, the AEA, a member of the Democratic National Committee, who has chaired for 30 years the Alabama Democratic Conference, a powerful force in Alabama—there is nobody who has run for the Democratic nomination for President in these United States who does not know Dr. Joe Reed. He is the first person they would want to talk to as they consider how to be involved in winning a primary in Alabama. Dr. Reed supports him strongly.

Congressman ARTUR DAVIS, a Harvard Law graduate, former assistant U.S. attorney, African American, supports Bill Pryor.

The former Democratic Governor of Alabama has spoken highly of him. He has that kind of reputation. His reputation is that Bill Pryor does what is right; he follows the law, whether it is popular or not.

One of the issues that was important politically in the State—and each State has issues that arise given time—was separation of church and state. The issue became very contentious. Our Republican Governor, Bob James, had a very strong view about it. He played football and he said he didn't see anything wrong with a coach leading the kids in prayer. Frankly, I don't either. But the Supreme Court has ruled to the contrary.

Governor James had other very strong views. He had just appointed Bill Pryor to the attorney general office to be one of the youngest attorneys general in America. He had this idea about how these issues ought to be argued in court. But under the Alabama Constitution, the attorney general speaks for the State of Alabama in court. So they had a conversation or two, and Attorney General Pryor had to reluctantly tell the man who just appointed him, in a very hot political deal, that your position will not hold up according to the law; I cannot support that.

The Governor took a very strong position on the right of school officials to speak on religious issues, and reluctantly the attorney general had to file a brief on the subject. The attorney general filed a brief and said flat out that the Governor's position did not state the legal position of the State of Alabama. He argued the case according to the precedent of the Supreme Court. He also, in that confused time, wrote a legal opinion, which he sent to every school official in the State, setting forth what children could do in the free exercise of their religious beliefs and what schools could and could not do. In fact, those rules that he sent out were adopted almost in toto by the Clinton Department of Education as their directives to policy concerning the separation of church and state in schools. He followed the law, even though it was very tough for him to do so.

They have expressed real reservation about Mr. Pryor. They say he has strongly held views, that he is extreme in his pro-life views, that he is very passionate, and that he would not follow the law, basically.

They have criticized him for his views on abortion. He didn't volunteer those views. But in the committee, one of the Senators looked right at him and asked him about that. He explained that he thought that taking an unborn life was immoral and that Roe v. Wade has led to the slaughter of millions of innocent unborn. You could have heard a pin drop. Nobody had really been asked that squarely. He answered it honestly. He said: But, Senator, I know the courts don't follow that view and it is not the law today, and I follow the law as it is written.

In fact, he had proof of it because, previously, when he was attorney general, Alabama passed a law to ban partial abortions. That law was a broad law. Under the Supreme Court rulings and other rulings, portions of that statute were not constitutional. Attorney General Pryor, as attorney general of Alabama, had to send a directive to all the district attorneys in Alabama directing them not to enforce portions of that law that violate the Constitution of the United States. So even though he thought, no doubt, partial-birth abortion was wrong—because he believes abortion is wrong, so he would certainly believe that horrible procedure would be wrong—he was a lawyer and he spoke up and he directed, as attorney general, every district attorney in the State to enforce that law, consistent with the Constitution. I think that demonstrates clearly his ability to understand and follow the law even if he does not agree with it.

The only other thing I know he has ever done with regard to abortion is to make clear that if there were a protest at an abortion clinic that violated the law and the right of people to attend that clinic, they would be prosecuted by him. He would enforce the constitutional right of people to go to clinics and have abortions under the laws of the United States.

Another issue we dealt with in the State was reapportionment. Most Republicans believed strongly that reapportionment had been very adverse to their ability to have a representative in the State legislature. As a whole, the State is a majority Republican State, with both Senators, the Governor, and five of the seven Congressmen being Republicans. But the legislature is about two-thirds Democrats.

A lawsuit was filed by the Republican groups to get the legislature reapportioned, hoping they would get a better shake in the numbers. It was a pretty legitimate suit. It had real merit to it. They wanted Bill Pryor to take the lead in it as attorney general. He was a Republican, after all. Some lawyers had known him for years and they had worked with him. Bill researched the law and said: You don't have standing, and this is not a legitimate lawsuit, and I cannot support it. They said: What do you mean? They called me saying I have to get Bill to change his idea and help them win. But I told them then that Bill follows the law. If you have the law, do it; if you don't, he will not help you. So he resisted their actions. He defended the Democratic position. He defended, particularly, the African-American position. He actually lost the case in the court of appeals and appealed it to the Supreme Court of the United States and won it. He was right all along.

So I can give many examples of this brilliant lawyer who has stood firm for what he believes is right, who gives bipartisan, biracial support to the people in Alabama, a man who would flourish as a court of appeals judge, a man who loves America. He has sincere and great religious faith. He understands the rule of law and places all that in proper context. I am just proud of him. I am glad the committee has moved him forward. I hope we will see him confirmed as a Federal judge.

I yield the floor.

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

TRIBUTE TO COLIN MCMILLAN

Mr. BINGAMAN. Mr. President, I take a couple of minutes to speak about the tragic death of Colin McMillan, who was a very outstanding citizen of our State of New Mexico. He had distinguished himself as a businessman and also as a public servant in Roswell. In Santa Fe, he served in the State legislature, with a leadership position, and also here in Washington, where he served in the Department of Defense in the previous Bush administration. He was influential and effective in all of the positions he held. He was extremely well respected for his straight dealing and his integrity.

I met Colin first when I was in law practice in Santa Fe and he was in our State legislature. As I indicated, he had a very prominent position, a leadership position, in our State legislature back in the 1970s. Since then, our paths have crossed many times. Most recently, we spoke when he came to my office to discuss his nomination by President Bush to serve as the Secretary of the Navy.

This is a position I strongly supported him obtaining and I told him I was looking forward to him being back in Washington. I know he and his wife Kay were looking forward to returning to Washington. He spoke with great enthusiasm about his plans in that new position.

His death is a loss to us in New Mexico, and it is a loss to the country. We will be deprived of his leadership.

I know he was a very good friend of my colleague, Senator DOMENICI, for many years and a political ally in New Mexico for many years. His loss will be noted and regretted by all of us in New Mexico.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, last night I took a couple of minutes to tell the Senate that a good friend of mine, but also a great New Mexican, was dead, Colin McMillan. My friend and colleague, Senator BINGAMAN, just spoke of him.

It is remarkable that Senator BINGAMAN would speak of him with such glaring words when, as a matter of fact, they ran against each other in a statewide campaign.

The truth is, he was a truly outstanding man. His death is rather unexplainable. We still do not know enough about it, but we do know that he was too young to die and had succeeded at just about everything he tried in his life, starting out at the University of North Carolina where he was a Phi Beta Kappa in the college of engineering and became an enormously successful geological engineer. He was one of those who was first to grab on to the modern techniques of discerning what lies below the surface and, thus, became an expert and developed a successful company helping others locate oil and gas. He formed his own exploration company and became an oil and gas entrepreneur.

Along with that achievement, he had a western craving to own a ranch, and he had a beautiful ranch. I have been there many times. It is a great place to hunt quail. His ranch is renowned for quail. My son Peter and I and others in New Mexico have been there with him many times. It is rather ironic that he was found dead at the ranch yesterday some time during the day by the ranch hands.

When I spoke this morning with my oldest son, he used the word ''brutal.'' I use it today. It is truly brutal for those of us who knew him. All we can say is he succeeded at almost everything he wanted to do in life. Clearly, there are few in New Mexico who will achieve as much as he. He was really looking forward to becoming Secretary of the Navy, taking great pride in being a Marine officer for 3 years after completing his baccalaureate degree in North Carolina.

I and my wife Nancy clearly have had a very tough personal loss in his death, and there is not much more I can say other than he will be missed. We will all find out someday, perhaps in the hereafter, how all this happened. In the meantime, all we can say is we will miss him terribly, and we wish for all of his family an understanding beyond normal capacity to apprehend, that there will come upon them some understanding as to why all of this happened.

He had been sick. He had a recurrence of cancer that inflicted him some 2 years ago. Everybody thought he was recovered and recuperating quite well. At least we thought so and his family thought so, when this tragedy occurred.

I thank the Senate for the time.

Mr. President, before we call on Senators, we are expecting closure of between 5 and 10 amendments, which we will present jointly this morning on this Energy bill. The biggest issue everyone has asked so much about is the electricity title. It is a very complex title. We have tried to put together a major bipartisan amendment. It is in the hands of all the Senators and, as a result, because it is so important, it is in the hands of hundreds of experts and lobbyists and companies across this country.

By Monday, everybody should know what they want to do with it, to it, or for it. It will be offered Monday with the hope that we will begin serious debate on that amendment.

CAFE standards has been one of those issues of importance. We have two of the major CAFE standards amendments pending. They were offered last night. We will work out a time for voting on them on Monday. We expected another CAFE standards amendment this morning, but it has not materialized. Let's hope it does so we can get them all lined up to dispose of them Monday evening.

There are about five other major issues that are being worked on, and we hope we can prove that the Senate is capable of completing this bill in five additional working days, besides last night and today, and the previous time we spent on the bill.

Everyone should remember, the majority leader said we are going to finish this bill. We are scheduled for our August recess next Friday, but we have been told those recess days will not commence until we have finished this bill. I hope everybody understands that is not said in any way other than in a positive way. There is plenty of time so long as Senators do not desire an inordinate amount of time on any subject. We probably have one or two climate change amendments. We probably have, as I indicated, an additional CAFE amendment and many amendments on the electricity section. Plus, I am sure the minority leader has some amendments with reference to mandating the percentage of wind energy and solar energy that must be utilized by the utility companies. That will be thoroughly debated and voted on. There may be a couple other major issues, but I think that covers most of them—and I covered them last night reminding everybody to get ready. We always have the idea around here that we will get ready when the time is necessary.

People put off things until that ominous time. On Energy amendments, the time has come. The electricity amendment is in our hands. It is major legislation. We are going to proceed with dispatch, at least as much dispatch as the Senate will let us, and we will try to push that as nicely and calmly but as rigorously as we can for the next 5 or 6 days in an effort to complete this bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

UNANIMOUS CONSENT REQUEST—S. RES. 200

Mr. JOHNSON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 200 regarding the adoption of a conference agreement on the child tax credit; that the resolution and the preamble be agreed to; and that the motion to reconsider be laid on the table.

Mr. DOMENICI. I object.

Mr. JOHNSON. Mr. President, I call on Congress to pass the Lincoln bill which will provide immediate tax relief for 12 million children and our Nation's fighting men and women.

Millions of working American families with incomes between $10,000 and $26,000 will receive absolutely no benefit from the increase in the child credit that was signed into law by the President several weeks ago. Close to 200,000 military personnel have incomes in this range, and most will not qualify for the $1,000 child tax credit.

More then 300,000 military personnel are currently serving in combat zones around the world. In answering the call of duty, these young men and women were forced to leave their families behind as they headed to Iraq and Afghanistan to serve their country and to help create new democracies. Yet this Nation's laws have failed them. Under current law, the children of these families are truly left behind.

The Treasury Department will begin sending checks to taxpayers reflecting the increase in the child credit from $600 to $1,000 for 2003. Yet the Children's Defense Fund estimates that 1 million children in military families will not be eligible for the full child credit. This is roughly 1 out of every 8 children of military families.

For active duty military families, the numbers are even more staggering. Roughly 260,000 of the 1.4 million children of active duty military personnel, or nearly 1 of every 5, will not receive the $1,000 child credit.

Military personnel serving in combat zones in Iraq and Afghanistan would be particularly hard hit. Under current law, a family must make $10,500 to qualify for any portion of the child credit. Because combat zone pay does not count toward the income required, many military personnel who left their families behind to fight America's wars will themselves be left behind by this Congress.

Congress has failed its fighting men and women. It does not matter how many speeches we give thanking them for their service, and lionizing their courage, and acclaiming their patriotism.

The single mother whose husband has been deployed to the Middle East for the 50th week running cares a lot more about getting her $400 check than she does about hearing how much we appreciate her sacrifice.

Frankly, it is shameful that a body willing to send our young men and women to war would at the same time turn a blind eye and a deaf ear to their families.

The Lincoln bill, however, changes the law to ensure those military personnel fighting for our freedom will receive the child credit that is guaranteed to all other middle-income families. The Lincoln bill will ensure that military families get the child credit checks promised to our Nation's families.

In contrast, the House bill will leave these families behind. For example: Navy Petty Officer Second Class E–5, 4 years service, married with two children, stationed in Iraq from December 2002 until June 2003. He receives an annual salary of $22,842, and hazardous duty pay of $190 per month. Under current law, he will not see any of the increase in the child credit. Under the Lincoln bill, he will get the full $1,000 per child tax credit, an increase of $800, which his family will receive through a check in their mailbox.

The Senate bill also recognizes that the latest Bush tax cut failed to include millions of working families, families who have jobs and work hard to put food on the table for their children, and that they deserve tax relief as well.

Unless we pass the Lincoln bill, there is no check in the mail for over 6.5 million working families earning between $10,500 and $26,625; this means that over 12 million children will be left behind.

Not only do we help millions of children, but we pay for every penny by shutting down corporate tax loopholes.

For all these reasons, I call on the Senate to express its deep commitment to working together for this Nation's fighting men and women, this Nation's working men and women, and all of their children, and ask that: 1, the committee of conference between the Senate and House of Representatives on H.R. 1308 should agree to a conference report before the August recess; 2, any conference report on H.R. 1308 should contain the provisions in the Senate Amendment to H.R. 1308 concerning the refundability of the child tax credit; 3, any conference report on H.R. 1308 should contain the provisions in the Senate amendment to H.R. 1308 concerning the availability of the child tax credit for military families; 4, any conference report on H.R. 1308 should contain the provision in the Armed Forces Tax Fairness Act of 2003; and 5, any conference report on H.R. 1308 should contain provisions to fully offset its cost.

It is my hope that this resolution will be taken up promptly and that we will emerge from conference with the House in a timely fashion so that we may honor the families of our fighting men and women in a very real way with more than platitudes, more than salutes, more than just honors, but by including their kids and their families in the same kind of tax credit that other American families receive.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I ask unanimous consent to speak as in morning business on a subject of great urgency. I do not know how much time it will take. Senator BURNS will join me in a moment.

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

SUPPLEMENTAL APPROPRIATIONS

Mr. STEVENS. Mr. President, I have been informed that the House this evening will pass a bill for $989 million dealing with disaster relief. As my colleagues know, we received a supplemental request from the President for $1,550,000,000 for the Department of Homeland Security for disaster response. It is estimated that the disaster fund probably has already run out of money during this month of July. When the money runs out, when there are storms, tornados, whatever they have to deal with, they borrow from other accounts, which means as we get towards the end of this fiscal year those other accounts must come to an end. We have tried to meet the President's request by sending the supplemental as part of the legislative appropriations bill.

The House has refused to conference with us on that bill. Now they are going to send us a bill that is totally inadequate. If they leave this city without giving us a supplemental for fires, it is going to leave the West burning, and it is going to bring to a halt other functions of the Federal Government which must continue through this period until September 30. I cannot believe that they would do this.

The supplemental the President sent to us provided $50 million for NASA, the National Aeronautics and Space Administration, to cover unanticipated costs of the recovery and investigation of the Space Shuttle Columbia accident. I am informed that as far as NASA is concerned, the actual costs of the Columbia accident investigation board is about $150 million so far. That means NASA has to take that money out of their current accounts and the remainder of the year they, too, will be strapped and will not be doing the scientific investigations, not be doing the prevention that is necessary in order to get ready for another NASA shuttle flight.

We received the supplemental on July 8. We acted almost as quickly as possible. It is true, we put on that bill the money to save the program for education of young people, AmeriCorps. AmeriCorps is another subject, and I will get into that in a minute. But because we put AmeriCorps on that bill, the House refused to act.

We have offered a series of suggestions.

It is impossible to believe this message I received this morning. We are going to get a bill that has less than $1 billion in it, when the President asked for $1.550 billion for FEMA and he asked for NASA at the same time. He had money in there for firefighting. The President had $253 million for Forest Service and fire suppression. We added $36 million for the Bureau of Land Management.

This is a terrible fire season. I am informed Glacier Park is ready to be evacuated. We have to have some disaster money. When I checked on July 21, the disaster relief fund had $89 million in it. We are currently estimating an obligation rate of about $5.7 million a day on the fires that existed on July 21. There is a whole new series of fires just this week. I cannot believe this.

In addition, there is an obligation to rise to $6.3 million as the disaster activity in Texas ramps up due to Hurricane Claudette.

I hope others will also join to call on the House to give a bill that will meet the needs, particularly the needs of the West. These fires are primarily in the West. The need for FEMA is national. The firefighting conditions right now in the West could not be worse. There is enormous heat in the West, including my State of Alaska. Even with enactment of the supplemental, which we sent to the House, I am told the Forest Service projects will have a deficit of $167 million by September. That is, with all the money we provided for FEMA and for firefighting, the Forest Service alone will have a deficit of $167 million based on projections of July 14th. We have increased fires, particularly in the Park Service area. It is the park that is burning out there now. I cannot believe we cannot have a conference on the supplemental before the House leaves.

AmeriCorps is a problem, too. The Government, by mistake, enrolled 70,000 young people to enter school in September. The moneys that had been previously divided only covered 50,000 young people. The person who made that mistake is no longer with the Government. But the young people are out there now with their certificates. They are entitled to enter school, but the money will not be there. It is the worst situation I have faced as chairman of the Appropriations Committee. We have to have some action by the House before they leave tonight. If they leave tonight without giving us the money we need to meet these disaster needs, I think we are going to have a terrible September.

By the way, the House is going home tonight. They could have stayed another week and we could conference the bills. The bills have been sent to conference. When we come back in September we have to meet with the House in conference and at the same time try to pass the bills we could have passed and should have passed had they sent us the bills in time. They will send us a whole series of bills they are now passing as they leave town. The Appropriations Committee must conference those bills in September and at the same time we must pass the ones they have just passed.

We cannot be two places at one time. The scheduling of appropriations this

year is abominable. Someone mentioned the word ''tirade'' yesterday. This is a tirade, and it is time for a tirade. It is time to be strong in talking to our colleagues in the House. We must have that bill today that covers the disasters the President recognized back in July. They are worse now than when he sent the bill to us.

I hope others who have the knowledge will talk about the firefighting. In Alaska, we have fire conditions we have never faced before. One of the real problems is we have been unable to cut into the areas of the Forest Service and the Fish and Wildlife Service owned by the Federal Government that have beetle kill.

I read just last night, two young fishermen were out and they had an accident. They tried to set a fire to attract the attention of small planes flying in their area. The fire got out of control and burned 40,000 acres before we could even get to it. I don't know how many acres that will burn. But that is the condition that exists in the West today. They built a signal fire and that signal fire is totally out of control now.

We have to have funds to meet this condition this year. It is not satisfactory to say they can borrow money from other accounts. When they borrow money from other accounts, they shut down those activities that primarily exist in the West in July, August, and early September.

I call on the House: Do something; react. The President asked on July 8th. Give us the bill we need to meet the disasters that are occurring right now.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, I ask unanimous consent to speak as in morning business for 10 minutes.

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

CHILD TAX CREDIT

Mr. REED. Mr. President, I rise today to express my dismay about the failure to provide the child tax credit to millions of low-income Americans. In this regard, I join my colleague, Senator JOHNSON, and applaud his efforts to try today, through unanimous consent, to resolve that at least we will as a Congress commit ourselves to give the benefit to low-income families which many other families in America are about to enjoy.

Yesterday, the Internal Revenue Service began mailing out the first batch of advance $400 checks to middle and upper-income American families who are receiving the child tax credit. The President was at a mailing facility to get a visual of these checks going out. That is good news for these families. But certainly low-income Americans have the same needs; in fact, one might argue even more compelling needs for help and assistance to raise their children.

Mr. President, 6.5 million low-income families will not receive a check today. They will be left out. Even though this body acted prudently to give them the opportunity, the House, in May, dropped the provisions and did not respond with an appropriate bill.

On June 5, nearly 2 months ago, this Senate, in a bipartisan manner, passed legislation that would provide for the refundability of these tax credits and in effect give the credit to low-income families. I commend all of the individual Senators who have led the way both on the Finance Committee and, in particular, Senator LINCOLN of Arkansas, who has been advocating strenuously for this very fair and very prudent approach.

The House, on the other hand, passed an expansive $82 billion tax cut package surrounding this child tax care credit. As a result, they politicized and essentially frustrated the obvious and the compelling need to help these low-income families.

The President has called for the passage of this act, but frankly, other than appearing yesterday at a mailing facility, he has not done a great deal to force the House to pass this very simple, very necessary measure.

I hope we can make progress on this. This tax credit for child care is an important benefit for all of our families and, as I said before, very important for low-income Americans. They are struggling and with both parents working two jobs to make ends meet. These are the working Americans who are doing difficult work and working very hard. They deserve the same kind of assistance to raise their children we are providing for middle and upper-income Americans.

This is a question of fairness, certainly. It is unfair, in my view, that we would provide benefits for certain children—ironically, some of the most affluent children—and not provide similar benefits for low-income families with children. It is just patently unfair. Also, it is part of an emerging pattern of indifference, and worse, towards low-income Americans.

There is the issue of the Earned-Income Tax Credit. This has been an enormously successful program. It has, in my State of Rhode Island alone, provided $90 million to over 57,000 families in the year 2001, giving them additional help based upon their work. Recall now, this is the Earned-Income Tax Credit; you have to be working, you have to qualify by accumulating income to get the tax credit.

This is one of those very ingenious mechanisms which help lift families and children out of poverty, and it has done so with remarkable success. It has been a tax provision supported by both sides of the aisle enthusiastically for several decades. But now the IRS has announced its intention to require elaborate precertification for EITC eligibility for about 45,000, as they term it, high-risk households. Generally these are households in which grandparents or single fathers are raising children.

But perhaps of more concern to me is that there are plans to expand this precertification process to 2 million households in the year 2004 and to 5 million households within 3 years. This is a move that President Bush clearly supports, because he requested $100 million in additional funds for the fiscal year 2004 budget for this so-called compliance initiative.

If we were to propose an elaborate precertification for middle-income and upper-income tax advantages, there would be howls of protest. We would rush to this floor crying foul, accusing the IRS of overreaching and meddling with burdensome impacts upon taxpayers. But that is exactly what, in my view, is happening to low-income families in the budget proposal of the President for this precertification.

Again, I note the President has requested $100 million for additional funds to supposedly precertify families qualifying for a tax advantage under the Earned-Income Tax Credit. Just yesterday we couldn't afford, according to the vote, $100 million for improved transit security in the United States. That suggests to me the wrong, and perverse, if you will, priorities. If we are spending $100 million to try to force low-income families to come up with documentation to qualify for a tax cut but we can't find the money to protect the subways and the trains and the buses in the United States, that suggests something askew in our policies and our priorities.

I think what the pre-certification does, frankly, and maybe intentionally, will dissuade some individuals who qualify for the EITC from coming forward and applying for it. They might not understand the new precertification. They might have to pay for tax advice to do it appropriately. And one other point: the IRS has the authority to release all this documentation to the Department of Justice and other Federal agencies at their discretion, which might cause some people concerns about privacy.

This is something that, again, if we proposed it for middle- or upper-income Americans, you could not hear yourself think because of the howls of protest in this body. Indeed, back in 1998 we passed the Internal Revenue Service Restructuring and Reform Act because of supposed taxpayer harassment inflicted upon middle- and upper-income Americans by the IRS. It seems when it comes to low-income Americans who work and who qualify for the EITC, harassment isn't a problem when it comes to proposals by the administration.

I am also disappointed that in line with this attack against low-income Americans is the inability of this body and the other body to pass a long-term unemployment compensation benefit that will really take care of all the Americans who are suffering because of an economy that is functioning poorly—and that is being polite—at this

moment. Unemployment in June was up to 6.4 percent, and those numbers don't even include the 4.5 million underemployed individuals, those who are working part time, looking for full-time employment but struggling to get by on part-time jobs. At least 1.3 million of these 4.5 million are in that category of looking for long-term, full-time employment but having to settle for something part-time. Yet they are excluded from our unemployment compensation provisions.

In addition, we will shortly be looking at new rules by the Department of Labor with regard to the Fair Labor Standards Act that relax overtime protection. We are also encountering proposals to increase the TANF requirements from 30 hours to 40 hours per week. Here, at a time when there are so many Americans struggling to find a job, struggling to find a few hours of part-time work, we are proposing to increase the number of work hours under the TANF Program. I think this approach to TANF will be another impact on the low-income children of this country because it will necessarily require mothers to spend less time with their children. Again, this is another example of a policy that is not good for the economy and it is certainly not good for children.

Then we are looking at Head Start proposals and AmeriCorps proposals, as Senator STEVENS just indicated, that are shortchanging so many people, particularly young people in this country. Again, I hope we can very quickly resolve this issue with respect to the child tax credit, the underlying point of my remarks today. There are 6.5 million wage earners who are working, contributing to our economy, and trying with all their might to raise their children. Today we are ignoring the plight of all of those 6.5 million people. I hope our indifference will end very quickly.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, I ask unanimous consent to proceed for 10 minutes as in morning business.

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

TRIBUTE TO HAL McCOY

Mr. DEWINE. Mr. President, I rise today to pay tribute to a truly remarkable Ohioan—a man who has covered Cincinnati Reds baseball for the Dayton Daily News for the last 31 years. This weekend, Hal McCoy will join many legendary baseball players and sports writers when he is inducted into the writers wing of the Major League Baseball Hall of Fame. This is a fitting and well-deserved tribute to a man who reminds all his readers everyday about why we love baseball.

I am a life-long fan of the Cincinnati Reds. For the last 31 years, I have counted on Hal McCoy for complete, detailed, objective coverage of their games. When I am back home in Ohio, the first thing I do when I pick up the Dayton Daily News in the morning is read Hal's reports. When I am in Washington, I read them off the Internet.

For more than 3 decades, Hal McCoy has brought to life in vivid detail thousands of Reds games. Through his words and insights, he has taken readers, like me, onto the field and into the clubhouse. With his stories, we have felt the players' pride in their wins and the pain in their losses. Hal McCoy has brought readers right to the game, giving us a real glimpse into the highs and lows of the Reds seasons.

One of the things I admire most about Hal is his incredible work ethic—unbelievable. Hal McCoy is, some people have said, almost a machine. I have always been amazed by his ability to crank out so much material and so many anecdotes and ''notes'' from the games. Nothing stops him.

You pick up the paper in the morning and you see the account of a game. Sometimes you will see a column to go along with that, you will see another story on the back page, and then you will see the notes of the game—sometimes three, sometimes even four stories just in one paper by one writer. That is Hal McCoy. He works and works and works and has an unending, unfettered enthusiasm, after all these years, for the game of baseball.

Hal McCoy is a very special man. I wish to take a few minutes today to tell my colleagues a little bit about his life and his career as a sports writer.

Hal was born and raised in Akron, OH. He played Little League baseball in Summit County and later graduated from Akron East High School. He then graduated from Kent State University in 1962, with a Bachelor of Fine Arts and a major in Journalism. Upon receiving his diploma, Hal immediately put his degree to good use when he started a job as a Dayton Journal Herald reporter, covering the Dayton Public prep league.

Hal first covered the Cincinnati Reds for the Dayton Daily News in 1973. No one knew at the time that Hal would be holding our Nation's longest-running tenure, covering one team continuously or that he would be recognized as one of the finest journalists in Ohio history, let alone one of the finest ever in his profession.

A few years ago, Hal suffered a stroke in his right optic nerve while covering a Reds game in St. Louis. He lost half of his vision as a result. While this would cause most people to slow down or stop, Hal could not be deterred. He overcame this adversity with grace and continued his post with the Reds.

Then, on January 23, 2003, Hal suffered a stroke in his other eye. Suddenly, legally blind, Hal was faced with a seemingly insurmountable obstacle—the eyes that he had been using for years to ''show'' the game to his readers essentially stopped working for him. But, Hal wouldn't let that stop him. He persevered. He never complained. And, when faced with the choice to retire, his resolve to write his legendary stories only became stronger.

Today, Hal continues to attend and report on Reds games using a special large-size scorebook that he designed. He says:

> I tell everybody I'm going to do this until my head hits the laptop, when I pass out in the press box. That's how much I love this job.

And let me tell you that Hal's fans couldn't be happier! Many, many Reds fans, like me, still can't wait to get up in the morning and read his stories. That is how much we enjoy his work and what he produces every day.

The publisher of the Dayton Daily News, Brad Tillson, has said this of Hal:

> I've been reading Hal McCoy's coverage of Major League Baseball and the Cincinnati Reds for more than 30 years, and I never cease to be amazed at his insight into the game and his ability to communicate it to the readers. He calls the games as he sees them with candor, integrity, and authority. Sometimes it's more illuminating to read Hal's account of the game than it is to watch it.

I must also add that the respect of the players Hal McCoy covers is also very illuminating. When Hal was faced with the loss of his sight, some of the players went to him and told him: You can't quit. You need to keep doing what you love to do.

He is held in respect by the people he covers. I think that says a lot about Hal McCoy.

Of course, if you ask Hal about the secret to his success, he would respond that it is ''the readers, the people.'' That connection with the people is very powerful. It is not at all surprising that Hal hasn't missed a road series in 30 years. Hal has said:

> When I sit down at my laptop, it is the readers I have in mind. What would they want to know? I've tried to inform them, entertain them, and tell them the truth to the best of my capacities . . . I can never thank all the readers who have been so supportive. You are what we are all about.

It is this humble spirit and gratitude for his readers that Hal's friends and readers love most.

As Hal takes his destined place in the writers wing of the Baseball Hall of Fame, I join many other proud Ohioans in saying thank you. Hal Mccoy is a terrific writer, a magnificent storyteller, and an exemplary and well-respected member of his community. My family—my dad and my children—extends its warmest congratulations and sincerest thanks to Hal for his wonderful writing and his dedication to continuing to do what he loves despite difficult challenges. We thank him for his service to the Dayton community, to the Miami Valley, to Ohio, and to our Nation.

I look forward to many more Cincinnati Reds seasons that Hal will cover and many more great stories.

Thanks Hal. We appreciate the great work you do.

I thank the Chair. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BURNS. Mr. President, I appeal to my good friend from New Mexico who is managing this Energy bill and ask unanimous consent to proceed as in morning business.

Mr. DOMENICI. I have no objection.

Mr. BURNS. For less than 10 minutes.

Mr. DOMENICI. Whatever time the Senator desires. We have no objection.

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

Mr. BURNS. I thank my good friend.

FIGHTING FOREST FIRES

Mr. BURNS. Mr. President, on the floor of the House of Representatives this morning, they are debating a supplemental appropriations bill that deals with some serious issues that are happening under the heading of disasters across this country. The appropriations bill does not designate any money for firefighting in the West. I have been told that right now the Forest Service currently has $352 million available for wildfire suppression, but that is only going to last the next 2 weeks. The latest projections, which are conservative, I am told, indicate the expected expenditure for fighting forest fires this year is $775 million.

We have a certain amount of money set aside for prevention; that is—if we didn't have this procedure called appeals—those accounts that are set aside for prevention will now be moved over to fire suppression. We are between a rock and a hard place.

It occurs to me that with the support of the White House, a clean supplemental for fire suppression, under emergency conditions, makes a lot of sense. We have to provide some money for fire suppression. The American people are turning on their television sets every night, and every night our forests are afire.

To give a rundown, they have evacuated all of Glacier National Park. Even some people they said would not have to evacuate—they are inholders in the park and have homes along Lake McDonald—they had to prepare their homes for fire prevention, and they left the park, for example, to get their groceries. Now they will not let those people back in. That is a local situation, and I am sure that is going to get ironed out.

That is how drastic this situation is. I call upon my friends in the House of Representatives: Do what is right to handle the emergencies we now have because, if we don't, when we start running out of money, then—due to this extended drought, with very hot conditions right now in the Rocky Mountain West—we are going to have these fires far into the month of September. It is just not right.

These fires are threatening our national treasures. McDonald Valley, Glacier National Park, is now on fire on both ends. Remember the book, ''The Perfect Storm,'' about two storms coming together at the right time, and they are only 10 miles apart, that is the ''perfect storm,'' and we could lose that entire forest.

I call upon my colleagues in the House to do the right thing now because we understand they are going to pass this bill and send it to the Senate. The Senate is in a vise. We either take it or we don't. If we don't, it will be zero dollars and the middle of September before any funds will flow into these areas that desperately need the money.

I don't know who is giving advice on this issue. I don't know who is doing the thinking on this issue. But I will tell you right now, it is wrong-headed to do it as the apparatus is set up to get it done now. It is just wrong-headed. I feel powerless to do anything, especially for the forests in my State of Montana, and that is not a very good feeling.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, before the Senator leaves the floor, I wish to make a comment.

First, I was present when Senator STEVENS, the chairman of the Appropriations Committee, spoke, which was prior to Senator BURNS. He heard him, he talked to him, and then he spoke.

I wish to talk a minute about an issue that is dear to the Senator and Senator BINGAMAN, who sits here, and myself. We continue to have meetings in our Committee on Energy and Natural Resources and the Agriculture Committee of the Senate trying to analyze why it is we are unable to address the issue of thinning our forests and getting rid of blighted areas in large manner rather than taking so long and sitting by and watching the forests of America deteriorate to the point that they become tinderboxes. They are so filled with overgrowth that fires are inevitable. And when fires happen, very big trees burn because the bottom is totally filled with too many trees, too much brush, too many of the branches and leaves that have fallen. Then thousands of acres are blighted and dried and nobody is doing anything about it.

Then comes a fire. Then we come along and we say: Let's put up extra money to put out these fires, so-called disaster money. Then groups across America begin to run advertisements, have meetings and say: What is the matter with Congress? We can't get our forests thinned. We can't get them fixed. We cannot get the kind of reform that will get work done.

We have arguments that break along environmental and nonenvironmental lines. We can solve those, perhaps, in the next month or two.

But let me say to the U.S. House, I submit to you the real problem we are having in getting any kind of real cleanup of the forests—that is, preventive work done on American forests, be it BLM forests that belong to Interior or forests that belong to the Department of Agriculture and the National Forest Service—is because there isn't any money to do it.

The question is, why isn't there any money? We are always appropriating money for it. And every year there will be a bill that comes through here, Interior appropriations, and you find money for that, a lot of money for that. But guess what happens. Very shortly as the year starts, we have to put out fires. And then what happens? There is no money to put out those fires.

The disaster money we are talking about today and that Senator STEVENS came to the floor and told the House about, the Departments of our Government say: Well, we have a disaster. We have to spend the money.

Surely, they do. What they do is, they take money from other aspects of the Government. What are those? Many of them are accounts which would be used for major prevention on the forests. If there isn't any money for that, the year will pass. The money will have been spent on the disaster, and we will be here talking about a supplemental that is too late and inadequate, and the prevention will not occur.

It is so desperate that in our Committee on Energy and Natural Resources, there have been suggestions to try to set this money aside, to set up a new fund, a whole new way so that the prevention money is prevention money and nothing else. The distinguished Senator, Mr. BINGAMAN, has suggested such an effort.

I am not sure it will work because obviously once you get a big forest fire going and you don't have any money to put out the fire, they are going to find the money somewhere within the Department, unless you took it out of Interior and put it in the Army and said: You can't get it because it isn't even there. They are going to have to use the money they have and make it fungible, take it away from prevention and use it for disaster.

Somehow or another we have to stop that. While I am not today able to say to the House what they are and aren't doing because I am not privy to what Chairman STEVENS is, it seems to me that something like this is occurring early in the season in this supplemental that the House is talking about. Before we even get seriously into the season, we are having more of this: Well, we are having to put out disasters. We will find the money. And if we didn't put up enough, use other money. And yes, there will be a whole

blighted area somewhere in Alaska or northern New Mexico that is supposed to get money for prevention and cleanup, and they will be out of money.

Essentially, this is not simple fun and games. This is serious business. We sit around and watch the forests of America change so that they no longer look like, behave like, or are like they used to be. Our people know it. We know it. They are filled to the brim with too much growth, too much underbrush. They are not even the forests of old. You can't take your children for a nice walk in the forest in most American forests because you can't even walk in them.

I went up into northern New Mexico to the Jemez area and surrounding where I remember, as a youngster, we used to go. There were huge cottonwood trees, wide open, full of pine needles. And believe it or not, it was filled with beautiful growth, such as mushrooms and things that are very pretty. You find you can't even walk, much less see if there is any vegetation, because we haven't had any prevention. We haven't had any maintenance on those forests.

That is minuscule, because we are minuscule in New Mexico compared to the West Coast—Oregon, Washington, and Idaho. I suspect we are talking about the wrong things in this bill over in the House. We are talking about putting money in the wrong place and not facing up to the reality that there are two very distinct needs. And you cannot continue to rob one to pay for the other unless you quickly meet up before the year is out and replenish all of the money in the Departments that are operational, that are ongoing maintenance and operation of the BLM and the Forest Service of America.

I urge the House to do that and be careful not to rob those accounts so much by not appropriating sufficient money for the disaster straight out and leave that other money to be used for what it is intended.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let my compliment my colleague on his statement and also our colleague from Montana.

This is a very serious issue, one we have had many hearings on, one very recently. The problem is just as Senator DOMENICI described it. We have sort of an annual event. Annually, we find out we haven't put enough money in these appropriations bills to fight fires. Accordingly, the agencies involved, in particular the Forest Service, understandably have to go somewhere to get that money. They go into these other accounts. These are the funds they should be using to do the forest thinning and forest health and restoration work we all know is essential.

Last Saturday, I went up to Taos in our home State to see the damage that was done in the Taos pueblo by the Encebado fire. That was a very substantial fire, burning close to 6,000 acres of land, right behind the Taos pueblo. We got a helicopter tour with the Governor and the war chief and the BIA officials and others to survey all the damage that had been done.

On our way back after we had surveyed the damage, which was extensive, we flew down what is called Lucero Canyon. That area was one that the Governor and the war chief pointed out and said: This is an area which is greatly overgrown and which we need to thin. We very much would like to get some Federal funds to help with this thinning activity because our next forest fire we fear is going to be in this canyon.

It is also part of the Taos pueblo land. It is clearly also in danger of burning. That is one area which is one of many areas in northern New Mexico and throughout the West that could be singled out for high risk of being subject to some kind of catastrophic fire.

As Senator DOMENICI said, there are two separate needs. One, we have to have money to fight fires when fires start. But a separate and equally important need is that we have to be able to use the funds we appropriate for thinning activities and for forest restoration activities. We have to be able to use that money for those purposes and not have it transferred for this other purpose. So I hope we can find a solution.

The proposal I have made is that we essentially give the Forest Service authority to go to Treasury and borrow money so they don't have to take it from their other accounts. To the extent there is a need to fight fires, let them go to Treasury and get that money and then have that money reimbursed by Congress in a supplemental later.

I don't think it is tenable for us to think each year, when we have the fire season, we are going to pass a new supplemental appropriations bill. We may have to do that this year. I am not arguing against doing that this year. But that is not a long-term solution to the problem. We need to recognize this problem is with us. Every year we have these fires and every year we come up short in funds to fight them.

I very much hope we can solve that problem and do it in a way that avoids the robbing of funds from the restoration accounts, which is what we have been doing each year.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, my understanding is that we are on the Energy bill. My colleagues are speaking of forests. I come from a State ranked 50th among the 50 States in native forest land. So I am much less acquainted with the challenges of America's forests, forest fires, and other issues than are my two colleagues. I wanted to make a comment about the Energy bill.

I had come to the floor to speak about trade. My understanding from last evening is that we were going to be on the free trade agreement. My understanding is that perhaps we may still be on that later in the day, after the Energy bill is off the floor. Maybe that is not the case.

Let me just say, as a member of the Energy Committee, I feel very strongly that this country needs a new energy policy, an Energy bill. I think it is unlikely that we will be able to finish an Energy bill by the end of next week. There are very significant issues that remain.

Speaking for myself, I want this Senate to pass an Energy bill. I want it to be a good one, one that does all four things that are necessary in a good bill: One that promotes additional production of the sources of energy that we need; one that promotes increased conservation, which is a significant part of our energy needs; for a barrel of oil conserved is about the same as a barrel of oil produced. So we need production and conservation. We also need strong provisions dealing with efficiencies of all of the things we use day to day that use energy. Fourth, we need an opportunity in this legislation to aggressively pursue both renewable and limitless sources of energy. So production, conservation, efficiency, and renewable and limitless sources of energy are very important provisions.

I want to mention one point with respect to an Energy bill that would be a balanced bill, including those four pieces. In addition to that, we must deal with this question of consumer protection. The reason I say that is, having chaired hearings in the Commerce Committee on what happened in the State of California and in the entire set of Western States some while ago—a year and a half or so ago—it is quite clear to me that having chaired those hearings, we had wholesale cheating going on, and ratepayers from the Western United States were bilked of billions of dollars. I am saying this money was stolen and bilked from consumers. It happened because some companies decided to collude in ways that they were able to cheat the consumers.

Regarding Enron Corporation, for example, we unearthed memoranda that described strategies by which they were going to bilk consumers—Get Shorty, Fat Boy, Death Star. They sound like movies, but they are not; they are strategies by which one company decided to cheat west coast consumers. There are many other companies also.

The FERC, a regulatory agency, has been investigating this. They have come up with some hard words, tough words, but not quite as tough a set of actions as I would have liked. My point is, having learned what we did about what happened in the energy markets on the west coast, we need strong consumer protection provisions in the bill that is voted out of the full Senate to go to conference with the House. I feel

strongly that we need to pass a bill. We will head into the winter with severe dislocations between supply and demand of natural gas. Natural gas prices will increase dramatically. They are already on the rise. That is going to be exacerbated in the coming months. Coming from a northern State where natural gas is a pretty important commodity to us in the cold, with our hard winter climates, this will be a very important issue. We are not going to be able to fix that in the Energy bill in the short run. But we need to tell the American people we have set in place policies that help resolve these issues for the long term and intermediate term. I hope we are able to do that.

I ask the chairman, if I may, I had hoped to be able to make a presentation on the issue of trade. If there are others wishing to speak on energy, I will defer. If not, I would like to proceed perhaps to make the statement on trade, understanding that if Members with amendments are coming back to the floor, they could interrupt me, and I will relinquish the floor so they can clear the amendments. If that is satisfactory to the chairman, I will proceed in that manner.

Mr. DOMENICI. How long might the Senator speak on this issue?

Mr. DORGAN. About 20 minutes, I would guess.

Mr. DOMENICI. We are trying to work out about 5 or 10 amendments. If we get them ready, we will call it to his attention on the bill before us. In the meantime, I am going to have no objection to his proceeding to discuss trade as in morning business.

I ask the Senator if he would permit the distinguished Senator from Idaho, Mr. CRAIG, to speak for a couple of minutes on the issue we have just been speaking on, to wit, the House action with reference to the supplemental. When he yields, I will have no objection to the Senator from North Dakota following him, subject to the understanding that if we need to interrupt him, of course, doing it in an appropriate way, to bring in the amendments, the Senator will have no objection.

Mr. DORGAN. That will be fine. I will relinquish the floor to my colleague from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I thank the Senator for giving me a moment of time to address the stopgap supplemental funding bill that has just come back from the House. I come to the floor as frustrated as the chairman of the Appropriations Committee, Senator STEVENS, who spoke to the issue a few moments ago. Senator DOMENICI spoke, as did Senator BURNS of Montana.

It was 100 degrees in Idaho yesterday. For Idaho, that is hot. It has been that way for 3 weeks. We have dried up. We now have forest fires burning, with literally thousands of acres ablaze. We just lost two people in a wildfire in the middle of the week. Idaho, Montana, Nevada, eastern Washington, Oregon—all of us are afire at this moment.

The supplemental money we put in for the Forest Service and for wildfires, which the House took out, was to replenish last year's accounts from which we had borrowed to fight last year's fires. The accounts we borrowed from were the very accounts that would allow people to go out on the ground for the purpose of rehabilitation, for doing the kinds of things necessary to begin to environmentally improve the land, the 7.5 million acres that burned last year in a phenomenal wildfire scenario.

We are deeply into that already this year. Fires have burned extensively in Arizona, and as the heat has moved up the Great Basin States, along the Rocky Mountain ridge, of course, these fires now continue.

Why the House has done this, I am not quite sure. They say there is plenty of money. There is not because the money was borrowed from the accounts of other areas within the Forest Service. That is a standard practice we have done in the past. But the problem is, by doing what the House did, we are not replenishing the accounts of last year that we borrowed from. We have always done that on a historical basis because one cannot measure or estimate how extensive a fire season will be, how many acres will burn, how many people will be employed. We have literally thousands of people in Idaho right now on the fire lines, as is true in other States in the West, and helicopters are flying, aerial bombers are flying, at this moment.

A phenomenally large number of people are employed to stop the fires, protect the environment, and try to save the habitat, the wildlife and, in many instances, houses, private property, homes that are built up and within the forests of our country, up to and within the forests of our country. We are obviously going to have to address this in an emergency environment.

I am extremely disappointed with what the House has done. I have talked with the Deputy Secretary of Agriculture who heads up the Forest Service, and the chief, and they are just a week away from having to again start borrowing out of the accounts that have not yet been replenished. So their capacity to pay back until we obviously appropriate is limited.

We will continue to fight the fires. The fires will be fought. It is the rehabilitation, it is the restoration, that is funded by other accounts that will largely be denied.

FREE TRADE

Mr. CRAIG. Turning to the Senator from North Dakota, I thank him for the time he has allotted me. I think he is going to be talking about trade and possibly the Singapore and the Chilean free-trade agreements. The Senator and I worked cooperatively together on a lot of trade issues, and cochair a caucus on the Hill.

The Senator who is in the chair at this moment is as frustrated as I am about these current free-trade agreements in front of us, because our trade ambassador has stepped into an arena that is frankly none of his business, if I can be so blunt, and that is immigration law. I think the Senator from North Dakota is as frustrated by that as I am. The Senator from Alabama, Mr. SESSIONS, has crafted a sense of the Senate I am looking at that will speak very boldly to the fact that if the trade ambassador wants to send up other free-trade agreements—Senator SESSIONS and I serve on the Judiciary Committee, we will be blunt about it—we are not going to let them out.

This ambassador is an appointed person, not an elected person. He does not have the right to go in and write immigration law. That is not his prerogative. If he has to discuss it, if he wants it to become a part of a trade agreement, then he must tell foreign countries he will offer legislation to Congress to review for the purposes of adjusting trade law, if necessary, where it fits and where a majority of the Congress can and will support it.

The two trade agreements that are in front of us are very frustrating to this Senator because I think we have a trade ambassador who has overstepped his authority and I think it is time we tell him that in as clear language as we possibly can.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

FREE TRADE IMBALANCES

Mr. DORGAN. Mr. President, my colleague from Idaho has described accurately the provision in the free-trade agreement dealing with immigration.

But I must say, and he will agree with me, I am sure, that a sense-of-the-Senate resolution that says, in effect, you better watch it, is the equivalent of hitting someone on the forehead with a feather.

The reason there has to be a sense-of-the-Senate resolution at the moment, if we are to express displeasure, is because we cannot offer any amendments to a free-trade agreement. It is brought to the floor under fast track. This Senate, in its wisdom—or in its lack of wisdom—said we agree to put our arms in a straitjacket so whatever the trade ambassador negotiates anywhere in the world, he can bring it back here and we agree to prevent ourselves from offering amendments. That is fast track.

I do not have any big issues with Chile or Singapore. The free-trade agreement coming to the Senate floor is not even a very big deal with respect to Chile and Singapore, the two countries with whom the agreements are made. The big deal to me is that we have made agreement after agreement in international trade. In each case, this country has lost, and lost big time.

We have lost jobs. We have lost economic strength. We have massive problems in previous trade agreements. None of them are being fixed. None of them get solved. What gets done? Well, new trade agreements seem to emerge on the Senate floor. Rather than fixing old trade agreements and beginning to support this country's interests, what we want to do, according to the trade ambassador, is bring new trade agreements so we can debate and vote on those.

What I want to do this morning is talk a little bit about some of those old trade agreements and talk about what ought to be done rather than debating new trade agreements at this point.

First, it is worth noting what our trade deficit is at this point. This is an article from the Washington Post. It shows the trade deficit the end of last year. It is the highest trade deficit in history. The trade deficit soared to $435 billion on an annual basis in 2002, and it is worse now, of course.

Nearly one-fourth of the year's deficit in goods trade was with China, which sold $103 billion more goods to the United States than it bought here.

I will talk about China. It is a story in itself. They ship us all their trinkets, trousers, shirts, and shoes, and they come into our K-Marts and our WalMarts and our grocery stores and we buy all of these things from China. Guess what. China's market is not very open to the products our employees and our businesses produce. They are not buying very much from us.

What does it mean to us? It means we do not have jobs. It means we have people today looking for work who cannot find a job in this country.

Now, it is interesting, there was a story recently about this being a jobless recovery. Of course, we do not have much of a recovery. It is pretty anemic at this point. We have very slow economic growth. So this economy is just sort of bumping along, just hiccuping from day to day, week to week, and month to month without much strength at all. So they say, this is a recovery that is jobless.

Well, they miss the point on that. Oh, there are jobs created by American enterprise. There are jobs created by ingenuity that comes from U.S. firms. It is just that the jobs that are being created are not being created in this country. This is a recovery, all right, an anemic recovery with jobs, but the jobs are not here. The jobs are overseas. More and more, we see jobs in factories that are moved overseas that used to be good American jobs.

So if in fact this is a jobless recovery, it is jobless only to the extent that it is jobless in the United States. We have millions of Americans who desperately want a job, they want to go to work, but there are not enough jobs available. Two-and-a-half million people who were working a couple of years ago now are not working because this economy is not producing the jobs here. Too many American corporations are producing the jobs in Asia and elsewhere. I want to talk a little about that.

Ambassador Zoellick is a perfectly nice person. He is our U.S. trade ambassador. Most people would not recognize his name from a cord of wood, but he serves in a pretty important role. He is the trade ambassador. He goes overseas with his staff and they negotiate trade agreements. These are the agreements by which we trade with other countries. They negotiate behind closed doors. We are not there. Our constituents are not there. These are trade negotiations behind closed doors in which they decide what kind of trade relationship we will have in the future. Then they come back to us with a trade agreement and they say, here is our agreement between our country and China, our country and Japan, our country and European countries.

Then they say to the Congress, because the Congress previously agreed: you cannot change the agreement. We negotiated it in secret, but you have a responsibility to vote on it, up or down, yes or no, with no changes, no amendments. And the Congress was foolish enough to agree.

Here we are. This morning we are talking about a sense-of-the-Senate resolution to say to the trade ambassador: Better watch it. Why? Because he went off to Singapore and negotiated a free-trade agreement with Singapore that said: By the way, in this free-trade agreement having nothing to do with trade, we will insist that a provision will allow 5,400 immigrants from Singapore into the United States under 1-year visas that will be renewed indefinitely.

What are they going to come here for? To work. Will they come to see movies, drive around on Sundays? No, they are coming here for a job, to work. We have millions and millions of Americans who need a job, who are out of work, who are struggling every single day. And this trade agreement says: What we would like to do, in addition to creating the trade circumstances that exist by this agreement with us and with Singapore, we agree 5,400 people from Singapore will come here to work.

Usually, if one disagrees with that—and I certainly do—we would offer an amendment to strip this from the trade agreement. But we cannot in this instance, because of the fast track authority we handed to the executive branch.

If ever you want a description of why it is ''dumb'' for the Congress to decide to put itself in a straitjacket, this is it. We are going to vote, probably Monday or Tuesday, on a free-trade agreement with Singapore. That free-trade agreement has a provision in it that will have 5,400 people from Singapore coming to this country to take jobs in this country, when we have 8 to 10 million Americans out of work; and we cannot do a thing about it—not a thing.

Frustrated? Sure, as I am sure are many others. Can you do anything? No, what we can do is say to Mr. Zoellick, the ambassador, with the sense-of-a-senate resolution: You better watch it.

I will vote for it, but it is like beating someone over the head with a feather. It does not mean anything.

Let me talk about what they should be doing instead of creating new fast-track agreements. Instead of rushing off to create new trade agreements, let me make a couple of suggestions.

I will vote against these trade agreements because we ought to be fixing old problems before we create new ones. That is not a judgment about Singapore or Chile. It is a judgment about what I think the obligation of our trade ambassador is. Under Republican and Democrat administrations, they have systematically failed in the obligation to correct trade problems. Let me mention a couple.

Japan has a very large trade surplus with us. We have a very large trade deficit with Japan. Each year, we have a $50, $60, $70 billion trade deficit. One of the products that we would like to export more of to Japan is beef. Fifteen years ago we reached a new beef agreement with Japan. We had negotiators over there negotiating, and they finally reached an agreement. It was front-page headlines in the American newspapers. You would have thought they won the Olympics. They were celebrating and rejoicing and feasting. Big beef agreement with Japan.

It is 15 years later. Where are we 15 years after a beef agreement with Japan, a country with whom we have a very large deficit? Every single pound of American beef going to Japan has a 38.5 percent tariff on it 15 years after the agreement. And that is set to snap back to a 50-percent tariff on every single pound of beef we send to Japan.

Does Japan need more T-bones? Of course. More hamburger? Of course. But every single pound has this extraordinary tariff on it. Why? Because the Japanese are trying to keep it out. They do not want as much as we should be sending at a time when we have a huge trade deficit with Japan.

It is unforgivable. Do you hear complaints from our country about it? No, no one is talking much about it. It is fine with most people around here to run a huge yearly trade deficit with Japan. It is not fine with me. The trade ambassador, it is fine with him. They are so busy negotiating new agreements with new countries that they cannot seem to resolve these issues. A country with whom we have a $60 to $70 billion trade deficit ought not apply 38.5 percent tariffs on the products our ranchers want to send to the dinner table in Tokyo.

What about wheat with China? We just did a trade agreement with the country of China, in order for China to join the WTO. China has a $103 billion trade deficit with us. They send us everything. They send us their trousers, trinkets, shirts, and shoes. They send us everything. Our marketplace absorbs it all. But the fact is, their marketplace is not open to us. What does

that mean? It means jobs move from this country to China. People here are unemployed, out of work, and we are running up this huge trade deficit with China.

Let me mention the agricultural side of trade with China because I care a lot about that. I come from a wheat-producing State. And our trade officials dealing in agriculture on our side recently stated that China has failed miserably to live up to the promises it made when it joined the WTO in 2001. In fact, before he resigned, the top U.S. trade official dealing with agriculture in China said we should file a trade complaint against China, but we are not doing so. Despite a recommendation that we should, we are not doing so for foreign policy reasons. We do not want to upset the Chinese. God forbid we should upset the Chinese.

So we have a $103 billion trade deficit with China and our jobs are evaporating in this country, moving to China for lower wages. And we do not want to upset them. We do not want to demand their market be open to our products.

Instead of having a trade ambassador working on that problem, we have new trade agreements. I do not understand that at all.

Automobiles and China has always been interesting. Our trade negotiators, a couple years ago, went to China regarding the bilateral trade agreement under a Democratic administration—all the Democrats and Republicans in the White House have the same trade view. But let me give you a description of the bilateral trade agreement on automobiles. China is a country of 1.3 billion people who want substantial additional growth. Our trade negotiators said we agree, after a phase-in, China can have a 25-percent tariff on any automobiles we send into China, and we will have a 2.5 percent tariff on any Chinese automobiles sent to our marketplace. Our negotiators said they agree to a tariff that is 10 times higher on U.S. cars being shipped to China than we would impose on a Chinese car coming to the United States.

Why on Earth, on a bilateral agreement in this sector, would our negotiators ever agree to something like that with a country with which we have a $100 billion trade deficit? I don't have the foggiest idea.

This is a 1.3 billion person country that will need automobiles at some point in the future, and we say: We will give you a deal. You have a huge surplus with us, or we have a big deficit with you. We will give you a deal. On automobile trade, we will agree you can have a tariff 10 times higher than ours to keep our cars out.

Unforgivably incompetent, I must say. I am not talking about people, I am talking about the policy.

Something also of interest to me—again, I mention China, but I will get to a couple of other countries—is movies. Our country is pretty good at making movies, the best in the world. Do you know that before China entered the WTO, China allowed 10 movies into the Chinese marketplace a year—just 10? Not 11, not 12—but 10. That was the limit.

But when they joined the WTO in 2001 there was this giant liberalization of trade by China. Do you know what they do now? They allow 20 movies into the Chinese marketplace. I guess that is all right with us. In fact, I had people in that industry say we have really made progress here, big advantages, double the movies into China—10 to 20. We have such low expectations of our trading partners it is incomprehensible to me.

Let me talk about beef with Europe, turning to Europe for just a moment. The occasions in which I have traveled to Europe and opened the pages of the European newspapers, I hear the concerns of the Europeans about growth hormones in American beef. Here is the way they picture American beef: Two-headed cow. Right? Growth hormones, God forbid you raise two-headed cows and you can't eat them because it will ruin your health.

Of course, none of that is true. But nonetheless they have effectively kept U.S. beef out of Europe.

So we filed a trade complaint and our trade complaint on European beef was upheld. And Europe is supposed to let our beef in. But they have not.

So we said: All right, Europe, you are not letting our beef into your marketplace and you should, the WTO says you must, we won the case, and since you are not going to abide by the decision, we will play hardball.

Do you know what we did? We said: All right, we are really going to whip you into shape, we are going to take tough, no-nonsense enforcement against you. We said: We are going to impose tariffs on your truffles, goose liver, and Roquefort cheese. That will scare the devil out of a country, won't it? Take action against truffles, goose liver, and Roquefort cheese. Is there a reason people think we are wimps in international trade? I think so. It is bizarre.

When the Europeans want to get tough with us, they pick sectors like steel and textiles. That sounds robust, doesn't it? But we are going to go at them on goose liver.

Shame on us. We ought as a country to decide we are going to protect our marketplace, not against competition, but against unfair competition, that we are going to demand of other countries, if our marketplace is open to them, their marketplace be open to us. I am not a protectionist. I don't believe we ought to put walls around our country. I believe our consumers are advantaged by expanded trade. But by the same token I believe very strongly that trade ought to be fair.

It is not fair trade with respect to the Chinese and the circumstances I mentioned. Let me mention Korea, just for a moment. I talked about China and Europe. Let me talk about automobiles in Korea.

Do you know in the last year we sent automobiles to Korea, about 680,000 Korean automobiles came into this country—Daiwoos, Hyundais—Korean automobiles. They are probably wonderful cars. I don't know, I have not driven them. But 680,000 Korean cars came into the United States.

Do you know how many U.S. cars we got to Korea? We sold 2,800 cars to Korea. They shipped us 680,000; we sent them 2,800. Do you know why? Because Korea doesn't want American cars in its marketplace and they put up barriers and impediments to keep them out.

What are we doing about that? Nothing. We don't do anything about anything. All we do is go negotiate a new agreement and bring it to the Senate and say, Oh, by the way, we have stuck some extraneous things in and if you don't like it, tough luck, because you can't offer amendments.

Does anyone care about the imbalance in Korean automobile trade? They sent us 680,000 cars and we only get 2,800 to Korea. Does anybody care about that?

There is an interesting example about the Dodge Dakota pickup, just recently. In February of this year, DaimlerChrysler started to sell the Dodge Dakota pickup in Korea. The pickup is made in Detroit, by the way. Korea doesn't manufacture pickups like the Dakota, so DaimlerChrysler thought it had pretty good potential in Korea and the company started marketing to small business owners. It was initially quite successful. It got orders for 60 pickup trucks in February and another 60 in March.

Guess what happened? In March an official with the Korean Ministry of Construction and Transportation decided Dodge Dakota pickup trucks represented a hazard. He said some people were even putting optional cargo covers on the vehicle and that might be dangerous if passengers rode in the back, so he announced that cargo covers on pickups on Dodge Dakotas were illegal, and drivers of the pickups would be fined if they put on a cargo cover. And the Korean newspapers had huge headlines: ''Government Ministry Finds Dodge Dakota Covers Illegal.'' Guess what happened. Korean consumers got the message. They canceled 55 out of the 60 orders they had placed for March.

The Korean Government has done this time and time and time again, to shut down our exports of automobiles to Korea.

On the subject of trade with Korea, I could tell you if you try to send potato flakes to Korea from this country you will find there is a 300 percent tariff on potato flakes used to make confection food.

I could go on for some length at the barriers we face sending America's products overseas into markets that ought to be open to us because our

markets are open to them. But we as a country don't seem to think too much about that, we are so busy doing new agreements.

I have a chart here that shows where we are with trade deficits. With almost every country in the world, we have very significant trade deficits. And ironically, the U.S. trade ambassador has been negotiating with the very few countries with which we have surpluses, like Singapore and Australia. I expect those will soon turn to deficits, given our proclivity to negotiate trade agreements that don't work for our country.

Let me talk just for a moment about Canada. We face wheat coming into this country from Canada, sold by an entity that would be illegal in this country, called the Canadian Wheat Board. It is a state-controlled monopoly that would be illegal in the United States. Yet every day we have Canadian wheat shipped into our country at what we allege are prices below the cost of acquisition, dumping in our country. It is unfair trade. It has been going on for a decade and you can't stop it. You just can't stop it. It is enormously frustrating for our farmers because it takes money right out of their pockets.

One day some while ago I went to the Canadian border with a man named Earl in a 12-year-old orange truck.

He and I went to the Canadian border with about 200 bushels of durum wheat. All the way to the Canadian border we met 18-wheel semi-trucks loaded with Canadian wheat being shipped into this country. When we got to the Canadian border, we couldn't take a small amount of durum wheat in a 12-year-old orange truck into Canada. They stopped us cold. We couldn't move. At the same time, we had all of these semi-trucks coming into this country loaded with wheat. Unfair? You are darned right it is. In fact, Canadian wheat is dumped into our country below the cost of production. Yet we are not able to get satisfaction.

Regrettably, the same is true in almost every circumstance. Instead of trying to resolve these issues for our producers, for our employers, and for our employees in this country, we have this free trade fever to negotiate all of these new agreements, and we are correcting none of the problems in previous agreements.

Those who speak as I do, we are often referred to as ''protectionists.'' The papers will not print op-ed pieces by someone like me on this subject. They will print reams extolling the virtues of this trade policy that comes from Republican and Democratic administrations, but they will never print an op-ed piece by someone who speaks as I do about the need to enforce trade laws.

The view of most around here is that there is a globalization going on and that there are some of us don't get it; we are the xenophobic, isolationist stooges who simply can't see over the horizon; that they know better; and, if we understood all of this, we wouldn't be critical of it.

But the question that is fundamental to me is this, Should we not require that trade be fair?

Let me give an example of what I mean by ''fair.''

Our trade relations are unfair in so many different ways. Is it fair, for example, for a worker in a manufacturing plant in the State of Georgia to compete against a 14-year-old young man or a 14-year-old young woman working 14 hours a day, being paid 14 cents an hour in a manufacturing plant in Bangladesh or Indonesia to produce a product that is then sent to our marketplace to sit on a store shelf in a small town in Georgia? Is that fair competition for the company in Georgia that makes the same product, that pays the minimum wage, that prevents the dumping of chemicals and sewage into the water and air, that makes sure they have a safe workplace because they understand those are requirements in this country, because there are prohibitions against child labor and prohibitions against working people 100 hours a week?

Is it fair competition to allow into that store and onto that store shelf for the consumer a product made by somebody who works 14 hours a day and is being paid 14 cents an hour?

This is a true story. A worker in Bangladesh is paid 1.6 cents for every baseball cap she sews, which is then sent to a store in this country to sit on the shelf and is sold for $17.

Is there a company in this country that can compete with that? I don't think so. Is it fair trade?

Let me give you an example, if I might. The story is entitled ''Worked Till They Drop.'' It tells of a woman named Li Chunmei. Unfortunately, it is not a very unusual story.

Li Chunmei was 19 years old. She worked in a toy factory in China. They made stuffed animals for the U.S. marketplace. Let me read from the article.

On the night she died, Li Chunmei must have been exhausted. Co-workers said she had been on her feet for nearly 16 hours, running back and forth inside the Bainan Toy Factory, carrying toy parts from machine to machine.

Long hours were mandatory, and at least two months had passed since Li and the other workers had enjoyed even a Sunday off.

It had been two months since she and other workers had a Sunday off.

The factory food was so bad, she said, she felt as if she had not eaten at all.

''I want to quit,'' one of her roommates, Huang Jiaqun, remembered her saying. ''I want to go home.''

Her roommates had already fallen asleep when Li started coughing up blood. They found her in the bathroom a few hours later, curled up on the floor, moaning softly in the dark, bleeding from her nose and mouth. Someone called an ambulance, but she died before it arrived.

The exact cause of Li's death remains unknown. But what happened to her last November in this industrial town in southeastern Guangdong province is described by family, friends and co-workers as an example of what China's more daring newspapers call guolaosi.

The phrase means ''over-work death,'' and usually applies to young workers who saddenly collapse and die after working exceedingly long hours, day after day.

Li worked for 16 hours, running back and forth on the factory floor, and had not had a Sunday off for 2 months—not even a Sunday off. I don't know the wages Li made, but I can tell you that I have gone to some of those places in the world. There are circumstances in which 12-year-old kids are working 16 hours a day and are being paid 14 cents an hour. It is not, in my judgment, fair trade. If they take the product of their work, send it to our store shelves, and tell American workers and businesses, Compete with this, it is not a standard with which we ought to aspire to compete.

We ought not be racing to the bottom on the question of workers' standards, on the question of child labor, and on the question of basic fairness and wages. We ought not be racing to the bottom. Yet that is what we are being set up to do with some of these trade agreements.

Let me say again that this trade ambassador and others have a responsibility to be solving trade problems created by past trade agreements and not presenting us with new trade problems in new agreements.

My main interest today is not Chile or Singapore. My interest is that this country has the largest trade deficit in human history, and this country is suffering a mass exodus of jobs that used to be held by Americans, which are now moved to plants and factories where they can pay pennies on the dollar for an hour's wages. My concern is that the rules of trade have not kept up with the galloping globalization of trade.

The winners are not, as some would have us believe, poor people in other countries who now have jobs. There are plenty of studies and evidence showing that in the last 20 years of globalization, the poor have not improved their lot in life.

These trade agreements are about raw profits. These profits have increased because those who produce those toys—in this case, from a toy factory in China—don't have to pay a decent wage. But it has not improved the lot and life of those who work 16 hours a day—teenage kids—and don't have a Sunday off for 2 months.

My question is very simple to this trade ambassador and others: Why will you not begin to solve some problems, demanding on behalf of the workers of this country and demanding on behalf of the businesses of this country—yes, from Japan, from China, from Korea, from Europe, and others—demanding fair trade rules and understanding there is an admission price to the American marketplace?

This marketplace of ours we fought for, for 100 years. When I say ''fought

for,'' there were men and women who died in the streets of this country fighting for the right to organize as workers. We have had major battles in this Chamber on the issue of child labor, on the issue of minimum wage, and on the issue of safe workplaces and polluting streams and the air shed. We fought those battles, and this country has come to grips with the understanding that you shouldn't put 12-year-old kids in factories and work them 16 hours a day and pay them 12 cents an hour. We don't do that because it is not right. It is not right either to ask American workers to compete with unfair trade practices.

Unless this country starts to stand up for its interests, we will not soon have a manufacturing base left and we will not have family farmers available in the future.

I know when I speak this way, there are those who take a look at it and say: Oh, again, another protectionist.

Again, I believe expanding trade is beneficial to this country, but only if it is done under circumstances in which the rules are fair to those of us in this country.

We ought never, ever be concerned about standing up for our interests. If we have trade agreements, trade ought to be mutually beneficial. Too often in the past our trade agreements, with country after country after country, have not been mutually beneficial.

We had a trade surplus with Mexico; did an agreement with Mexico, and turned it into a big deficit. We had a modest deficit with Canada; did an agreement with Canada, and turned it into a huge deficit. It has been the same with Europe, the same with the GATT legislation. All of it has been a colossal failure, in my judgment. The biggest trade deficit in human history: $1.5 billion every single day, 7 days a week. That is what we purchase from abroad more than we ship abroad. And it means we are moving America's jobs overseas at an accelerated rate.

The question is, who will be the consumers in the future? If Americans do not have access to good jobs, who will be the consumers in the future for these cheap imports into this country?

We better come to grips with these trade issues, and soon. I am going to come to the Chamber on Monday and speak more about trade when we have the vote on the Free Trade Agreement.

But let me again say, as I conclude, the reason we are having this vote this way is because this Congress, imprudently, in my judgment, decided to tie its hands with something called fast track. It says: Oh, yes, let's offer up our hands, put handcuffs on them so we cannot offer any amendments.

So now Ambassador Zoellick brings us the Singapore Free Trade Agreement, which says we will allow 5,400 citizens from Singapore to come to this country to take jobs. We have some folks who don't like that, so they are going to do a sense of the Senate resolution. Oh, my God, that is going to make Ambassador Zoellick shake in his boots. It is like hitting him in the forehead with a feather. Sense of Senate: You better not do that again.

The fact is, nobody in this Chamber can do a thing about it because this Chamber decided long ago it would not allow itself to offer an amendment. It is fundamentally at odds with our constitutional responsibilities, in my judgment. But enough Members of this Senate decided to embrace that foolishness and we are now stuck with a circumstance where this agreement will say 5,400 folks from Singapore can come here and take 5,400 American jobs, at a time when we have 8 to 10 million people who are looking for work. Boy, that doesn't add up, where I come from.

I intend to speak at greater length on Monday and try to get some of this trade frustration off of my chest, at least, and see if we can't try to push people—if not pull them—into beginning to stand up for this country's economic interests. No, we don't want an advantage, we just want to stand up for our economic interests and demand fair trade on behalf of American workers and American businesses.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. CHAMBLISS). The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I ask unanimous consent to speak as in morning business.

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

URGENT SUPPLEMENTAL APPROPRIATIONS

Ms. MIKULSKI. Mr. President, I join with my colleague, Senator STEVENS, and other colleagues from the West to protest what the House is about to do in the urgent supplemental bill.

Mr. President and colleagues, and all Americans who are listening, you have to understand what is happening. The Senate passed an urgent supplemental bill to deal with shortfalls in funding where America is facing disasters.

No. 1, our Federal Emergency Management account, which responds to disasters such as hurricanes, earthquakes, and other natural disasters, and even a terrorist attack, is in danger of running out of funds within a matter of days. As of July, they were down to $89 million, and we acted swiftly to send a bill to the House that would include $1.6 billion to replenish the account.

Also, the West is enduring wildfires of unbelievable magnitude because of a combination of fire and drought. Again, as fellow Americans, we joined with our western Senators to put money in the Federal checkbook to deal with these wildfires.

We also included funds to deal with the shortfall in the committee that is investigating what went wrong in the Columbia disaster.

Guess what. We also added $100 million to deal with the shortfall in AmeriCorps that occurred because of bureaucratic mismanagement, so that volunteers would not be penalized and they could come into our school-based programs.

Well, guess what is happening now in the House. This very minute they are debating a rule that, No. 1, limits debate and prohibits amendments. If the rule passes, the House will take up a bill that will essentially strip-mine the urgent supplemental the Senate passed. The House only wants to pass almost half of what the President says he needs for FEMA, and take out all of the other programs.

My message to the House is: Don't do it. Don't pass that rule. It is an embarrassment to you and to the people in desperate need. If you pass the rule, for gosh sakes, don't pass the bill.

I cannot believe the House of Representatives will pass us a take-it-or-leave-it supplemental that takes out help for FEMA, takes out help for wildfires, will not let the NASA commission go on, and essentially pokes AmeriCorps volunteers in the eye, when we are ready to harvest their idealism and put them to work in Teach America and other education programs.

House of Representatives: Don't go out for a 5-week break without helping these desperate situations.

What is an urgent supplemental? An urgent supplemental says when the Federal Government runs out of funds in key programs, because of unintended consequences, we, somewhere in the spring, pass legislation to deal with that. That is what we are supposed to be dealing with now. It is urgent, it is supplemental, and it is desperately needed.

I express my disappointment that the House of Representatives has blocked emergency funding for disaster assistance for wildfire assistance, for AmeriCorps volunteers.

We saw this coming. Who spotted it? Our very able chairman of the Homeland Security Subcommittee on Appropriations, Senator COCHRAN, and Senator BYRD saw this emergency disaster coming. In April of this year, Senator COCHRAN and Senator BYRD asked President Bush to help with emergency funding for FEMA disaster relief. They rightly calculated FEMA would be down to $89 million at the end of July, just when we are heading into high hurricane season, and there would be the possibility of other natural disasters. And God forbid we have to have the money if there is another attack on the United States of America.

They asked for the money in April. Silence from the White House. Silence from the White House. Silence from OMB. Silence—where the clock was ticking, as the money dwindled down.

The President did send Congress a request on July 7. He did say FEMA would run out of money. So the Senate acted very quickly with the President's request, led by Senator STEVENS and Senator BYRD, the chairman and ranking member of the Appropriations

Committee. Expeditiously, within 48 hours of the President's request, the Appropriations Committee in the Senate acted. We approved money for disaster assistance. We approved $1.6 billion for disaster relief. We approved money to help with the Space Station Columbia. We approved money to help with the wildfires facing our Western States and possibly even Alaska itself, and much-needed help in mountain counties of West Virginia.

We helped with AmeriCorps. We did it. And I was a proud sponsor of adding $100 million for AmeriCorps. There were Senators who had disputes on this, so we had a separate vote on AmeriCorps, kind of the American way. I thought: majority ruled. I would have been disappointed if the Senate had defeated my amendment, but we followed usual and customary procedures, and the Senate sustained the AmeriCorps funding by a vote of 71–21.

Then we passed the urgent supplemental as part of the legislative branch appropriations 85 to 7. Again, majority ruled.

The Senate quickly appointed conferees. Remember, the Senate moved very quickly. The President made a request on the 7th. We went to committee on the 9th; to the Senate floor on the 11th. Isn't that just terrific. We knew we had to move fast because it is an urgent supplemental. Then we went to conference. Well, guess what. There was no conference. The House has delayed, delayed, delayed, delayed. And so now at the very last minute they want to leave town for a recess. They want to leave 1 week before we are. Well, they don't have to go this week. There is nothing that says the House has to evacuate Washington. They could stay another couple of days.

But all of last week, ever since we passed this bill on July 11—and it is now the July 25—for 14 days I have been waiting to go to conference to work on this supplemental. I was ready to go during the day. I was ready to go during the night. I was ready to go on weekends. I would have come here on my birthday. I was ready to stand up for America and to stand up for this supplemental assistance. But, no, now they are going to wait for the last minute, pull kind of a parliamentary shenanigan, take it or leave it.

What are they sending over? What an embarrassment. They are sending over $984 million for FEMA assistance, and that is it.

Not only are they taking out AmeriCorps, wildfire money, and NASA money to complete the investigation of what went wrong, they are reducing the FEMA account requested by the Senate by $700 million. We have never let FEMA fall to such a low level. I am sorry that the House is falling to such a low level as well.

We don't need low levels at FEMA. We don't need low levels from the House of Representatives.

I am concerned that the FEMA account is nearly bankrupt. It is unconscionable and irresponsible for we on the Atlantic and gulf coasts who are at the height of the hurricane season, and they know it.

When it comes to looking at the whole issue of wildfires, they know what the West is facing. It is not a TV item. It is brave people willing to put themselves on the line. States are at a financial crisis, and now they are facing the fire crisis. As an east coast Senator, my heart goes out to those in the West.

Then when we look at NASA—we went to the memorial. We said: A grateful nation will never forget. We are going to get to the bottom of this. We are going to fly again.

I hope we do. Hats off and salutes to the commission being led by Admiral Gayman. It is thorough, it is rigorous, it is leaving no stone unturned. We are going to get great results. But they need the money to finish the commission. And where will they get the money? Go back to NASA, take it out of the shuttle? Take it out of space science? It is a slap in the face for the families of those astronauts we promised we would get to the bottom of this. We have a great commission with an outstanding leader, and we should put the money in the Federal checkbook.

Then when we talk about AmeriCorps, 20,000 volunteers will lose their slots within a matter of days. Why? Because the mismanagement at headquarters overenrolled by 20,000 volunteers. We have discussed this. Why punish the volunteers and the community for headquarters? Headquarters is not going to lose their jobs, though I did call for new leadership, and the President has responded. Senator BOND is the one who has been a champion of fiscal reform. He has stood sentry over the issues related to AmeriCorps. The House was silent on it. And the uncovering of the debacle occurred in the Senate under Senator BOND's leadership with my assistance. The reform effort was led by Senator BOND for fiscal accountability and greater transparency, again with our assistance, on a bipartisan basis.

When we put $100 million in the committee, there was a vote on the Senate floor to take it out. Seventy-one Senators voted to keep it in. We have been working in such a bipartisan way. I am so agitated about what is going on in the House. We have had bipartisan cooperation to deal with the urgent supplemental. We have had bipartisan support to deal with the issues. We have conducted ourselves in a way that I thought was civilized and constructive.

I recall the evening where the junior Senator from Alabama rose and said he was going to oppose the $100 million. He had a markup on asbestos. We accommodated each other so the Senator could offer his debate; I could offer my rebuttal. The Senator wanted to return to the asbestos markup. We were crisp. We were cogent. We were civilized. We were collegial. We each had our day. Then the Senate, the next day, had a vote.

How unlike the House. They can't even offer an amendment. Then they didn't even have the backbone to face us in conference.

I don't know how they are going to go back and face their constituents with the fact that they have short-funded FEMA. They have taken out the wildfire money, which I cannot understand. Why punish the West that has been hit by drought, hit by wildfires, and hit by a budget crisis? I don't think Americans should do this to other Americans.

I have spoken about the NASA commission. When it comes to the AmeriCorps volunteers, let me tell you what is going to happen if we don't do this. On August 1, Wendy Kopp, one of the true leaders of America, is going to tell several thousand volunteers ready to go into classrooms: The U.S. Congress didn't think you were important enough or valued enough to put in the grant funds for you to go into those classrooms, authorize the working in PAL programs, literacy programs, all of the education stuff that needs to start in September. We didn't think it was urgent enough. We wanted to have a temper tantrum over a bureaucratic snafu, so we are not going to punish the bureaucrats. We are going to punish the volunteers. We are going to punish the programs that help on education, and we are going to punish our children.

I know one volunteer in education who came to Baltimore. And he went into a very tough school under Teach America. When he came in, the reading levels were 23 percent. When he walked out, after he had finished his AmeriCorps commitment, those kids were reading in the 71st percentile, a 50-percent improvement. That young man changed those kids' lives, but those kids changed that young man's life. He is now a regular teacher in the Baltimore City school system. This is what this is all about. This isn't rich kids singing ''Kumbaya.'' These are kids trying to earn a voucher to pay for the high cost of tuition, give practical experience to America. They help our communities, and then in turn the communities have a great impact on them. It is a modest public investment.

There was a bureaucratic snafu. It has been corrected thanks to the leadership of Senator BOND, with the cooperation of this side of the aisle. Why should we punish 20,000 volunteers who are already to go in September and won't be able to go because of what the House is going to do this afternoon? Shame on you, House leadership, for not at least giving them the vote. Shame on you for not voting sooner and bringing this to conference.

I am very disappointed. I thought in America the majority ruled. There is a very small minority that is blocking this urgent supplemental, blocking following the rules of procedure of the Senate. This isn't about rules. This is

about people. It is about people who could be hit by a hurricane, people who are already hit by a wildfire, volunteers who are ready to roll into our classrooms. ''Ready to roll,'' I use those words deliberately.

A promise made should be a promise kept for the families who lost their loved ones in the Columbia disaster. I really object to their sending back a conference report without these items in it. When this is raised, if this comes back under this draconian circumstance, I will object to it being brought up. I think we ought to send back to the House the Senate bill, which we agreed upon with an overwhelming majority of 80 to 20.

I thank the Chair for his very kind attention. I thank Senator STEVENS very much for his leadership on this issue, and the leadership provided by Senator BYRD, and for the collegiality in which we participated in our debate. My heart goes out to the Western Senators who are about to be nailed by this, and to the AmeriCorps volunteers. I think we need to stand up for America, and we ought to stand up for this urgent supplemental.

I yield the floor, but I will not yield my perspective on this supplemental.

ENERGY POLICY ACT OF 2003—Continued

AMENDMENTS NOS. 1390 THROUGH 1395, EN BLOC

Mr. DOMENICI. Mr. President, we have worked out 11 amendments we would like to dispose of today.

I send a series of amendments to the desk and ask for their consideration en bloc.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] proposes amendments numbered 1390, 1391, 1392, 1393, 1394, and 1395, en bloc.

Mr. DOMENICI. I ask unanimous consent that the reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 1390

(Purpose: To authorize grants to the Ground Water Protection Council to develop risk-based data management systems in State oil and gas agencies to assist States and oil and gas producers with compliance, economic forecasting, permitting, and exploration)

On page 52, after line 22, add the following:

SEC. 1___. RISK-BASED DATA MANAGEMENT SYSTEMS.

(a) IN GENERAL.—The Secretary of Energy shall make grants to the Ground Water Protection Council to develop risk-based data management systems in State oil and gas agencies to assist States and oil and gas producers with compliance, economic forecasting, permitting, and exploration.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,000,000 for each fiscal year.

AMENDMENT NO. 1391

(Purpose: To encourage energy conservation through bicycling)

Page 209, after line 6, insert:

''SEC. 6__. CONSERVE BY BICYCLING PROGRAM.

''(a) DEFINITIONS.—In this section:

''(1) The term 'program' means the Conserve by Bicycling Program established by subsection (b).

''(2) The term 'Secretary' means the Secretary of Transportation.

''(b) ESTABLISHMENT.—There is established within the Department of Transportation a program to be known as the 'Conserve by Bicycling Program'.

''(c) PROJECTS.—

''(1) In carrying out the program, the Secretary shall establish not more than 10 pilot projects that are—

''(A) dispersed geographically throughout the United States; and

''(B) designed to conserve energy resources by encouraging the use of bicycles in place of motor vehicles.

''(2) A pilot project described in paragraph (1) shall—

''(A) use education and marketing to convert motor vehicle trips to bicycle trips;

''(B) document project results and energy savings (in estimated units of energy conserved);

''(C) facilitate partnerships among interested parties in at least 2 of the fields of transportation, law enforcement, education, public health, environment, and energy;

''(D) maximize bicycle facility investments;

''(E) demonstrate methods that may be used in other regions of the United States; and

''(F) facilitate the continuation of ongoing programs that are sustained by local resources.

''(3) At least 20 percent of the cost of each pilot project described in paragraph (1) shall be provided from State or local sources.

''(d) ENERGY AND BICYCLING RESEARCH STUDY.—

''(1) Not later than 2 years after the date of enactment of this Act, the Secretary shall enter into a contract with the National Academy of Sciences for, and the National Academy of Sciences shall conduct and submit to Congress, a report on a study on the feasibility of converting motor vehicle trips to bicycle trips.

''(2) The study shall—

''(A) document the results or progress of the pilot projects under subsection (c);

''(B) determine the type and duration of motor vehicle trips that people in the United States may feasibly make by bicycle, taking into consideration factors such as weather, land use and traffic patterns, the carrying capacity of bicycles, and bicycle infrastructure;

''(C) determine any energy savings that would result from the conversion of motor vehicle trips to bicycle trips;

''(D) include a cost-benefit analysis of bicycle infrastructure investments; and

''(E) include a description of any factors that would encourage more motor vehicle trips to be replaced with bicycle trips.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $6,200,000, to remain available until expended, of which—

''(1) $5,150,000 shall be used to carry out pilot projects described in subsection (c);

''(2) $300,000 shall be used by the Secretary to coordinate, publicize, and disseminate the results of the program; and

''(3) $750,000 shall be used to carry out subsection (d).''.

AMENDMENT NO. 1392

(Purpose: To provide for a renewable production of hydrogen demonstration and commercial application program)

On page 290, between lines 19 and 20, insert the following:

SEC. 8___. RENEWABLE PRODUCTION OF HYDROGEN DEMONSTRATION AND COMMERCIAL APPLICATION PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a program to assist projects for the demonstration and commercial application of the production of hydrogen from renewable resources.

(b) SCOPE.—A project funded with assistance under this section may include an element other than production of hydrogen if the Secretary determines that the element contributes to the overall efficiency and commercial viability of the technology employed in the project, including—

(1) joint production of hydrogen and other commercial products from biomass; and

(2) renewable production of hydrogen and use of the hydrogen at a single farm location.

(c) COST SHARING; MERIT REVIEW.—A project carried out using funds made available under this section shall be subject to the cost sharing and merit review requirements under sections 982 and 983, respectively.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $10,000,000 for fiscal year 2004; and

(2) $25,000,000 for each of fiscal years 2005 through 2008.

AMENDMENT NO. 1393

(Purpose: To require the Secretary of Energy to transmit to Congress a plan for the transfer of title to the Western New York Service Center in West Valley, New York)

On page 150, after line 14, insert the following:

SEC. 443. PLAN FOR WESTERN NEW YORK SERVICE CENTER.

Not later than one year after the date of enactment of this Act, the Secretary of Energy shall transmit to the Congress a plan for the transfer to the Secretary of title to, and full responsibility for the possession, transportation, disposal, stewardship, maintenance, and monitoring of, all facilities, property, and radioactive waste at the Western New York Service Center in West Valley, New York. The Secretary shall consult with the President of the New York State Energy Research and Development Authority in developing such plan.

AMENDMENT NO. 1394

(Purpose: To provide for the preservation and archiving of geological and geophysical data through establishment of a data archive system and for other purposes)

Strike the text starting on page 43, line 19, through page 49, line 19, and insert the following:

''SEC. 112. PRESERVATION OF GEOLOGICAL AND GEOPHYSICAL DATA.

''(a) SHORT TITLE.—This section may be cited as the 'National Geological and Geophysical Data Preservation Program Act of 2003'.

''(b) PROGRAM.—The Secretary of the Interior shall carry out a National Geological and Geophysical Data Preservation Program in accordance with this section—

''(1) to archive geologic, geophysical, and engineering data, maps, well logs, and samples;

''(2) to provide a national catalog of such archival material; and

''(3) to provide technical and financial assistance related to the archival material.

''(c) PLAN.—Within 1 year after the date of the enactment of this section, the Secretary shall develop and submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a plan for the implementation of the Program.

''(d) DATA ARCHIVE SYSTEM.—

''(1) ESTABLISHMENT.—The Secretary shall establish, as a component of the Program, a data archive system, which shall provide for the storage, preservation, and archiving of subsurface, surface, geological, geophysical and engineering data and samples. The Secretary, in consultation with the Advisory Committee, shall develop guidelines relating to the data archive system, including the types of data and samples to be preserved.

''(2) SYSTEM COMPONENTS.—The system shall be comprised of State agencies which elect to be part of the system and agencies within the Department of the Interior that maintain geological and geophysical data and samples that are designated by the Secretary in accordance with this subsection. The Program shall provide for the storage of data and samples through data repositories operated by such agencies.

''(3) LIMITATION OF DESIGNATION.—The Secretary may not designate a State agency as a component of the data archive system unless it is the agency that acts as the geological survey in the State.

''(4) DATA FROM FEDERAL LANDS.—The data archive system shall provide for the archiving of relevant subsurface data and samples obtained from Federal lands—

''(A) in the most appropriate repository designated under paragraph (2), with preference being given to archiving data in the State in which the data was collected; and

(B) consistent with all applicable law and requirements relating to confidentiality and proprietary data.

''(e) NATIONAL CATALOG.—

''(1) IN GENERAL.—As soon as practicable after the date of the enactment of this section, the Secretary shall develop and maintain, as a component of the Program, a national catalog that identifies—

''(A) data and samples available in the data archive system established under subsection (d);

''(B) the repository for particular material in such system; and

''(C) the means of accessing the material.

''(2) AVAILABILITY.—The Secretary shall make the national catalog accessible to the public on the site of the Survey on the World Wide Web, consistent with all applicable requirements related to confidentiality and proprietary data.

''(f) ADVISORY COMMITTEE.—

''(1) IN GENERAL.—The Advisory Committee shall advise the Secretary on planning and implementation of the Program.

''(2) NEW DUTIES.—In addition to its duties under the National Geologic Mapping Act of 1992 (43 U.S.C. 31a et seq.), the Advisory Committee shall perform the following duties:

''(A) Advise the Secretary on developing guidelines and procedures for providing assistance for facilities in subsection (g)(1).

''(B) Review and critique the draft implementation plan prepared by the Secretary pursuant to subsection (c).

''(C) Identify useful studies of data archived under the Program that will advance understanding of the Nation's energy and mineral resources, geologic hazards, and engineering geology.

''(D) Review the progress of the Program in archiving significant data and preventing the loss of such data, and the scientific progress of the studies funded under the Program.

''(E) Include in the annual report to the Secretary required under section 5(b)(3) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31d(b)(3)) an evaluation of the progress of the Program toward fulfilling the purposes of the Program under subsection (b).

''(g) FINANCIAL ASSISTANCE.—

''(1) ARCHIVE FACILITIES.—Subject to the availability of appropriations, the Secretary shall provide financial assistance to a State agency that is designated under subsection (d)(2), for providing facilities to archive energy material.

''(2) STUDIES AND TECHNICAL ASSISTANCE.—Subject to the availability of appropriations, the Secretary shall provide financial assistance to any State agency designated under subsection (d)(2) for studies and technical assistance activities that enhance understanding, interpretation, and use of materials archived in the data archive system established under subsection (d).

''(3) FEDERAL SHARE.—The Federal share of the cost of an activity carried out with assistance under this subsection shall be no more than 50 percent of the total cost of that activity.

''(4) PRIVATE CONTRIBUTIONS.—The Secretary shall apply to the non-Federal share of the cost of an activity carried out with assistance under this subsection the value of private contributions of property and services used for that activity.

''(h) REPORT.—The Secretary shall include in each report under section 8 of the National Geologic Mapping Act of 1992 (43 U.S.C. 31g)—

''(1) a description of the status of the Program;

''(2) an evaluation of the progress achieved in developing the Program during the period covered by the report; and

''(3) any recommendations for legislative or other action the Secretary considers necessary and appropriate to fulfill the purposes of the Program under subsection (b).

''(i) DEFINITIONS.—As used in this section:

''(1) ADVISORY COMMITTEE.—The term ''Advisory Committee'' means the advisory committee established under section 5 of the National Geologic Mapping Act of 1992 (43 U.S.C. 31d).

''(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior acting through the Director of the United States Geological Survey.

''(3) PROGRAM.—The term ''Program'' means the National Geological and Geophysical Data Preservation Program carried out under this section.

''(4) SURVEY.—The term ''Survey'' means the United States Geological Survey.

''(j) MAINTENANCE OF STATE EFFORT.—It is the intent of the Congress that the States not use this section as an opportunity to reduce State resources applied to the activities that are the subject of the Program.

''(k) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary $30,000,000 for each of fiscal years 2004 through 2008 for carrying out this section.''.

AMENDMENT NO. 1395

On page 150, line 24, strike ''(tidal and thermal)'' and insert ''(wave, tidal, current, and thermal)''.

On page 156, line 4, strike ''(tidal and thermal)'' and insert ''(wave, tidal, current, and thermal)''.

Mr. DOMENICI. The amendments have been cleared on both sides.

The PRESIDING OFFICER. Is there further debate? If not, without objection, the amendments are agreed to, en bloc.

The amendments were agreed to.

Mr. DOMENICI. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

EN BLOC AMENDMENTS NOS. 1396 THROUGH 1401

Mr. DOMENICI. Mr. President, I send a series of amendments to the desk and ask for their consideration en bloc.

The PRESIDING OFFICER. The clerk will report. The amendments will be considered en bloc.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], proposes amendments numbered 1396, 1397, 1398, 1399, 1400 and 1401, en bloc.

Mr. DOMENICI. I ask unanimous consent that the reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 1396

(Purpose: Provides authorization dates for Clean Coal program)

On page 90, line 24, strike ''2003 through 2011'' and insert ''2004 through 2012''.

AMENDMENT NO. 1397

(Purpose: To provide for the calculation of coastal impact assistance payments based on previous years' revenues)

On page 40, beginning with line 13, strike all through line 20 and insert:

''(4) For purposes of this subsection, calculations of payments shall be made using qualified Outer Continental Shelf revenues received during the previous fiscal year.

AMENDMENT NO. 1398

(Purpose: To remove requirement that Secretary must hold coastal impact assistance payments in escrow in certain circumstances)

On page 40, strike line 5 and all that follows through line 12, and insert:

''shall not disburse such an amount until the final resolution of any appeal regarding the disapproval of a plan submitted under this section or so long as the Secretary determines that such State is making a good faith effort to develop and submit, or update, a Coastal Impact Assistance Plan.''

AMENDMENT NO. 1399

(Purpose: To clarify that certain hydrgen demonstration programs include the entire National Park System)

On page 286, strike line 10 and all that follows through page 287, line 21, and insert:

''SEC. 814. HYDROGEN DEMONSTRATION PROGRAMS IN NATIONAL PARKS

''(a) STUDY.—Not later than 1 year after the date of enactment of this section, the Secretary of the Interior and the Secretary of Energy shall jointly study and report to Congress on—

''(1) the energy needs and uses in units of the National Park System; and

''(2) the potential for fuel cell and other hydrogen-based technologies to meet such energy needs in—

''(A) stationary applications, including power generation, combined heat and power for buildings and campsites, and standby and backup power systems; and

''(B) transportation-related applications, including support vehicles, passenger vehicles and heavy-duty trucks and buses.

''(b) PILOT PROJECTS.—Based on the results of the study, the Secretary of the Interior shall fund not fewer than 3 pilot projects in units of the National Park System for demonstration of fuel cells or other hydrogen-based technologies in those applications where the greatest potential for such use has been identified. Such pilot projects shall be geographically distributed throughout the United States.

''(c) AUTHORIZATION OF APPROPRIATIONS.—For purposes of this section, there are authorized to be appropriated to the Secretary of the Interior $1,000,000 for fiscal year 2004, and $15,000,000 for fiscal year 2005, to remain available until expended.''.

AMENDMENT NO. 1400

(Purpose: Modifies definition of research in regards to the Next Generation Lighting Initiative)

On page 305, line 23, strike the word ''basic''.

AMENDMENT NO. 1401

(Purpose: Makes technical change to Sec. 111)

On page 37, line 23, strike ''year. Where'' and insert ''year, except that where''.

Mr. DOMENICI. The amendments have been cleared on both sides. These are clarifying and technical amendments, agreed to by Senator BINGAMAN and myself as the managers of the bill. I request these amendments not be counted against any reservations on the finite list of amendments.

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

Is there further debate on the amendments? Without objection, the amendments are agreed to en bloc.

The amendments were agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. DOMENICI. I thank the Chair and yield the floor.

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

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

SINGAPORE AND CHILE TRADE AGREEMENT

Mrs. FEINSTEIN. Mr. President, I come to the floor to make some comments on the Singapore and Chile trade agreements. Let me begin by saying I think it is really a shame that an otherwise good trade agreement with both Singapore and Chile, which I would otherwise support, I cannot support because immigration provisions were added to the bill, I believe contrary to the plenary powers of this Congress.

But before I discuss the trade agreement, I would like to say at the outset that, as I see it, the fast-track process is a real problem. Under fast-track rules, there is limited debate, expedited procedures, deadlines, and no amendments. Congress can only vote up or down.

While the fast-track procedures provide for consultations with Congress, there is really no guarantee that the President or the U.S. Trade Representative will ultimately respect the opinions and advice of Senators and House Members. In other words, we lose all ability to influence the content of a trade agreement negotiated under the fast-track procedures.

For me, from California, a place that has 36 million people and is either the fifth or sixth largest economic engine on Earth, trade agreements have major implications.

I have always had a relationship with the USTR that apparently I do not have with this USTR, because of the size of California economically, and the interests internationally, that at least I be consulted in a meaningful way. In this case, consultation, as I understand it, constituted staff briefings.

I wish to say, my staff does not cast a vote. I cast the vote. So if anyone is going to consult with the senior Senator from California, it ought to be with the senior Senator from California. None of those consultations took place.

Not only that, I have sat on the Immigration Subcommittee for 10 years now and you, Mr. President, are the new chair of that subcommittee. To the best of my knowledge, that subcommittee as a whole—maybe individual members have been able to have an impact, but as a whole, the subcommittee has not been able to have an impact. So any hearing we might have is de minimis in impact because the decision is already made. I am told by my staff that by the time any meaningful briefing took place, the agreement had been signed and sent over here. That is not the way to do business with somebody like me, who has 36 million people, a huge economy, and all kinds of issues in virtually any trade agreement.

Fast track really provides a disadvantage for the people of California. When I was lobbied to vote yes on fast track, I said to virtually every industry in California: Do you realize that if a President or a USTR negotiates an agreement, they can negotiate an agreement and let California suffer all kinds of repercussions and there is nothing your elected representative can do about it? That is fast track. When you have the fifth or sixth largest economy on Earth, it means a great deal.

But, having said that, let me go to the immigration provisions of this free-trade agreement. The administration again insists it has had a number of discussions on these. Perhaps, again, they have with certain Members. They certainly have not with me. But immigration policy has long been well within the purview of Congress, and I believe it should stay there. Indeed, the Constitution gives Congress this power, and I do not think it is wise to give up that power to another branch of Government in this trade agreement or in any other.

These agreements, as I read them, would create sweeping and permanent new categories of visas, regardless of whether Congress would deem these new entries valid or beneficial to our Nation's economy and welfare. Even more important, regardless of whether Congress might want to change these new categories at some later date, we cannot do it.

Specifically, I oppose these agreements because they would create entirely new categories of nonimmigrant visas for free-trade professionals, thus permitting the admission of up to 5,400 professionals from Singapore and up to 1,400 professionals from Chile each year.

They would permit an indefinite extension of these visas.

They would require the entry of spouses and children accompanying or following to join these professionals without limitation. So any number of family members can come in.

They would require, without numerical limit, the entry of business persons under categories that parallel three other current visa categories. In other words, require their entry under other categories, the B–1 business visitor visa, the E–1 treaty trader or investor visa, and the L–1 intracompany transfer visa.

These agreements would permit but not require the United States to deny the entry of a free-trade professional if his or her entry would adversely affect the settlement of a labor dispute.

They would require that the United States submit disputes about whether it should grant certain individuals entry to an international tribunal. So if there was a pattern in our entry practice, we would have to submit that to an international tribunal, and a international tribunal would decide a sovereign right of the United States of America. That, to me, is unacceptable.

These agreements are troubling in their permanence, their inflexibility, and their lack of congressional participation or oversight. The fact is, current law already permits foreign nationals to do all the things specified under the trade agreement. In fact, several thousand nationals from Chile and Singapore enter the United States each year. To the extent that changes need to be made, Congress can choose to make them.

So this raises the question, Why, then, do these provisions need to be in a trade agreement? Perhaps the answer can be found by taking a closer look at these trade agreements, and more specifically at how exactly the agreements differ from current law.

There are no numerical limits for any of the visa categories except the new H–1B(1) visa. There are no labor certifications under this bill. This is very significant. The United States can impose no prior approval procedures, petitions, labor certification tests, or other procedures of similar effect.

Under the visitor visa provisions:

> A party shall normally accept an oral declaration as to the principal place of business and the actual place of accrual of profits.

Where the party requires further proof, a letter from the employer attesting to these matters would serve as sufficient proof.

These are all contained in the trade agreements. Thus, the facts speak for themselves.

But behind the abstraction, the theories, and the statistics of the free-trade agreements we are considering today, there is one inescapable factor, and that is the working men and women of this country and what is going to happen to them.

As I said in the Judiciary Committee, I am not the Senator from Chile or Singapore. I am the Senator from California. The people of my State are working in produce-rich fields. They are building new technologies for tomorrow. They are fiber optic engineers, computer programers, and physical therapists tending to the needs of others, all of whom are going to be affected by the immigration provisions of this bill.

I know of engineers who have been out of work for more than a year who have sent out hundreds of resumes and are still looking for a job—machinists, carpenters, and engineers by the tens of thousands looking for work in my State. Let me give you a couple of cases.

Jenlih Hsieh is a 50-year-old U.S. citizen from Taiwan with a master's degree and more than 12 years of experience in Unix systems administration, filed a complaint with the Equal Employment Opportunity Commission, the U.S. Department of Justice and in Santa Clara County Superior Court. Hsieh alleges that SwitchOn Networks of Milpitas fired him after 6 months and replaced him with an H–1B worker. According to the complaint, the H–1B worker was earning $30,000 less a year, had only a bachelor's degree and much less experience.

Why is this important? It is important because this bill provides that the Labor Department cannot do an investigation to see if the complaint is correct. The Labor Department cannot make a certification that there is no replacement of an American worker. If the administration chose to add this, the message it should send to each and every one of us is the administration fully contemplates that American workers are going to be replaced by the immigration provisions of this treaty and does not want their Department of Labor to be able to check that out and keep records to see if these are, in fact, sustainable complaints.

Bob Simoni, 39, lost his consulting job at Toshiba American Electronics Components in Irvine in March 2002. Simoni, who has an MBA from the University of California-Los Angeles, had worked at Toshiba as a contract engineer for 2 years installing software. He came to work in February to find everyone packing their boxes. Toshiba was outsourcing the division to an India-based technology services company, Infosys, which employs H–1B workers in the United States. Simoni said Toshiba asked him to stay for 3 weeks to do ''knowledge transfer'' with Infosys employee Rakesh Gollapalli, who told him he had an H–1B visa. It hurt to be training someone who for all practical purposes was replacing him, and it felt wrong, Simoni said.

You and I, Mr. President, are allowing this to happen with the H–1B visa being so extensively used in the United States, and we need to change that.

The Boston Globe published an article June 3, 2003 that also reveals the fear many American workers have of losing their positions to H–1B and L–1 temporary workers. The story of John Malloy illustrates the experience of many Americans in the fields of technology, information, and engineering:

> Unix system administrator John Malloy used to work for NASA, but hasn't had a steady job in over 2 years. ''I'm 40 years old, and my life is ruined,'' he said. Malloy said his last job was at a local healthcare company, where he helped train two workers from India. He said the Indian workers are still on the job, but he was laid off. Mallory told the reporter: ''I'm an open, fair-minded world citizen who loves everybody . . . but I'm really starting to get frustrated.''

This trend prompted The San Francisco Chronicle to publish articles on the topic on both May 25 and June 2, 2003. The articles describe the confusion surrounding the use of L–1 visas, citing confusion among companies, labor lawyers, and government agencies as to what type of use of the visas is legal. They also show increasing hostility from American high-tech workers surrounding L–1 visas.

> One example is the case of the dozen computer programmers who were laid off from Siemens Information and Communication Networks in Lake Mary FL, and replaced with foreign workers using the L–1 program. Michael Emmons left Siemens last fall just before his job there was to end. Emmons had worked as a contract computer programmer for the company for 6 years, first in San Jose, CA, and then in Florida. He said, ''This is what they call outsourcing. I call it insourcing. Import foreign workers, mandate your American workers to train them, they lay off your Americans.''

This is what we are allowing to happen. My view is that it is not a problem during boom time because there are enough jobs for all. But what happens when we have these rich programs is that when tough times come, employers succumb to the lure of being able to save $30,000 or $40,000 a worker. We are passing this treaty in the middle of huge unemployment in our country. We are creating a sinecure for these workers from other countries. I think that is a mistaken priority.

Last week, I joined with my colleagues on the Judiciary Committee, Senators SESSIONS of Alabama and GRAHAM of South Carolina, urging the President and the U.S. Trade Representative to withdraw the legislation implementing the Free Trade Agreements with Chile and Singapore.

We also asked that the administration renegotiate or reconfigure the trade agreements without the immigration provisions and re-transmit a new version of the implementing legislation to Congress.

I am extremely trouble that despite these concerns, which were expressed by several members of both chambers of Congress, the President sent Congress implementing legislation that would effectively expand the temporary admissions program without the express consent to do so.

Let me say this: I very much doubt that the USTR is any kind of an expert on immigration. I must tell you that I have heard rumors that this was to be the precedent for some 50 other treaties to come after it. I think if this Senate and the House were to allow this to happen, we don't deserve to hold these jobs.

I don't believe that this Senate should relinquish its plenary power over immigration to any administration nor to any country that is party to a trade agreement. Trade agreements are simply not the appropriate vehicle for enacting immigration law. Such agreements are meant to have a permanent impact. They cannot be amended or modified by subsequent legislation should Congress need to alter these provisions. I am not saying we should capriciously alter these provisions. I am saying that if the economic conditions change, the United States needs to respond to those economic changes rather than to be frozen into a pattern of dozens of agreements which freeze for all time certain things that may be proved to be inimical to our national interests.

A recent commentary by Paul Magnusson in BusinessWeek asked the question I think we should all ask ourselves: ''Is a stealth immigration policy smart?'' Magnusson wrote:

> Complex trade agreements, which increasingly affect the entire U.S. economy and require changes in U.S. laws and social policies, should not be considered in secret, or in isolation from all other legislation.

That is exactly what happened with this agreement. The result of this kind of process is going to be an unwieldy patchwork of conflicting permanent law that will encumber an already overburdened immigration system, while exacerbating the growing backlogs of people already seeking to enter the United States.

Such legislation will ultimately tie our hands when the national interest demands an alteration in the immigration provisions on which we are about to vote. Establishing separate policies and laws for different countries makes the day-to-day implementation more complicated and susceptible to error and abuse. And that is exactly what this does. Every country will have its own set of immigration laws, which can last forever under the terms of the treaty. How can any INS ever administer that?

I have other concerns with the Trade Representative's decision to include so prescriptively the immigration provisions at hand. The Office of the U.S. Trade Representative has not demonstrated the need for negotiating these temporary entry provisions, nor does the office provide any evidence that current immigration law would be a barrier to meeting the United States obligation in furthering trade and goods and services. In fact, current law is sufficient to accommodate these obligations, as evidenced by the millions of temporary workers who enter the United States each year.

Just listen to the numbers: In just 2002, 4,376,935 foreign nationals entered

under the B–1 temporary business visitor visa; 171,368 entered under the E treaty-trader visa; and another 313,699 entered under the L intracompany transfer visa; and an additional 370,490 entered the United States under the H–1B professional visa.

If you add all of these up, we have over 5 million people just last year coming in under these temporary visas, of which probably half become permanent. And that is in addition to the regular immigration program.

In all, the United States admitted a total of 5,232,492 foreign nationals under the current temporary visa categories. Of these numbers, 40,461 temporary business professionals entered from Chile and 29,458 entered from Singapore.

What is my point? My point is, there already is enough room to absorb under present visa categories. Over 40,000 from Chile and 30,000 from Singapore came in last year alone under these visa categories. Yet the USTR saw fit to say: It isn't enough, Senate and House. We are going to impose another permanent program.

Free-trade visas should not be indefinitely renewable, and I am not going to vote for one that is. Under the trade agreements, the visas for temporary businesspersons entering under all the categories in the agreement are indefinitely renewable. So this is what transforms what, on paper, is a temporary visa-entry program into a permanent visa-entry program.

While the trade agreements require temporary professionals to come in under the overall cap imposed on the H–1B visa, each visa holder would be permitted to remain in the United States for an indefinite period of time. That means permanent. Thus, employers could renew their employees' visas each and every year under the agreement with no limits, while also bringing in new entrants to fill up the annual numerical limits for new visas. So the thing spirals and expands exponentially. This effectively would obliterate Congress' ability to limit the duration of such visas even when it is in the national interest to do so.

Thirdly, the agreement provides insufficient protection for workers, both domestic and foreign. Today, in our country, 15.3 million people are unemployed or underemployed in part-time jobs out of economic necessity or they have given up looking for work. Of that number, 9.4 million are considered officially unemployed.

These unemployment figures are the highest in a decade, and yet we are doing this program now. In California, 1.17 million people are out of work. In the San Francisco Bay area, the technology boom and subsequent bust has created a huge pool of unemployed skilled labor. In San Jose alone, 47,160 people—or nearly 10 percent of the population—are looking for jobs.

More and more out-of-work technology workers are filing complaints with the Government or going to court to protest perceived abuses of temporary visa programs. And yet the administration has seen fit to push through a free-trade agreement with immigration provisions of which very few of us could predict the consequences.

Although employers are, by and large, good actors, the provisions in the implementing legislation would expose many more workers—and don't forget this—to displacement, to wage exploitation, and to other forms of abuse. These provisions, as drafted in the trade agreement, would increase the number of temporary foreign workers exposed to exploitation and leave more to face an uncertain future. By making the visas indefinitely extendable, albeit 1 year at a time, these workers will remain in limbo with year-to-year extensions of their stay.

Despite these concerns, the USTR has seen fit to push through a free-trade agreement with immigration provisions that significantly weaken the U.S. and temporary foreign worker protections under current immigration law in several ways.

First, the provisions would expand the types of occupations currently covered under H–1B to include: management consultants, disaster relief claims adjusters, physical therapists, and agricultural managers—professions that do not require a bachelor's degree. Nor would employers be required to demonstrate a shortage of workers in these professions before hiring foreign nationals under the agreement. This opens the door to the inclusion of new occupations in the trade agreement that are not currently included in the H–1B program.

In a sense, what this means is, it is a special program through which you can replace an American worker, pay less for that worker, and keep that worker so that worker isn't going to complain because if he or she does, the visa is not going to get renewed the next year. And if that worker succumbs to any kind of exploitation, his family comes over, her family comes over, and they have a lifetime sinecure, not only with the company but within the United States. No American worker has that.

The current H–1B program defines a specialty occupation as one that requires the application—and this is important—of a body of highly specialized knowledge. That is there for one reason, to ensure employers don't abuse the program to undercut American workers in occupations where there is no skill shortage. What this agreement does is delete the word ''highly.'' So that would lower the standard for admission by broadening the definition of specialty occupation to include any job that requires the application ''of a body of specialized knowledge.''

It is a significant weakening to allow less specialized workers to come in and, I believe, to replace American workers at less money.

Neither the free-trade agreement nor the implementing legislation require the employer to attest and the Department of Labor to certify that the employer has not laid off a U.S. worker either 90 days before or after hiring the foreign worker before the foreign national is permitted to enter the United States.

Why do you suppose that is in there? That is in there so any American employer that wants to can keep an American worker until they can replace them with a foreign worker at less money and then do so. Because those simple precautions that made this more difficult to do are gone. Nobody should believe, when they vote for this legislation, that it is not a foreign-worker replacement program. I have just given the documentation that indicates exactly how it is going to be done.

Once you eliminate the labor certification, you eliminate the requirement that the Department of Labor makes an investigation to verify the employer's attestation is accurate and truthful before permitting the entry of a foreign national. Labor certifications are expressly prohibited under this trade agreement. Again, it is the foreign worker employment program in the United States displacing American workers, and this is how to do it.

Moreover, the implementing provisions limit the authority of the Labor Department by providing that it may review attestations only for completeness and only for inaccuracies. So the screw is being tightened on the Labor Department. You can't investigate, you can't certify, and you can only review the application to see whether it is complete and accurate. To add insult to injury, you have to provide the certification mandatorily within 7 days. So neither the trade agreement nor the implementing language provides the Department of Labor authority to initiate investigations or conduct spot checks at worksites to uncover instances of U.S. worker displacement and other labor violations pertaining to the entry of foreign workers. It is really bad.

This is troublesome, given that in the last 2 fiscal years the Department of Labor investigated 166 businesses with H–1B violations. As a result of those investigations, H–1B employers were required to pay more than $5 million in back pay awards to 678 H–1B workers. That is proof of what is going on. There is proof that companies do this. This is not new thought. I am not reaching to find a reason. This is happening. And in a tough economy, it is going to happen more. Those of us who are elected by workers to protect them fail in our obligation to do so.

While the administration has included a cap on the number of professionals entering under the H–1B(1) category, there are no such limitations on the number of temporary workers entering on other visa categories, including the B–1 visitor visa, the E-treaty/investor visa, and the L–1 intracompany visa.

None of these categories are numerically limited under the agreement. Once enacted, Congress may not subsequently impose caps on these categories for nationals entering pursuant to this agreement.

The trade agreement expressly prohibits the imposition of labor certification tests or other similar conditions on temporary workers entering from Chile and Singapore. I am amazed the Governments of Chile and Singapore want this. I am amazed they want their people to come in and face exploitation in the United States.

While Congress could certainly correct some aspects of the law implementing the trade agreements, it would be limited in what it could do by the underlying trade agreement itself. For example, if Congress decided to better protect U.S. businesses and workers by amending the laws governing the L–1 visa category to require a labor certification or a numerical limit before a foreign worker from Chile or Singapore could enter the United States, it would not be able to do so. Both are plausible options for dealing with perceived abuses in the visa category. However, both trade agreements provide ''neither party may, A, as a condition for temporary entry under paragraph 1, require labor certifications or other procedures of similar effect; or, B, impose or maintain any numerical restriction relating to temporary entry under paragraph 1.''

Again, there is something a little insidious in this, in the formulation of a new program with these specific specifications in view of the fact of the more than 50,000 Chilean and Singaporean workers coming in in our other business visitor visa categories. So the significance of this is creating a new program and making it permanent and taking out any meaningful labor certification. I figure every one of these people can replace an American worker for less money. Otherwise, why do this?

These provisions significantly limit congressional authority, A, to establish labor protections when warranted and, B, to limit the number of visas that could be issued to nationals in Chile and Singapore, should we deem it is in the national interest.

I don't think we should relinquish this constitutional authority. It is really for this reason, on behalf of the millions of Americans who are unemployed and underemployed and particularly in these exact categories, I cannot tell you the workers trained with graduate degrees being replaced, with families. And they can't find jobs. And we fall right into the trap and produce an agreement that is going to say: Labor Department, the only thing you can check is the accuracy of an application for name, address, and phone number, and whether it is all filled in, and then you must certify it within 7 days. And John Smith, who has worked in the company for 10 years, has a graduate degree, gets to train this worker, who is paid $30,000 less—and I gave you actual cases where this is happening—and the worker goes home to a mortgage on a home and a car and three kids in school.

Is this what we are elected to do? I am not going to do it. If I could filibuster, I would filibuster it. I am really angry about it because it is sleight of hand. There was no meaningful consultation. Mr. Zoellick never picked up the phone and called me—or his No. 2, 3, 4, or 5—and said: This is what we are thinking of doing. I know you in California have the highest unemployment in 10 years and there has been a high-tech bubble burst. I know a lot of your professionals are out on the street. What do you think of this? I would say: No way, Jose.

So I am mad and I hope every working man and woman in this country is mad, too. I am mad because—Mr. President, you know, as you were in committee—we asked to send it back. We were refused. And there is no delay. Bingo, it is out on the floor. It is going to be ramrodded through this body.

Well, one thing I have learned is that the working men and women of this country are not stupid. Of all these visitor visas, we have 5 million granted in just a year. People are going to catch on. The word is going to get around. I very much regret that the administration won't eliminate the immigration section. This would be a perfectly good treaty without them. Five million people came in last year under the H–1B visas—5 million. Plenty of room. We don't need to create a new permanent program, tighten the housing supply, tighten the school supply, bring in all these families, and not be able to take care of our own.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

A CRISIS IN EDUCATION

Mr. JEFFORDS. First, I commend my good friend from California for her excellent statement and revealing to the Nation the seriousness we have in the ability to provide jobs with qualified workers. Just this past decade, we brought 4 million workers into this country to take the high-skilled jobs of our Nation because we could not provide them from our own school systems. Yet we have thousands and thousands of unemployed and unskilled workers who have managed to get through our school systems without the necessary skills.

We have a crisis in this Nation, and we have had it for years, and that is in education. This administration is totally ignoring the fact that where we should be putting the funds is in preventing this necessity of having to bring in workers from foreign nations, whether it be from Europe or elsewhere. Most of them come from Asia now. Millions and millions are coming in. Yet our own young people in this country do not have the skills because their school systems are failing. And we are cutting back and back on the funding for education in this Nation.

This administration recognizes we have a problem and realizes our children need help; we have the Leave No Child Behind Program. But we have no funding to prevent the terrible situation that was just outlined by the Senator from California. I praise her for that. But let's wake up and do something about it rather than bringing in millions and millions of workers from Asia to take the jobs that our young people ought to have the skills to take.

MERCURY POLLUTION

Mr. JEFFORDS. Mr. President, I will spend a few minutes expressing my concerns about a serious public health crisis that this country faces due to mercury pollution.

Perhaps some of you have heard of the small fishing community of Minamata Bay in Japan. If you know this village, you know also that it was nearly devastated by mercury pollution.

Over 70 years ago, a chemical plant began dumping mercury waste into that bay. For the next 30 years, local citizens who depended heavily on the bay for commerce and daily sustenance saw strange and debilitating health problems emerge.

At first, those eating fish out of the bay began experiencing headaches, numbness, tremors, blurred vision, hearing loss, speech problems, spasms, and loss of consciousness. As fish consumption continued, more people became sick.

Plus, pets started becoming violent and birds fell from the sky. Naturally, the public's panic grew.

Then, a generation of children was born with shriveled limbs and severe physical deformities. The woman in this photograph is one of the survivors of what was called Minamata Disease.

In all, over nine hundred people died and thousands more were crippled by the poisoning. The Japanese government, which discovered the cause of these illnesses as early as 1956, hid the truth from the ailing public and refused to halt the industrial pollution. The dumping eventually stopped in 1968.

In other words, knowing this mercury pollution was deadly, the Japanese government allowed it to continue for another 12 years.

Surely such abandonment of the public's well-being would not happen today in our great country.

Surely our government would never delay protections from mercury pollution for a decade, while allowing industry to neglect its responsibilities.

Sadly, I am afraid this is exactly what is happening in our country today—over half a century after the lessons of Minamata Bay.

Fortunately, we are not faced with the same concentration of mercury pollution as that Japanese fishing village

so many years ago, where an estimated 27 tons of mercury compounds were dumped into the Bay. Although U.S. power plants emit almost twice that amount into the air each year, it is dispersed broadly, resulting in lower concentrations in any one place.

Some estimates show that almost 100 additional tons of this poison are emitted from other U.S. sources every year, bringing our air emissions total to almost 150 tons of mercury pollution annually.

Furthermore, the principal route of human and wildlife exposure, namely, the consumption of poisoned fish, is the same in this country as it was in Minamata. It is occurring at often dangerous levels.

Power plants are the largest unregulated source of mercury in the country, emitting almost 50 tons each year into our air. To put this amount into perspective, just one-seventieth of a teaspoon of annual mercury deposition can make fish in a 25 acre lake unsafe to eat. Utilities, amazingly, are releasing enough mercury into our air every year to contaminate 45 million lakes.

Medical and solid waste incinerators are also major mercury polluters, but they are regulated under the Clean Air Act. Because of these regulations, incinerators have reduced emissions by 95 percent in the last decade. Impressive. The act also requires any residual risk posed by these sources to be reduced with further emissions cuts.

When utilities burn coal, they release much of its mercury content into the air. This mercury falls with the rain into lakes, streams, and the ocean. It then transforms into a toxic compound called methyl mercury that does not break down easily, as this chart shows.

This toxic mercury is eaten by fish, and increases in concentration up the fish food chain as smaller fish are consumed by larger fish. Eventually, humans and other animals eat the fish, and the mercury too. Clearly, our consumption of larger fish can expose us to greater concentrations of mercury contamination than eating smaller fish. This cycle is depicted in the chart beside me.

The EPA estimates that although some atmospheric deposition of mercury in the United States is due to non-U.S. sources, 60 percent of what falls to Earth in our country is due to our own emissions.

We should take responsibility for the fact that most of our mercury deposition comes from our own country. And, for those sources abroad that affect our Nation's environment, I urge the administration to negotiate a treaty quickly to control non-U.S. emissions.

Mercury contamination of fish in the United States has very harmful impacts on our wildlife and our health. In waterfowl such ass loons, it interferes with vision and muscle coordination. It is toxic to their developing embryos and hinders reproduction. As a result, loon populations are declining, especially in the Adirondacks.

Other fish-eating wildlife like mink and otters are at risk as well.

In humans, once mercury is ingested it has the ability to enter our blood stream and cross the blood-brain barrier. Pregnant and nursing women then can pass the mercury on to developing fetuses and infants, who are at greatest risk for serious health problems.

The National Academy of Sciences has confirmed that prenatal mercury exposure is linked to the following: impaired memory and concentration; the inability to process and recall information; impaired visual and motor function; attention and language deficits; cerebral palsy; mental retardation; and other developmental effects.

These health effects are similar to those caused by lead poisoning. Indeed, mercury is very likely the next lead. We were able to find an effective solution to the lead problem relatively quickly. However, we can and should address mercury pollution even more swiftly and effectively. We have advanced technology that makes it possible and feasible now.

In 2003, the Centers for Disease Control and Prevention found that 1 in 12 women of childbearing age has mercury levels above EPA's safe health threshold, due primarily to consumption of poisoned fish. This totals almost 5 million women, and results in almost 300,000 newborns with increased risk of nervous system damage from exposure in the womb.

EPA recommends that pregnant women, or women who may become pregnant, eat only one serving of fish each week, and adhere to any State advisories that may call for further prohibitions.

What many Americans may not realize is that all other healthy children and adults are also at risk if they consume a large amount of fish. This group includes recreational anglers like this boy here, some Native American tribes, Asian Americans, and the poor. A United Nations Environment Programme report has linked mercury exposure to heart, thyroid, and digestive problems in adults.

This is truly a widespread health crisis. Yet, despite the fact that these at-risk groups can face mercury exposures two to five times higher than the general population, they are often the least informed about the dangers of mercury consumption.

Today we rely on a hodge podge of State advisories to protect citizens from eating too much poisoned fish. Currently, 43 States have advisories in effect.

These advisories cover over 12 million acres of lakes, 450,000 miles of river, 15,000 miles of coast, and more.

Multi-state water bodies are often covered by inconsistent warnings, leading to confusion for anglers and consumers alike. Many States do not even monitor their own rivers and lakes.

Some State advisories are based on EPA's safety threshold, which has been deemed scientifically justifiable by the National Academy of Sciences. However, others are based on the EPA's weaker standard. EPA itself does not issue advisories, but it offers guidance to States.

The FDA is responsible for warning consumers about mercury contamination of commercially available fish. However, FDA advisories are rarely posted where fish consumers can see them, at the grocery stores or fish markets. In fact, only this year did one State, California, require that stores begin posting warnings like this one.

This advisory says:

> Warning—Pregnant and nursing women, women who may become pregnant, and young children should not eat the following fish: swordfish, shark, king mackerel, and tilefish. They should also limit their consumption of other fish, including fresh or frozen tuna.

Shamefully, the FDA does not make public the information it has collected from fish safety testing. Plus, in 1998, it ceased its mercury monitoring program for shark, swordfish, and tuna, and now does only limited testing.

Does this seem like an adequate way to inform the public about the risks of fish consumption? The FDA must act now to better protect Americans.

The good news is that the Clean Air Act is designed to protect us from some sources of mercury pollution. The bad news is that this administration seems determined to reverse or weaken such protections.

The Clean Air Act amendments of 1990, which I was proud to work on with the first President Bush, called on EPA to study the health and environmental impacts of mercury emissions from utilities by 1993.

Unfortunately, this vital study was not completed until the end of 1997.

The amendments also ordered EPA to explore available technologies for their emission reduction potential, and to regulate mercury and other air toxics, if deemed appropriate and necessary by the administrator.

Such a determination should have been made soon after release of the study, during the Clinton administration. However, the Clinton EPA did not issue such a finding until December 2000.

EPA Administrator Carol Browner found that mercury regulation was, in fact, appropriate and necessary, given the results of the prior EPA's study. This kicked off the drafting of maximum achievable control technology—or MACT—standards for mercury.

However, because EPA missed deadlines in the Act to make that determination, environmentalists sued and obtained a settlement creating a schedule for the development of MACT standards.

Now, the second Bush EPA must propose mercury emission standards for utilities by this December, and finalize them by next December. These standards must be met by the end of 2007 at each unit.

EPA could expedite finalization of the standard to give industry more

time to comply, but instead the Agency has opted for delays. I would also note that EPA is currently violating the Clean Air Act's schedule for air toxics controls for many other sources, sending millions more pounds of dangerous emissions into the air we breathe.

Mr. President, industry information shows that the technology exists today to reduce utility mercury emissions by 90 percent or more—down to about 5 tons per year. Under MACT, the EPA should set its standard to match the capability of the best utility performers.

Not coincidentally, a 90 percent cut in utility mercury emissions is guaranteed in my bill, the Clean Power Act of 2003.

However, the current Bush administration has proposed to derail EPA's mercury standard—in essence, to violate the intent of the Clean Air Act.

This administration's multi-pollutant plan, called Clear Skies, does away with the Clean Air Act's technology standard for mercury. In its place, Clear Skies calls for weaker standards and a 10-year delay in their achievement.

Plus, EPA is prevented from using its existing authority to require further reductions if residual risk from utility air toxics remains a problem.

Could it be that the administration is more interested in giving polluters a free ride than in protecting public health?

This harmful bias towards irresponsible industry is something we saw 50 years ago in Minamata Bay—and we should have learned a lesson about its ill effects.

The Clear Skies polluter payoff does not aim for this five ton goal by 2008, but for 15 tons in 2018 and on—for eternity. As this chart shows, compared to a strict interpretation of what the Clean Air Act could do for our health, this rollback totals 520 percent more toxic mercury in our environment and on our dinner tables before 2018, and 300 percent more mercury after 2018.

Why would we pass this risk on to our children? I have to believe that no compassionate parent- or grandparent-to-be would knowingly do that.

EPA has thoroughly studied the mercury threat and devised an adequate health threshold—which has been supported by the NAS. The agency must follow through with the law of the land and cut mercury emissions from utilities now. In fact, this administration does not have the authority to do any less. We in Congress must not and cannot in good conscience give them that authority through the Clear Skies rollback.

If any of my colleagues doubt the potential benefits of the current Clean Air Act, I suggest they ask this administration for its long overdue economic analysis of today's best technologies—what the Act would require utilities to install.

My colleagues should know that they won't get an honest, fair, or timely response, because that response would show that, by comparison, Clear Skies is just a license to keep sending uncontrolled mercury into our air.

It is hard for me to grasp why any administration would want to keep Congress and the public in the dark about the real benefits of the Clean Air Act. Could it be that the administration wants to distort the perceived benefits of any proposed changes.?

To make matters worse, in a recent hearing in the Environment and Public Works Committee, an official from the Council of Economic Advisors suggested that the administration now wants Congress to modify the mercury cap in their air pollution giveaway to make it even less protective.

Instead of capping mercury at twenty-six tons in 2010, the administration would like us to consider a cap as high as 46 tons.

This is an outrage. Utilities today emit about 48 tons of toxic mercury every year. So the modified Clear Skies cap would mean only more inaction.

Candidate George W. Bush started with a four-pollutant bill, then dropped carbon in 2001 to get to three pollutants. Now, his administration is more or less admitting they support merely a 2-pollutant bill. Is that what they consider progress?

Why on earth would we allow them to go forward with this plan?

The scientific evidence about the dangers of mercury exposure mounts annually. The technologies exist today to dramatically reduce emissions and the associated risk. To do otherwise abdicates the administration's and our responsibility to protect public health.

We have a vital choice to make in Congress this year. Either we uphold the law as written in the Clean Air Act or we shut our eyes while the pollution and damage to our health and environment goes on.

The delays and distortion must stop. This in not the 1950s, as much as the administration would like it to be. I have no doubt there will be misguided efforts to stall the mercury standards, which are already late. I promise that I will keep a watchful eye. But I urge all mothers and fathers to pay heed as well—your children's and grandchildren's health hangs in the balance.

I have my own health advisory to post on the walls of Congress today: The administration appears less interested in protecting mothers and children from mercury poisoning, and more interested in protecting the polluters' bottom line. This may explain why they are trying to replace current law with Clear Skies.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent my remarks be as in morning business.

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

NOMINATION OF WILLIAM PRYOR

Mr. HATCH. Mr. President, I rise in support of the nomination of William Pryor to the Eleventh Circuit Court of Appeals. Mr. Pryor was No. 1 in his class at Tulane University Law School. He is a magna cum laude of Tulane University School of Law where he was editor and chief of the Tulane Law Review, something that very few lawyers have the privilege of saying. He then clerked for Judge John Minor Wisdom for the Fifth U.S. Circuit Court of Appeals, a civil rights legend who helped implement desegregation in the South.

While working at two of Alabama's top private law firms, he was the adjunct professor of law at Samford University Cumberland School of Law. In 1995, then-Attorney General JEFF SESSIONS, current Senator from Alabama, hired him as Deputy Attorney General, and in 1997 he was appointed to serve out Senator SESSIONS' term.

In 1998, Alabamians elected General Pryor to this position. He was re-elected in 2002 with the remarkable 59 percent of the vote.

Let me share some of the letters that prominent Democrats have written about General Pryor. Joe Reed, chairman of the Alabama Democratic Conference, which is the State's African-American caucus, writes that General Pryor ''will uphold the law without fear or favor. I believe all races and colors will get a fair shake when their cases come before him . . . I am a member of the Democratic National Committee and, of course, General Pryor is a Republican, but these are only party labels. I am persuaded that in General Pryor's eyes, Justice has only one label—Justice!''

Judge Sue Bell Cobb, who sits on the Alabama Court of Criminal Appeals, stated:

> I write, not only as the only statewide Democrat to be elected in 2000, not only as a member of the Court which reviews the greatest portion of General Pryor's work, but also as a child advocate who has labored shoulder to shoulder with General Pryor in the political arena on behalf of Alabama's children. It is for these reasons and more that I am indeed honored to recommend General Pryor for nomination to the 11th Circuit Court of Appeals.

And Congressman ARTUR DAVIS encouraged President Bush to nominate General Pryor, declaring his belief that ''Alabama will be proud of his service.''

I will submit copies of these letters for the RECORD, along with copies of the other many letters from Democrats and Republicans, men and women, and members of Africa-American, Jewish, and Christian communities who support Bill Pryor's nomination.

It is fundamental that a State attorney general has the obligation to represent and defend the laws and interests of this State. General Pryor has fulfilled this responsibility admirably by repeatedly defending the public first and the laws and policies enacted by the Alabama legislature. But one of the reasons for the broad spectrum of support for General Pryor is his demonstrated ability to set aside his personal views and follow the law. As you will undoubtedly hear during the

course of the debate on his nomination, General Pryor is no shrinking violet. He has been open and honest about his personal beliefs, which is what voters expect from the persons whom they elect to represent them. Yet General Pryor has shown again and again that when the law conflicts with his personal and political beliefs, he follows the law.

For example, in 1997, the Alabama legislature enacted a ban on partial birth abortion that could have been interpreted to prohibit abortions before viability. General Pryor is avowedly pro-life, and has strongly criticized Roe v. Wade, so one might very well have expected General Pryor to vigorously enforce the statute. Instead, he instructed law enforcement officials to enforce the law only insofar as it was consistent with the Supreme Court's precedents of Casey and Stenberg v. Carhart—despite pressure from many Republicans to enforce broader language in the act.

Here's another example: I am sure that we will hear General Pryor's call for modification or repeal of section 5 of the Voting Rights Act, which requires Department of Justice preclearance. By the way, General Pryor is not alone in his opinion of section 5; the Democratic Attorney General of Georgia, Thurbert Baker, has called section 5 an ''extraordinary transgression of the normal prerogatives of the states.'' Despite his opinion that section 5 is flawed, General Pryor successfully defended before the Supreme Court several majority-minority voting districts approved under section 5 from a challenge by a group of white Alabama voters. He also issued an opinion that the use of stickers to replace one candidate's name with another on a ballot required preclearance under section 5. In other words, he upheld a law that he thinks is legally flawed and politically flawed. In other words, this man will abide by the law in spite of his personal beliefs.

Yet another example involves General Pryor's interpretation of the First Amendment's Establishment Clause. In an effort to defeat challenges to school prayer and the display of the Ten Commandments in the Alabama Supreme Court, both the Governor and the Chief Justice urged General Pryor to argue that the Bill of Rights does not apply to the States. General Pryor refused, despite his own deeply held Catholic faith and personal support for both of these issues.

And here's my final example: General Pryor supported the right of teachers to serve as state legislators, despite intense pressure from his own party, because he believed that the Alabama Constitution allowed them to do so. This man follows the law, regardless of his personal beliefs. That is all you can ask of a judicial official and of somebody who is nominated to a Circuit Court of Appeals in this country.

These examples, and I can give others, aptly illustrate why General Pryor's nomination enjoys broad bipartisan support from persons like former Democratic Alabama Attorney General Bill Baxley. He observed of General Pryor:

> In every difficult decision he has made, his actions were supported by his interpretation of the law, without race, gender, age, political power, wealth, community standing, or any other competing interest affecting judgment.

That is pretty high praise coming from a Leading Democrat, one of his predecessors.

Mr. Baxley continued,

> I often disagree, politically, with Bill Pryor. This does not prevent me from making this recommendation because we need fair minded, intelligent, industrious men and women, possessed of impreccable integrity on the Eleventh Circuit. Bill Pryor has these qualities in abundance. . . . There is no better choice for this vacancy.

During the course of this debate, we will hear many things about Bill Pryor. We will hear many one-sided half-truths perpetuated by the usual liberal interest groups who will stop at nothing to defeat President Bush's judicial nominees. I want to make sure that this debate is about fairness, and about telling the full story of Bill Pryor's record.

We will hear that General Pryor is devout pro life Catholic who has criticized Roe v. Wade, but the rest of the story is that many prominent pro-choice Democrats, such as Justice Ruth Bader Ginsburg, Archibold Cox and former Stanford Dean John Hart Ely have also criticized roe without anyone questioning their recognition of it as binding Supreme Court precedent.

We will hear claims that General Pryor is against the disabled and elderly, but the real story is that General Pryor has done his duty as Attorney General to defend his State's budget from costly lawsuits. Other state attorneys general, including respected Democrats like Bob Butterworth of Florida and now Senator MARK PRYOR of Arkansas, have taken the same positions as General Pryor in dfending their States. While the Supreme Court agreed with the attorneys general in these cases that the Eleventh Amendment protects States from monetary damages in Federal court, these rulings did not affect—and General Pryor did not seek to weaken—other important methods of redressing discrimination, like actions for monetary damages under state law, injunctive relief, or back pay.

We will hear claims that General Pryor's criticisms of Section 5 of the Voting Rights Act indicate a lack of commitment to civil rights. That is pure and simple, unmitigated bunk. But the real story is that General Pryor has a solid record of commitment to civil rights, which includes defending majority-minority voting districts, leading the battle to abolish the Alabama Constitution's prohibition on interracial marriage, and working with the Clinton Administration's Justice Department to prosecute the former Ku Klux Klansmen who perpetrated the bombing of Birmingham's 16th Street Baptist Church, which resulted in the deaths of four little girls in 1963.

We will no doubt hear other claims during the course of this debate distorting General Pryor's record or presenting only partial truths. I urge my colleagues to judge this nominee on his record, not on the distortions we too often hear about President Bush's nominees. He will make a fine addition to the Eleventh Circuit.

I ask unanimous consent that the letters to which I have referred be printed in the RECORD.

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

WILLIAM H. PRYOR, JR. TO BE UNITED STATES CIRCUIT JUDGE FOR THE ELEVENTH CIRCUIT

LETTERS OF SUPPORT

ALABAMA DEMOCRATIC CONFERENCE,
Montgomery, AL, January 27, 2003.

THE PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: Through the news media, it has come to my attention that you now have under consideration Attorney General Bill Pryor for appointment as Circuit Judge to the United States 11th Circuit Court of Appeals, of which Alabama is a part. I take this unusual opportunity to urge you to appoint him.

Attorney General Pryor will make a first-class Judge because he is a first-class lawyer and is a first-class public official. He is a person, in my opinion, who will uphold the law without fear or favor. I believe all races and colors will get a fair shake when their cases come before him. As Attorney General for Alabama during the past six (6) years, he has been fair to all people.

For your information, I am a member of the Democratic National Committee and, of course, Mr. Pryor is Republican, but these are only party labels. I am persuaded that in Mr. Pryor's eyes, Justice has only one label—Justice.

I am satisfied that if you appoint Mr. Pryor to the Bench, and he is confirmed by the Senate, he will be a credit to the Judiciary and will be a guardian for justice. I urge you to appoint Mr. Pryor to this important court.

Sincerely,

JOE L. REED,
Chairman.

COURT OF CRIMINAL APPEALS,
STATE OF ALABAMA,
Montgomery, AL, January 21, 2003.

Hon. GEORGE W. BUSH,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: I have had the good fortune to recommend a variety of people for a variety of positions. Never have I been more honored or confident about a recommendation than I am as I write on behalf of my dear friend and Alabama Attorney General, Bill Pryor.

In November of 2000, both you and I were on the ballot. As I stood for reelection for my second term on the Alabama Court of Criminal Appeals, I became the only statewide Democrat to survive the 2000 election. Hence, I write, not only as the only statewide Democrat to be elected in 2000, not only as a member of the Court which reviews the greatest portion of General Pryor's work, but also as a child advocate who has labored

shoulder to shoulder with General Pryor in the political arena on behalf of Alabama's children. It is for these reasons and more that I am indeed honored to recommend General Pryor for nomination to the 11th Circuit Court of Appeals.

Bill Pryor is an outstanding attorney general and is one of the most righteous elected officials in this state. He possesses two of the most important attributes of a judge; unquestionable integrity and a strong internal moral compass. Whether he is reviewing hundreds of appellate briefs to ensure the quality of the work his assistants submit to this court, whether he is preparing to argue one of my cases to the United States Supreme Court. Whether he is using his considerable influence to encourage Alabama legislators to make children a top priority, or whether he is in his weekly tutoring session with an ''at-risk'' child, Bill Pryor is proving that he is a true public servant.

Bill Pryor is exceedingly bright, and a lawyer's lawyer. He is as dedicated to the ''Rule of Law'' as anyone I know. I have never known another attorney general who loved being the ''people's lawyer'' more than Bill Pryor. Though we may disagree on an issue, I am always confident that his position is the product of complete intellectual honesty. He loves the mental challenge presented by a complex case, yet he never fails to remember that each case impacts people's lives.

A sportscaster once said about a former Atlanta Braves player, Terry Pendleton, ''[H]e does the right thing, because it is the right thing to do.'' That, Mr. President, perfectly describes Bill Pryor. Hence, it is my profound honor to urge you to nominate a great Alabamian, General Bill Pryor, to the 11th Circuit Court of Appeals.

I would be honored to assist you in any way in making General Pryor's nomination and confirmation a reality. With best regards, I remain,

Most Sincerely,

SUE BELL COBB,
Judge.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, January 10, 2003.

Hon. JEFF SESSIONS,
U.S. Senate,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR SESSIONS: Thank you for all of your kindness during the transition period. You and the rest of the Alabama Delegation have made me feel very welcome

As you know, several pending vacancies on the Alabama federal bench are attracting attention back home. I understand that the President may be considering Attorney General Bill Pryor for a seat on the Eleventh Circuit. I have the utmost respect for my friend Attorney General Pryor and I believe if he is selected, Alabama will be proud of his service.

In the near future, as openings occur on the District Court, I encourage you to view this as an opportunity to diversify the federal bench. Unfortunately only two African Americans have ever served as federal district judges in Alabama. I believe that a review of the most qualified judicial candidates will inevitably lead to the inclusion of black attorneys. I strongly encourage you to consider recommending for nomination several outstanding black attorneys who have distinguished themselves. I know you would agree that Alabama deserves a federal bench that looks like Alabama.

Thank you very much for your attention to this matter. I look forward to working together over the coming months and years.

Best wishes,

ARTUR DAVIS,
Member of Congress.

BAXLEY, DILLARD, DAUPHIN &
MCKNIGHT, ATTORNEYS AT LAW,
Birmingham, AL, April 8, 2003.

Hon. JEFF SESSIONS,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR SESSIONS: Media reports confirm that Alabama's Attorney General, Bill Pryor, has been nominated to fill the vacancy which now exists on the Eleventh Circuit.

As you well know, I too am a former Attorney General of our great state. I therefore feel comfortable assessing Bill Pryor's service in that elected office, as well as his fitness to serve the United States as a Circuit Judge. As a Democrat, I am certain I have a more unbiased frame of reference than many. As a lawyer with a diverse practice in Alabama—one which has seen me aligned with him on some occasions and against him on others—I have a better basis than most for gauging his character, fitness and ability.

Bill Pryor is a completely independent man of unwavering convictions. He courageously takes positions dictated by his conscience and does so based upon a truly intellectual sense of right and wrong. In this regard, his willingness to be guided by pure interpretations of the law superbly qualifies him for the federal bench. He has never, to my knowledge, bowed to any pressure from constituents or special interest groups. In every difficult decision he has made, his actions were supported by his interpretation of the law, without race, gender, age, political power, wealth, community standing, or any other competing interest affecting his judgment. This is a rare accomplishment, and the core reason for this, my highest and best recommendation.

I often disagree, politically, with Bill Pryor. This does not prevent me from making this recommendation because we need fair minded, intelligent, industrious men and women, possessed of impeccable integrity, on the Eleventh Circuit. Bill Pryor has these qualities in abundance. I am certain he will be guided completely by his conscience and afford a balanced analysis to every case before him, without unfair advantage to any litigant. There is no better choice for this vacancy.

Respectfully yours,

WILLIAM J. BAXLEY.

DEPARTMENT OF LAW,
STATE OF GEORGIA,
March 31, 2003.

Hon. RICHARD SHELBY,
U.S. Senate, Hart Senate Office Building, Washington, DC.

Hon. JEFF SESSIONS,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATORS: I have had the great pleasure of knowing and working with Bill Pryor over the past five years. Through the National Association of Attorneys General, Bill and I have worked together on matters of mutual concern to Georgia and Alabama. During that time, Bill has distinguished himself time and again with the legal acumen that he brings to issues of national or regional concern as well as with his commitment to furthering the prospects of good and responsive government.

During is tenure as Attorney General, Bill has made combating white-collar crime and public corruption one of the centerpieces of his service to the people of Alabama. He joined the efforts of Attorneys General around the country in fighting the rising tide of identity theft, pushing through legislation in the Alabama legislature making identity theft a felony in Alabama. Bill has fought to keep law enforcement in Alabama armed with appropriate laws to protect Alabama's citizens, pushing for tough money laundering provisions and stiff penalties for trafficking in date rape drugs.

Time and again as Attorney General, Bill has taken on public corruption cases in Alabama, regardless of how well-connected the defendant many be, to ensure that the public trust is upheld and the public's confidence in government is well-founded. He has worked with industry groups and the Better Business Bureau to crack down on unscrupulous contractors who victimized many of Alabama's more vulnerable citizens.

From the time that he clerked with the late Judge Wisdom of the 5th Circuit to the present, though, the most critical asset that Bill Pryor has brought to the practice of law is his zeal to do what he thinks is right. He has always done what he thought was best for the people of Alabama. Recognizing a wrong that had gone on far too long, he took the opportunity of his inaugural address to call on an end to the ban on inter-racial marriages in Alabama law. Concerned about at-risk kids in Alabama schools, he formed Mentor Alabama, a program designed to pair volunteer mentors with students who needed a role model and an attentive ear to the problems facing them on a daily basis.

These are just a few of the qualities that I believe will make Bill Pryor an excellent candidate for a slot on the 11th Circuit Court of Appeals. My only regret is that I will no longer have Bill as a fellow Attorney General fighting for what is right, but I know that his work on the bench will continue to serve as an example of how the public trust should be upheld.

Sincerely,

THURBERT E. BAKER.

STATE OF ALABAMA,
HOUSE OF REPRESENTATIVES,
Montgomery, AL, June 5, 2003.

Hon. ORRIN G. HATCH,
Chairman, Committee on the Judiciary, U.S. Senate, Hart Office Building, Washington, DC.

Hon. PATRICK J. LEAHY,
Ranking Member, Committee on the Judiciary, U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SIRS: Please accept this as my full support and endorsement of Alabama's Attorney General Bill Pryor to the United States Court of Appeals for the 11th Circuit.

I am a black member of the Alabama House of Representatives having served for 28 years. During my time of service in the Alabama House of Representatives I have led most of the fights for civil rights of blacks, women, lesbians and gays and other minorities.

Consider Bill Pryor as a moderate on the race issue:

1. From 1998 to 2000, Bill Pryor sided with the NAACP against a white Republican lawsuit that challenged the districts for the Legislature. Pryor fought the case all the way to the U.S. Supreme Court and won a unanimous ruling in Sinkfield v. Kelley, 531 U.S. 28 (2000). The lawsuit was filed by Attorney Mark Montiel, a white Republican, and the 3-judge district court ruled 2 to 1 in favor of Montiel. Two Republicans (Cox and Albritton) ruled in favor of Montiel while Judge Myron Thompson (a black Democrat) agreed with Pryor that Montiel's white clients had no standing to challenge black districts in which the whites did not live.

2. In 2001 and 2002, Bill Pryor sided with the Legislature when it redrew districts for Congress, the Legislature, and State Board of Education. Mark Montiel filed lawsuits in federal court (Montiel v. Davis) challenging the black districts as racial gerrymanders. Pryor won every lawsuit. Pryor came under heavy pressure from other white Republicans in Alabama for fighting to protect black Legislative seats.

3. Bill Pryor worked with U.S. Attorney Doug Jones to prosecute KKK murderers Blanton and Cherry for the September 14, 1963, bombing of Sixteenth Street Baptist Church that killed four little girls. Bill Pryor personally argued to uphold Blanton's conviction before the Alabama Court of Criminal Appeals on May 20, 2003.

4. Bill Pryor drafted the law (Ala. Code §12–25–2(a)(2)) that created the Alabama Sentencing Commission with the stated purpose of ending racial disparities in criminal punishments.

5. In 2000, Bill Pryor started Mentor Alabama—a program to recruit positive adult role models for thousands of at-risk youth which were 99% black. For the last three years, Bill Pryor has worked every week as a reading tutor for black children in a Montgomery public school.

6. In 2002, I introduced a bill in the Alabama Legislature to amend the Alabama Constitution repealing Alabama's racist ban on interracial marriage. Every prominent white political leader in Alabama (both Republican and Democrat) opposed my bill or remained silent except Bill Pryor who openly and publicly asked the white and black citizens of Alabama to vote and repeal such racist law. It was passed with a slim majority among the voters and Bill Pryor later successfully defended that repeal when the leader of a racist group called the ''Confederate Heritage'' sued the State to challenge it.

7. I sponsored HB534 this Legislative Session establishing cross burning as a felony. Said bill passed the Alabama House of Representatives on May 15th 2003. That bill was written by Bill Pryor and he was the only white leader in Alabama that openly and publicly supported it.

Finally, as one of the key civil rights leaders in Alabama who has participated in basically every major civil rights demonstration in America, who has been arrested for civil rights causes on many occasions, as one who was a field staff member of Dr. Martin Luther King's SCLC, as one who has been brutally beaten by vicious police officers for participating in civil rights marches and demonstrations, as one who has had crosses burned in his front yard by the KKK and other hate groups, as one who has lived under constant threats day in and day out because of his stand fighting for the rights of blacks and other minorities, I request your swift confirmation of Bill Pryor to the 11th Circuit because of his constant efforts to help the causes of blacks in Alabama.

Thanks for your consideration.

Sincerely,

ALVIN HOLMES,
State Representative.

HERC LEVINE,
Birmingham, AL, June 5, 2003.

Hon. ORRIN HATCH,
Chairman, Committee on the Judiciary, Dirksen Building, Washington, DC.

DEAR CHAIRMAN HATCH: As an active and proud member of the Birmingham Jewish Community, I was disappointed by the decision of the National Council of Jewish Women and the Religious Action Center of Reform Judaism to oppose the nomination of Attorney General Bill Pryor to the 11th Circuit Court of Appeals bench. While I doubt that these groups have taken the time to sit down and talk with Attorney General Pryor, I am proud to say that he has my support and the support of many in the Alabama Jewish Community because of his personal integrity and commitment to insure that all of our citizens are treated fairly and receive equal justice under the law. He has been a true friend to the Alabama Jewish Community on many important issues.

Attorney General Pryor has a distinguished career as a public servant, practicing attorney and law professor, and is highly qualified to serve on the Federal bench. He has a well deserved reputation for fairness and competency that cuts across party lines and which has resulted in overwhelming support from Alabamians of all political parties and segments of our society. His distinguished record as Attorney General affirms my belief that he will serve with great distinction as a Federal judge.

Very truly yours,

HERC LEVINE.

FAIRNESS IN THE CONSIDERATION OF JUDICIAL NOMINATIONS

Mr. HATCH. Mr. President, on Wednesday the Judiciary Committee favorably reported to the full Senate the nomination of Alabama Attorney General William Pryor for the Eleventh Circuit Court of Appeals. It has been more than 6 weeks since General Pryor's confirmation hearing, and I am pleased that the full Senate will now have the opportunity to consider his nomination.

Nevertheless, we will no doubt hear over the course of this debate many allegations from some of our Democratic colleagues as to why they believe that Bill Pryor's nomination does not deserve an up or down vote by the full Senate. I want to make perfectly clear right now that there is no valid reason to delay this body's consideration of the Pryor nomination.

All we ask is that there be an up-or-down vote. Vote against him if you don't like the man personally—although there is little room to vote against him because of his record.

Despite these efforts by committee Democrats to erect a procedural roadblock to voting on the Pryor nomination in spite of fact that I had set five markups, I finally was able to have a markup on his nomination. They wanted to revive a debate over the interpretation of committee rule IV. This rule, entitled ''Bringing a Matter to a Vote'', was clearly intended to serve as a tool by which a determined majority of the committee could force a recalcitrant chairman to bring a matter to vote. In fact, the rule provides, ''The Chairman shall entertain a non-debatable motion to bring a matter before the Committee to a vote.''

Clearly, it was a rule by which you could force a chairman to have a vote. All you had to do was get a majority of the Senators on the committee with one from the minority side and you could force a chairman to call for a vote.

On Wednesday there was no motion to bring the matter before the committee to a vote. In fact, there was an objection to voting, which I overruled. Thus, on its face, rule IV was inapplicable to the Pryor nomination.

Despite claims to the contrary, there has been no inconsistency in my interpretation of this rule. First of all, I have checked with two Parliamentarians, and both said I could interpret the rule. I believe I have interpreted it correctly.

During the Clinton administration, in an effort to prevent the defeat in committee of a controversial Justice Department nominee, I was chairman and I wanted to bring the nomination to a vote. We had enough votes to defeat the nominee in committee. It would have been a 9–9 tie, and the nominee would have gone down to defeat. The Democrats then started to filibuster their own nominee. In deference to them, I chose not to exercise the inherent powers I and all committee chairmen have to bring a matter to a vote.

I have been condemned for that ever since as though I acknowledged that you should just have filibusters in the committee any time you want to. President Clinton ultimately made a recess appointment of their nominee. In retrospect, my reliance on rule IV to accomplish this was admittedly not the best course of action. I was wrong to say they could filibuster. But I was trying to be gracious to my colleagues on the other side who clearly did not want to vote on the record defeating their nominee. Since I respected and liked the nominee himself, but not for the particular position he was nominated for, I would have supported him for any other position. And I had good reason to be against him for this position. I agreed to allow their filibuster to cause me to pull down his nomination rather than to have a vote that would have been embarrassing to him and to the Democrats. And that is why they were filibustering their own nominee. Now they cite that as the reason why I am wrong here. But there is no reason for that.

I nevertheless believed then, and I do now, that I had the power to bring that matter to a vote, and that I used the discretion of the chairman to decide not to do so. It was a matter of showing decency and kindness to my colleagues on the other side and to the nominee so he would not have a vote that defeated him in committee.

The fact of the matter is I don't believe there should be filibusters in the Judiciary Committee. We have had at least two instances now where my colleagues on the other side have tried to filibuster. In addition, the Democrats now complain they weren't given enough time to do an investigation. We have given them all kinds of time to do an investigation. Since their investigation was proving to be fruitless because they couldn't find one thing to criticize Attorney General Pryor on, they wanted to have a fishing expedition to do further investigation.

I want to make clear that at no time did I agree to modify my interpretation of rule IV in connection with the Cook, Roberts, or Sutton nominations, which is the last context in which this debate arose. I did agree to bring Roberts back in to the committee and have one more day of hearing. I did not agree to bring Cook back or Sutton back. But at no time did I agree my interpretation of rule IV which I made at that time was in error. It certainly was not.

I can't imagine any committee chairman agreeing to give up his or her right to call for a vote in committee after there has been a sufficient debate. No chairman is going to give up that right because that means the minority could control the committee any time they wanted to. The argument which they make on this is ridiculous.

But, be that as may, at no time did I agree to modify my interpretation of rule IV in connection with the Cook, Roberts, or Sutton nominations, which is the last context in which this debate arose. To have adopted the interpretation my Democratic colleagues advanced both then and now would have constituted an unprecedented curtailment of the chairman's inherent authority to bring a matter to vote, and would have given the authority to control the committee to the minority. I don't think they would want that when they are in the majority, and I certainly don't want it now that we are in the majority. No other chairman I know of who has any brains at all would have allowed that type of interpretation. Yet you hear all of the screaming and shouting that they were mistreated.

In short, there was no violation of committee rules or process in bringing the Pryor nomination to a vote on Wednesday, and any argument to the contrary is merely a last-ditch effort to prevent the full Senate from considering that nomination.

Another complaint we will hear is there was an open investigation into General Pryor's activities on behalf of the Republican Attorneys General Association at the time of the vote. Here are the facts:

When our Democratic colleagues brought to our attention documents they obtained pertaining to RAGA, we joined with them to conduct a bipartisan investigation to determine the authenticity of the documents, whether they reflected any wrongdoing on the part of General Pryor. Committee staff interviewed several witnesses in connection with this investigation, with two notable exceptions. First, the Democrats' source of these documents has not answered key questions about when the documents were drafted, who drafted them, and who has had access to them. Second, Democratic staff asked General Pryor no questions about the documents, despite his willingness to answer whatever questions they may have had.

Nevertheless, our Democratic colleagues have insisted on pressing forward with an investigation, over Republican objection, based on unauthenticated and unreliable documents provided to them by a source who refuses to talk to Republican staff, whose former employer stated under oath that she stole the documents, and who has yet to disclose the details of when and how she first provided the documents to Democratic staff.

Some on our side wanted the committee to conduct an investigation of Democratic staff. I am certainly not going to do that. Frankly, Democratic staff, I think, have an obligation if they get documents to look at them and to present them to us. However, these documents weren't presented to us until the last minute.

Frankly, it is just another pattern of practice of delaying as long as they can and making it miserable for people like Bill Pryor to get a vote up or down. All we want is a vote up and down.

Democratic staffers have interviewed 20 persons but have found nothing inconsistent with General Pryor's testimony. There is simply nothing to indicate General Pryor was anything less than truthful about the material facts of his participation in the Republican Attorneys General Association. What is going on here is a classic game of ''beltway gotcha.'' That is no reason to delay consideration of General Pryor's nomination.

We even had members say we want to have another hearing for General Pryor after all that we have had. His was one of the longest hearings I can recall having in my 27 years on the Judiciary Committee. It was a very difficult hearing with a lot of moaning and groaning and screaming and shouting. Frankly, it was one in which I don't think he was treated as fairly as he should have been treated, nor do I think he has been treated fairly since. I think there are reasons for that. One of them is he is so forthright about his testimony and that he has conservative beliefs that I think some on the other side are afraid that even though his whole record is one of following the law, he might not follow the law if he gets on the Eleventh Circuit Court of Appeals—even though he is an honest man and said he will follow the law regardless of his personal viewpoint.

That is all you can ask of these people. When you have a person of the integrity and the ability and the capacity of William Pryor who says he will follow the law, you had better believe it, in my opinion. If we get to the point where we have to second-guess people who have an impeccably honest reputation around here, it is going to get to where nobody who has any views is going to be able to serve on the Federal courts of this land. That is wrong.

I felt like I needed to come here today and say some of these things, because in all honesty I think we have had too many of these type of ridiculous battles in the Senate Judiciary Committee.

I am trying to bring some decency to the committee. I have tried to work as closely with my colleagues who differ with us on our side as I possibly can, and I am going to continue to do that, and try to work in a decent, honorable, good way with my colleagues. But I do personally resent some of the accusations that have been made, some of the mischaracterizations that have been made, some of the things that have been done to besmirch some of these excellent people whom the President of the United States has nominated, and a continuation of filibustering on the floor of the Senate.

Having said that, I am going to conclude with these remarks: Never in the history of the Senate—before Miguel Estrada, Priscilla Owen; and now there is some indication there is going to be a filibuster of William Pryor, the attorney general of the State of Alabama—never has there been a filibuster, a true filibuster against anyone.

Now, I thought—and I have said it on the floor—I thought there was a filibuster of the Fortas nomination, but I was corrected by none other than the Senator who led the fight against Fortas—and that was Robert Griffin of Michigan—in a Republican policy meeting, where he said: I only need to correct Senator HATCH on one statement that he made; and that is, that having led the fight against Fortas—for a variety of what he believed were appropriate reasons; and apparently a majority of the Senate did—he said: We were never filibustering Abe Fortas. And the reason we were not is because we had the votes to defeat him up and down.

But the Democrats called for a cloture vote, which was narrowly won by Fortas, with 12 Members absent at the time, many of whom would have voted against Abe Fortas.

So never in the history of this body has there been a filibuster against any Federal judicial nominees until this year. And now we have two—and a potential of three. And I hope they are not going to filibuster Kuhl. And I hope they are not going to filibuster Holmes. And I hope they are not going to filibuster Judge Pickering when he comes out of the committee, and others.

It is a dangerous thing to do. It is a wrong thing to do. It flies in the face of senatorial history. In the end, this body is going to be very saddened if that is the way all of these nominations wind up, without an up-and-down vote on the floor of the Senate.

What is wrong with having up-and-down votes on the floor of the Senate for these nominees? Whether it is a Democrat President or a Republican President, once they are brought to the Senate floor, they deserve an up-and-down vote. That is all we are asking for.

I yield the floor.

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

Mr. REID. Madam President, I am not going to speak at any great length regarding the statement made by my

friend, the distinguished senior Senator from Utah, regarding this particular judge, Judge Pryor. I don't know much about him, but I am sure in the near future we will learn more about him because, as indicated by my distinguished friend from Utah, the chairman of the Judiciary Committee, the nomination, at the time of the hearing, was very disputed and it took a long time. So I am sure I will learn more about this man.

But the one statement I want to comment on, made by my friend from Utah, is that the Democrats are looking for ways to oppose President Bush's judicial appointments.

Madam President, there is an order in effect that on Monday night we will vote on two judges, a man by the name of Earl Leroy Yeakel of Texas and a woman by the name of Kathleen Cardone of Texas, both to be Federal District Judges for the United States. Both of those judges will be approved by large margins.

These 2 judges will bring the total to 140 judges who will have been approved by this Senate during the administration of this President—140. How many have we turned down? How many have the Democrats—who, as my friend indicated, are looking for ways to oppose President Bush's judicial nominees—turned down? We have turned down two. The count on Monday night will be 140 to 2.

Does it mean that it has to be every judge he gives us? I think not. Any reasonable person, looking at these numbers, would acknowledge there has been no witch hunt by the Democrats. Madam President, 140 to 2 is a pretty good average.

HONORING OUR ARMED FORCES

Mr. REID. Madam President, today, this afternoon, here in the Senate, I stand, for lack of a better description, with a sad heart. I am sorrowful.

Almost every day we see news reports about casualties sustained by our brave men and women in Iraq. In the last 2 days we have lost five soldiers. These reports are always troubling, but when they involve another young person from my State, they really hit home.

Josh Byers of Sparks, NV, was the kind of young man any of us would be proud to call son. He graduated from Reed High School in Sparks/Reno, NV. Kids come from both Sparks and Reno to go to Reed High School.

For many years, the Nevada congressional delegation has been holding an event that was first started by Senator Hecht, who was a Senator from Nevada. And this Senator—we started holding what we call Academy Night where we have a meeting in Reno and one in Las Vegas. We bring young men and young women from Nevada who are now in the academies back to Nevada. We have music, and we have presentations made by all the academies, including the Merchant Marine Academy, about what there is at the academies for these high school students.

They draw large crowds. Hundreds and hundreds of people come to these events in Reno and Las Vegas. And now Senator Hecht and I don't do it alone; now the entire congressional delegation joins us: Senator ENSIGN and I, Congressman GIBBONS, Congressman PORTER, and Congresswoman BERKLEY. These are wonderful occasions.

Josh Byers of Sparks, NV, came more than 1 year. He loved Academy Night. He wanted to go to one of our military academies. He worked hard. He was student body president at Reed High School. He was nominated to the Naval Academy by me. He was nominated to the U.S. Military Academy at West Point by Senator Bryan.

Josh's best friend, Beau Elsfelder, in being interviewed by the press last night, referred to Josh as ''The Man.'' That is how he referred to him. He was an A student. As I indicated, he was president of the student body. They had a military cadet unit there. He was the leader of that unit.

He always told his friends he wanted to be an officer in the Army or the Navy. The entire Nevada delegation was supportive of this dream.

As I indicated, I nominated him to the Naval Academy. Senator Bryan nominated him to West Point where he graduated. He went on to become a company commander in the 3rd Armored Cavalry Regiment. This past April he was shipped off to Iraq to defend our country and our interests in that part of the world. A little more than 24 hours ago he was riding in a vehicle. Two men hiding beside the road triggered an explosive device, killing him and injuring seven other comrades of Josh's.

Tragically, Josh's mother, on this same date he was killed, was observing her birthday. But mothers, as they are, seem to know. Even before the tragic news about her son she had worried about him a lot, was extremely worried this day. His parents are wonderful people. His father came to Nevada to set up a church. They left northern Nevada and went back to South Carolina to set up a church. His parents just arrived back in this country on the day he was killed, coming back from Guam where they are missionaries.

To show you the outstanding young man Josh was, you only need to look at what his high school counselor Bob White said. He said:

> He's the second one we have lost in Iraq.

White, who kept a picture of Josh on his office bulletin board, remembered his second day on the job at Reed High School as a new counselor, during the 1990–91 school year when he met a junior who wanted to attend a military academy. It was Josh Byers. White said:

> He came into the office and introduced himself. He said, ''My goal is to go to an academy. I'm a junior. I need your help.''

White said Josh Byers, as a senior, was accepted into all three major military academies, Army, Navy, and Air Force. I don't know who nominated him to the Air Force. Back then it could have been Senator ENSIGN when he was in the House. I really don't know who it was. We know who nominated him to the Army and Navy.

White said Josh Byers selected West Point because he thought its rules of conduct were the strictest. White said:

> He said, ''Even though I want to go into the Navy, I'm going into the Army. Their honor code is better.''

Before he left to go to Iraq and after he was there, Josh tried to comfort his mother by telling her the worst fighting was over and it would be finished by the time he got to Iraq. But as she learned, as we learn almost every day from the news, the worst is not over. In fact, Josh kept saying:

> Mom, the worst will be over when I get there. We will be doing peacekeeping, setting up the government and providing aid to the people of Iraq.

Our young men and women in Iraq are still dying almost every day. My office spoke to Mrs. Byers today. I called and the phone was tied up. I was not able to do that. I wanted to give these remarks prior to the Senate recessing. I left a message for the parents saying I was going to give a speech on the Senate floor today. There is nothing I can do, that we can do, to erase the loss of the parents, but the one thing we can do is never forget the sacrifice made by Josh Byers. I know everyone in the Senate family, whether it is our Chaplain or the individual Senators, offers our condolences for Josh's widow, his parents, and the entire family.

I know we all join in hoping for the safe return of the other 150,000 men and women from America who serve in Iraq today. We wish their safe return, and offer our condolences once again to the Byers family.

The PRESIDING OFFICER. The Senator from Utah.

CONFIRMATION OF JUDGES

Mr. HATCH. Madam President, I would like to correct the distinguished minority whip on one thing. It is true we have had about 140 judges go through and only two so far have been filibustered. The third is on its way, maybe fourth, fifth, and sixth. Stopping, through a filibuster, anybody, even one judge, is unacceptable. It has never been done before, especially judges for the circuit court of appeals. But it has never been done even for district court judges and certainly not for Supreme Court judges.

All we want is an up-or-down vote on these people. That is all we want. If they are defeated, we can live with it. If they pass, I hope the other side can live with that. But I don't think it is too much to ask for the President's nominees who are brought to the floor of the Senate to have an up-or-down vote. I don't think that is too much to ask, and I don't think the American people believe that is too much to ask.

Even the filibuster of one nominee is unacceptable because that means you are not allowing the President to have an up-or-down vote if somebody is brought to the floor of the Senate.

I am concerned that we will soon see the number of judges who are denied an up-or-down vote escalate from two to three to four to five to six, maybe more. Is that an acceptable number of judges who do not deserve an up-or-down vote? Of course not. Not one should be denied an up-or-down vote, once they are brought to the floor of the Senate. I believe that is true.

MORNING BUSINESS

Mr. HATCH. Madam President, I ask unanimous consent that the Senate proceed to a period for morning business.

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

TEACHING FROM SPACE PROGRAM

Mr. STEVENS. Mr. President, April 10, 2003, brought a new educational milestone to my State.

On that date, Alaska students from one of the most rural school districts in our Nation were the first Alaskans to take part in a live hook-up with astronauts in space.

Using distance learning technology, youngsters from my States Southwest Region School District spoke to the three-member crew of the International Space Station as astronauts orbited the Earth.

These students were participating in NASA's Teaching From Space Program, which includes science, mat, and geography instruction, and features a live video question-and-answer session with the astronauts aboard the space station.

This session complemented a 6 week educational program, developed by our Challenger Learning Center in Kenai, which was included in the curriculum of the Southwest Region School District.

While the Teaching From Space Program has provided unique and motivating educational experiences to students across our country for many years, only recently were Alaska schools able to take advantage of the NASA program.

Until a few short months ago, no schools in rural Alaska had technology to allow teachers and students to communicate via video with others outside their villages.

Now that is changing, as some schools use distance learning technology to virtually bring new teachers and subjects into their classrooms.

The Southwest Region School District, one of the first in Alaska to install distance learning technology, is located on the southern coast of the Bering Sea, 350 miles southwest of Anchorage.

Eight villages are served by this school district, only one of which is accessible by road. The others are up to 120 miles from the school district's headquarters in Dillingham and may only be reached by air in winter. Some are accessible by river during summer months when, of course, our schools are closed.

The 779 students in the school district are primarily Yu'pik Eskimos. Most non-Native villagers in this region are employed as teachers.

During their 20-minute conversation with the International Space Station crew, students at Manokotak school asked questions about geography and space on behalf of their fellow students throughout the district. They watched as U.S. astronauts Ken Bowersox and Don Pettit and Russian cosmonaut Nikolai Budarin, floating inside the space station, answered their questions.

There was a special surprise, when the students learned that Alaska's own NASA astronaut, Bill Oefelein, who hails from Anchorage, flew from Houston to Manokotak to be with the students on their special day.

Many individuals and organizations contributed to the success of this educational achievement. This was a collaborative effort achievement. This was a collaborative effort of NASA, the Southwest Region School District, the Challenger Learning Center, and GCI.

Mr. President, I ask unanimous consent that all the individuals names be printed in the RECORD following my remarks.

Sean O'Keefe, NASA Administrator.

Lieutenant William Oefelein, USN, NASA astronaut: flew to Manokotak to be on-site with the students.

Gwendolyn Brown, NASA: coordinated public affairs for the event.

Cindy McArthur, NASA: guided Manokotak teachers through the Teaching from Space program.

Kelly McCormick, NASA: guided Manokotak teachers through the Teaching from Space program.

Scott Anderson, NASA: guided Manokotak teachers through the Teaching from Space program.

Robin Hart, NASA: guided Manokotak teachers through the Teaching from Space program.

Randy Cash, NASA: managed the audio portion of the program.

Glenn Peterson, NASA: Mission Control Specialist.

Superintendent Mark Hiratsuka, Southwest Region School District: secured approvals for the program.

Tim Whaling, Southwest Region School District: coordinated the educational curriculum for the program.

Karen Swenson, Southwest Region School District: secured approvals for the program.

Steve Noonkesser, Southwest Region School District: managed the school district's technology and coordination with GCI.

David Piazza, Southwest Region School District: managed the school district's technology.

Principal David Legg, Manokotak School: secured facilities and staff for the program.

Kirk Kofford, Manokotak School: prepared students for the NASA link up and taught the NASA distance learning curriculum.

Dana Bartman, Manokotak School: prepared students for the link-up.

Nate Preston, Manokotak School: coordinated photography and publishing for the program.

Steve Horn, Challenger Learning Center of Alaska: secured educational curriculum for the school district.

Jamie Meyers, Challenger Learning Center of Alaska: coordinated curriculum between the center and the school district.

Martin Cary, GCI: secured telecommunications resources and personnel to link NASA and the school district.

Greg Dutton, GCI-SchoolAccess: managed GCI's participation.

David Morris, GCI: managed public affairs for the program.

Anna Sattler, GCI: coordinated communication between participants.

Tom Elmore, GCI: coordinated the video teleconference connection with school district sites.

Chad Parker, GCI: coordinated technology needs.

Brian Lichner, GCI: managed the NASA TV downlink in Anchorage.

Rob Knorr, GCI: managed the NASA TV downlink in Juneau.

Greg Farmer, GCI: managed the NASA TV feed in Juneau.

Doug Keil, GCI: connected the NASA TV feed in Anchorage to GCI-SchoolAccess.

Mark Dinneen, GCI: managed government relations for the program.

John Raffetto, Infotech Strategies: managed communication between all participants.

Nicole Angarella, Infotech Strategies: coordinated logistics and on-site materials.

Tracy Krughoff, Infotech Strategies: assisted school district with applications.

Angela Mathwig, Infotech Strategies: coordinated logistics and on-site materials.

Christopher Capps: coordinated astronaut participation.

Mike Donovan Hausler: managed design and production of graphic art.

DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS BILL

Mr. FEINGOLD. Mr. President, I want to add my thoughts to the debate on the Department of Homeland Security appropriations bill for fiscal year 2004.

First, I want to take this opportunity to thank the distinguished chairman and distinguished ranking member of the Appropriations Subcommittee on Homeland Security for working so diligently on this bill before us. These leaders had the difficult job of allocating a very limited amount of money for one of the Nation's most pressing needs and they have done an admirable job.

I also thank this Nation's first responders. They are the ones who are on the front lines of this fight against terrorism. They are the ones who will be the first to react to any future attack upon our Nation. These brave men and women must, at a moment's notice, be ready to respond to a host of possible horrifying scenarios, including those involving nuclear, radiological, biological, and chemical devices.

Congress has been working hard to support our first responders, including providing almost $3.9 billion in this appropriations bill. I am particularly pleased that the committee chose to maintain the successful firefighter assistance grants and fund them at $750

million rather than the President's requested $500 million. I thank the committee for their wisdom in this matter.

Although this bill does a lot to help our first responders, it does not do enough. As my colleagues know, the Council on Foreign Relations recently released the report of an independent task force chaired by former Senator Warren B. Rudman. The title of this report says it all: ''Emergency Responders: Drastically Underfunded, Dangerously Unprepared.'' I supported Senator BYRD and others in trying to address the drastic underfunding of our first responders pointed out in the Rudman Report and am disappointed that we in the Senate were unable to do more.

I point out to my colleagues that I do not take lightly my decision to vote in favor of spending more money. Fiscal responsibility is one of my highest priorities and I constantly look for ways to limit government spending. I am honored that the Concord Coalition and others have recognized me for my efforts in this regard. Although fiscal responsibility remains one of my highest priorities, the fight against terrorism is also a high priority. I regret that the Republican budget resolution did not provide adequate funding for homeland security, choosing instead to place tax cuts as its highest priority. I agree with the distinguished Senators from Connecticut and Michigan that we ought to pay for increased funding in this bill by reviewing tax breaks for those making over a million dollars. This is a reasonable way to approach the current underfunding of this top priority.

I would like to draw attention to the fact that local first responders, emergency preparedness professional associations, and others have responded to the tragic events of 9/11 by re-examining emergency response procedures, compiling lessons learned, and developing new and innovative practices to best deal with possible terrorist attacks. Unfortunately, the Rudman Report found that ''(T)he task Force found insufficient national coordination of efforts to systematically capture and disseminate best practices for emergency responders.'' First responders in Wisconsin back up this finding.

The Department of Homeland Security is supposed to be gathering and disseminating first responder best practices to all relevant parties. I am concerned that they are not adequately fulfilling their responsibility in this area. I understand that the newly formed Department of Homeland Security has many important responsibilities and is being pulled in many different directions. I am concerned, however, that the Department is wasting an important opportunity to increase the efficiency of our first responders. The Rudman Report recommends establishing a national institute to collect and disseminate best practices for first responders. This would ''allow all emergency responders to learn from past experiences and improve the quality of their efforts, thereby assuring taxpayers the maximum return on their investment in homeland security.''

I offered an amendment directing the Department to report on its efforts to assess and disseminate best practices and its plans for improving the coordination and sharing of such information. This amendment was designed to prompt the Department into action so that all of us can reap the benefits of shared best practices. I am pleased that the Senate adopted this amendment.

I am also concerned that in our hasty efforts to protect the homeland we may be sacrificing some of our civil liberties. One item of particular concern to me is the use of data-mining by the Department of Homeland Security. Such programs give the Government the ability to peer into virtually every facet of an individual's life, including credit card use, bank statements, health records, and on and on. Congress must make sure that civil liberties are being protected and so must carefully monitor Government entities that may try to use data-mining technology. I am pleased that the Senate adopted my amendment requiring the Comptroller General to conduct a review and report to Congress on the development and use of data-mining by the Department of Homeland Security.

I will vote for this bill. This legislation includes many good elements, such as the funds available for first responders. However, I must also express my disappointment that funding for homeland security, one of our highest priorities, is being forced to play second fiddle to tax cuts. This is unacceptable and I hope we in Congress will soon rectify this situation.

HONORING CLAY SELL

Mr. DOMENICI. Mr. President, I rise to honor a remarkable and talented young man who will be sorely missed as he moves to the administration to become the special assistant on energy to the President of the United States. Clay Sell has been working for me as chief clerk for the Senate Appropriations Subcommittee on Energy and Water Development for the past 4 years and while I am extremely proud of his accomplishments, I am sad to see him go.

When Clay first came to the Senate, he impressed us all with his quick uptake of his new position and we were pleasantly surprised with his negotiation skills. It has been said of Clay that even when he negotiated a victory for his position, all parties involved left the negotiation table happy. His keen understanding of people and his genuine attitude are just a few of the great personality traits that Clay possesses.

Clay's hard work and dedication began at an early age. Growing up in greater West Texas, he learned the value of hard work and perseverance. The Sell family settled in Petersburg, TX in the early 1900's, a small farming community that has changed very little over the past century. Clay's father George grew up to become the first person in the family to receive a college degree. The hard work that drove George to succeed was prevalent in his son Clay.

Clay graduated from Tascosa High in Amarillo, TX where after he went on to receive his undergraduate degree in finance from Texas Tech University at Lubbock. Immediately following his graduation from college, Clay moved to Austin to attend the University of Texas Law School where he met and married his lovely wife Alisa.

After a short stint in Amarillo, Clay and Alisa moved to Washington, DC, where Clay began his political career working as a legislative assistant for a newly elected Representative from Texas, MAC THORNBERRY. While working in the House of Representatives, Clay spent a great deal of time working with energy policy. He worked in all aspects of energy legislation and played a key role in formulating and drafting the legislation which set up the National Nuclear Security Agency, NNSA. This experience made Clay a prime candidate for the position he would eventually assume upon his move to the Senate. Clay's work in the House of Representatives prepared him a great deal for his new job, but his new position required a greater understanding of national energy policy.

Over the past 4 years, I have gotten to know Clay and his wonderful family very well. Alisa and their two sons, Jack and Robert, have been Clay's stabilizing force. With another child on the way, that force will no doubt grow even stronger.

It has been my privilege to know and work with Mr. Clay Sell, but my words today are bittersweet. I do not feel that words alone can properly show my admiration for all that Clay has done for me, but I am confident that he understands how greatly he will be missed.

VOTE EXPLANATION

Mr. DAYTON. Mr. President, yesterday, I was absent from the Senate, attending the funeral of Kenneth N. Dayton, my uncle. If I had been present, I would have voted ''aye'' on the motion to waive the Budget Act for Senator DODD's amendment No. 1363, rollcall vote No. 299. I also would have voted ''aye'' on the motion to waive the Budget Act for Senator SPECTER's amendment No. 1368, rollcall vote No. 301.

MARTIN BAILEY PIERCE

Mr. SESSIONS. Mr. President, it is with a tremendous amount of pride that I take to the floor today to discuss the accomplishments of one of Alabama's native sons, 2LT Martin Bailey Pierce. This remarkable young

man has achieved a truly auspicious honor: he has been named the valedictorian of West Point's class of 2003. In both word and deed, this is a young man who truly has lived up to the Army's challenge to ''be all that you can be.''

When the selection committee I have established to review potential service academy nominations forwarded Martin Pierce's name to me, I knew that he had the potential to be a fine selection. After all, he had been the 1999 valedictorian at UMS-Wright, formerly known as University Military School, which is a prestigious school in Mobile, AL. Additionally, he had the full support of his two loving parents, Bailey and Susann, who had obviously instilled a sense of duty, honor and commitment in their son. There was little doubt in my mind that the traits 2LT Pierce had exhibited up to that point in time would serve him well at West Point.

However, the same could be said of most of the 846 cadets who graduated alongside Martin in the class of 2003. The service academy's attract a special kind of applicant, and those that are accepted tend to be individuals of great capabilities. Therefore when someone achieves the kind of academic success that 2LT Pierce has, there is a special satisfaction that he has done so while placed among the best and brightest.

I would like to take a few moments to place Mr. Pierce's West Point record in perspective. He become valedictorian by posting a GPA of 4.086 in the field of electrical/chemical engineering, and he was a dean's list member throughout his time at the academy. He also was one of only 144 recipients of the Gold Star and Wreath. This honor required Martin to achieve distinguished cadet status and to also become a Superintendent's Individual Award winner. In order to qualify for the God Star, Martin had to not only maintain a GPA of 3.67 or greater, but he also had to excel in West Point's academic, military and physical programs.

And excel in these programs he did. In addition to his exceptional work in the classroom, 2LT Pierce was a 4 year member of the Army's Black Knights football team, where he lettered as an outside linebacker. HIs accomplishments on the field and in the classroom also led him to be recognized nationally when he was awarded the Home Depot Scholar Athlete Award during the December 7, 2002 telecast of the Army/Navy game.

If these achievements, weren't enough, Martin saved his best for last. On June 1, 2LT Pierce married the former Michelle Ann Czyz in a ceremony in West Point, NY. Who knows? Perhaps this union foreshadows another valedictorian in a future West Point class.

And so 2LT Martin Bailey Pierce has left a mark upon the U.S. Military Academy as indelible as the mark the service academy has left on him. In doing so, he has come to exemplify the West Point's mission ''to educate, train, and inspire the Corps of Cadets so that each graduate is a commissioned leader of character committed to the values of Duty, Honor, Country; professional growth throughout a career as an officer in the United States Army; and a lifetime of selfless service to the nation.'' I am proud he is an Alabamian, and proud to know that he will continue and add to our State's remarkable record of producing outstanding cadets and soldiers. I congratulate 2LT Pierce for his accomplishments, and look forward to what I am sure will be a career that will make all members of the long gray line proud.

LAO-HMONG DAY OF RECOGNITION

Mr. KOHL. Mr. President, I rise today on National Lao-Hmong Recognition Day to commemorate those who served alongside the United States to protect democracy in Southeast Asia. Since 1995, the day of July 22nd has been celebrated as the Nation's official day recognizing the commitment and sacrifice of the Lao-Hmong people.

Beginning in the 1960s the United States recruited thousands of the Lao-Hmong citizens to fight against the Communist North Vietnamese Army. The United States relied heavily on support from the Lao-Hmong units to engage in direct combat with the adversary from 1960 to 1975. Although heavily outnumbered, the Lao-Hmong courageously battled to disrupt supply flows which ran along the Ho Chi Minh Trail.

In the name of democracy, the Lao-Hmong protected U.S. personnel, defended U.S. Air Force radar installations, collected critical intelligence about enemy operations, and undertook rescue missions to save the lives of downed U.S. pilots. In doing so, the Lao-Hmong lost more than 35,000 lives and many more were seriously injured and disabled.

Decades of war separated the Lao-Hmong from their native land. Now the Lao-Hmong in these United States can call America their home. The great State of Wisconsin has over many years become a population center for the Lao-Hmong community. Now citizens of the United States, the Lao-Hmong contribute richly to our Wisconsin communities.

On July 22, 1995, the first National Lao-Hmong Recognition Day was celebrated in Denver, CO. This year, in my home State of Wisconsin, the city of Milwaukee has been chosen to host the 2003 celebration. The purpose of celebrating this historic day is to memorialize the departed and to honor the living for their valor in defense of freedom and democracy. While acknowledging and respecting the commitment the Lao-Hmong people gave the United States during the Vietnam War, we are honored to celebrate their lives today.

ADDITIONAL STATEMENTS

LOCAL LAW ENFORCEMENT ACT OF 2003

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

I would like to describe a terrible crime that occurred in Reedley, CA. On September 21, 2001, Abdo Ali Ahmed was killed after receiving a death threat and a hate note deriding his ethnicity. Ahmed was a 51-year-old Yemeni shopkeeper and father of eight. Before his murder, Ahmed had lived in California for 35 years.

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.●

HONORING THE OWYHEE CATTLEMEN'S ASSOCIATION ON ITS 125TH ANNIVERSARY

● Mr. CRAPO. Mr. President, I rise today to offer congratulations to the Owyhee Cattlemen's Association on its 125th year celebration. This makes this organization the oldest cattle group in my home State of Idaho. From the original Owyhee Cattle and Horse Growers Association, which formed in 1878 to protect livestock from rustlers and Indians, to the association's present influential position on property rights, water rights, and grazing matters, it has been an effectively involved force in Idaho.

The Owyhee Cattlemen's Association has benefited from a long line of top-notch leaders, and it continues to be instrumental in representing the cattle industry in a variety of issue areas including rangeland monitoring, species issues, and environmental concerns. These are all far different from cattle rustling activities, but perhaps similar in economic effects on the cattle industry.

The association has also played a leading and pioneering role in negotiating agreements and initiatives that work towards the future viability and profitability of the entire grazing community. I particularly appreciate that it has recognized the strength of collaborative efforts in dealing with the multiple interest groups that are becoming stakeholders and hopefully partners in public land stewardship.

The past strength and resolve of the Owyhee Cattleman's Association has served the cattle industry well, and will continue to ensure its place at the

discussions of future issues, as we advance into the next 100 years of public land grazing.

Once again, my congratulations to the Owyhee Cattlemen's Association and its members as it marks a milestone anniversary. It has an unprecedented history of accomplishments in the cattle industry. I send my very best wishes for its continued success in serving the Owyhee County constituent base and the entire Nation.●

MESSAGE FROM THE HOUSE

At 11:30 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 2210. An act to authorize the Head Start Act to improve the school readiness of disadvantaged children, and for other purposes.

H.R. 2427. An act to reauthorize the Secretary of Health and Human Services to promulgate regulations for the reimportation of prescription drugs, and for other purposes.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 2210. An act to reauthorize the Head Start Act to improve the school readiness of disadvantaged children, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

H.R. 2427. An act to authorize the Secretary of Health and Human Services to promulgate regulations for the reimportation of prescription drugs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–242. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Hawaii relative to Title IX; to the Committee on Health, Education, Labor, and Pensions.

HOUSE CONCURRENT RESOLUTION NO. 31

Whereas, Title IX, recently renamed the Patsy Takemoto Mink Equal Opportunity in Education Act, was adopted in 1972 to prohibit gender discrimination in programs that receive federal funds; and

Whereas, Title IX's impact on athletics has led to a vast increase in girls' participation in high school athletics, college athletics, and women's professional athletics; and

Whereas, in 1972, fewer than thirty-two thousand women competed in intercollegiate athletics, women received only two percent of schools' athletic budgets, and athletic scholarships for women were nonexistent; and

Whereas, today, thanks to the doors opened by Title IX, high school female sports participation has increased eight hundred percent, from three hundred thousand in 1971 to 2,800,000 in 2002; and

Whereas, the number of college women participating in competitive athletics is nearly five times as great as it was before Title IX; and

Whereas, while sports are the most visible benefit of Title IX, women's gains in college-level academics have been substantial; and

Whereas, Title IX's antidiscrimination provisions apply to every single aspect of education, including admissions and recruitment, comparable facilities, access to course offerings, access to schools of vocational education, counseling and counseling materials, financial assistance, student health and insurance benefits and services, housing, marital and parental status of students, physical education and athletics, education programs and activities, and employment, providing a fair and equal benefit for a generation of women; and

Whereas, girls and women who attended schools prior to Title IX experienced sex-segregated classes, denial of admissions to certain vocational education classes, lack of access to advanced mathematics and science courses, and overt discrimination in medical schools and other predominantly male institutions; and

Whereas, after Title IX women in post-secondary education shot up dramatically, rising from forty-four percent of all undergraduates in 1972 to fifty-six percent of all undergraduates today; and

Whereas, since the inception of Title IX, the amount of scholarship money for women has increased from $100,000 in 1972 to $179 million in 1997; and

Whereas, women made significant jumps in areas traditionally thought of as male, such as engineering, medicine, and law: in 1970 women earned 0.7 percent of bachelor's degrees in engineering while today women earn 20 percent of these degrees; and in 1972, women received only 9 percent of all medical degrees and 7 percent of all law degrees, whereas in 1996, women received 41 percent of all medical degrees and 44 percent of all law degrees, and

Whereas, Title IX has also benefited men and boys by eliminating the barriers and stereotypes that limit the opportunities and choices of both sexes; and

Whereas, the Bush administration has convened a Commission on Opportunity in Athletics to consider changes to Title IX; and

Whereas, this controversial commission has made recommendations that would seriously dilute the power of Title IX; and

Whereas, proponents of Title IX charge that the commission is an attempt to weaken the law after repeated court challenges over the past thirty years have failed; and

Whereas, Title IX is an Act of Congress and should not be subject to modification by an executive branch commission; and

Whereas, the people of Hawaii have experienced the great benefits of Title IX, the Patsy Takemoto Mink Equal Opportunity in Education Act, and strongly support its full implementation: Now, therefore, be it

Resolved by the House of Representatives of the Twenty-second Legislature of the State of Hawaii, Regular Session of 2003, the Senate concurring, That the State of Hawaii urges Congress to maintain Title IX, the Patsy Takemoto Mink Equal Opportunity in Education Act, in its original form and to take a firm stand opposing any recommendations that would weaken it; and be it further

Resolved, That certified copies of this Concurrent Resolution be transmitted to the President of the United States, the Secretary of Education of the United States, President of the Senate of the United States Congress, the Speaker of the House of Representatives of the United States Congress, and the members of Hawaii's congressional delegation.

POM–243. A joint resolution adopted by the General Assembly of the Commonwealth of Kentucky relative to a constitutional amendment allowing the exercise of religion in public places; to the Committee on the Judiciary.

JOINT RESOLUTION

Whereas, the Ten Commandments appear over the bench where the United States Supreme Court Justices sit, thus showing the source from whence our laws and the government power of the state are derived; and

Whereas, America's colonial governments adopted the Ten Commandments not as an object of worship or an icon, but as the basis for their civil and criminal law, as illustrated on April 3, 1644, when the New Haven Colony Charter was adopted establishing that: ''the judicial laws of God, as they were delivered to Moses be a rule to all courts in this jurisdiction''; and

Whereas, when signing the Declaration of Independence on August 2, 1776, Samuel Adams, the ''Father of the Revolution'' emphasized its Biblical presuppositions: ''We have this day restored the Sovereign to whom all men ought to be obedient. He reigns in heaven and from the rising to the setting of the sun, let His kingdom come''; and

Whereas, on August 20, 1789, Congressman Fisher Ames from Massachusetts proposed the wording of the First Amendment which was adopted by the House of Representatives in the first session of the Congress of the United States; and his writings clearly demonstrate that the Framers never intended the First Amendment to be so interpreted as to remove the Bible from the public buildings: ''We are spending less time in the classroom on the Bible which should be the principal text in our schools . . .''; and

Whereas, in a letter dated August 18, 1790, President George Washington wrote to the Hebrew Congregation in Newport, Rhode Island, ''All possess alike liberty if conscience and immunities of citizenship . . . May the children of the stock of Abraham, who dwell in this land, continue to merit and enjoy the good will of the other inhabitants; while every one shall sit in safety under his own vine and fig tree, and there shall be none to make him afraid''; and

Whereas, in his ''Farewell Address of September 19, 1796, George Washington pointed out the connection between the faith of the Nation and its political prosperity when he declared. ''Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports . . .'', and

Whereas, acknowledging the Bible as an integral part of the fabric of our society on September 11, 1777, the Continental Congress adopted a resolution to import 20,000 Bibles from Holland and Scotland, as the colonies were at war with England; and

Whereas, On May 29, 1845, the day before his death, President Andrew Jackson stated: ''My lamp of life is nearly out, and the last glimmer has come. I am ready to depart when called. The Bible is true. The principles and statutes of the Holy Book have been the rule of my life, and I have tried to conform to its spirit as nearly as possible. Upon that scared volume I rest my hope for eternal salvation through the merits and blood of our blessed Lord and Savior Jesus Christ''; and

Whereas, President John Quincy Adams, the sixth President of the United States, wrote concerning the civil function of the Mosaic law. ''The law given from Sinai was a civil and municipal as well as a moral and religious code: It contained many statutes . . . of universal application—laws essential to the existence of men in society and most of which have been enacted by every nation which ever professed any code of laws''; and

Whereas, in a June, 1778 letter to her son, John Quincy Adams, Abigail Adams reinforced noble values and a sense of ultimate

accountability to God which she believed to be the foundation of true greatness: ''Great learning and superior abilities, should you ever possess them, will be of little value and small estimation, unless virtue, honor, truth, and integrity are added to them. Adhere to those religious sentiments and principles which were early instilled into your mind, and remember that you are accountable to your Maker for all your words and actions''; and

Whereas, on February 29, 1892, the United States Supreme Court, in a unanimous decision, which has never been overruled, cited sixty-six organic authorities which show the Bible's singular influence on America: ''There is no dissonance in these declarations. There is a universal language pervading them all having one meaning: they affirm and reaffirm that this is a religious nation. These are not individual sayings, declarations of private persons; they are organic utterances; they speak the voice of the entire group. These authorities were collected to support the historical conclusion that 'no purpose of action against religion can be imputed to any legislation, state or nation, because this is a religious people. This is historically true. From the discovery of this continent to the present hour, there is a single voice making this affirmation . . . we find everywhere a clear recognition of the same truth . . . this is a Christian nation'''; and

Whereas, on May 7, 1911, President Woodrow Wilson, addressing the Tercentenary Celebration of the Translation of the Bible into the English language, stated, ''Moreover, the Bible does what is so invaluable in human life—it classifies moral values. It apprises us that men are not judged according to their wits, but according to their characters—that the last of every man's reputation is his truthfulness, his squaring his conduct with the standards that he knew to be the standards of purity and rectitude. How many a man we appraise, ladies and gentlemen, as great today whom we do not admire as noble! A man may have great power and small character''; and ''The bible has had a critical impact upon the development of Western civilization. Western literature, art and music are filled with images and ideas that can be traced to its pages. More important, our moral tradition has been shaped by the laws and teachings it contains. It was a biblical view of man—one affirming the dignity and worth of the human person, made in the image of our Creator—that inspired the principles upon which the United States is founded. President Jackson called the Bible 'the rock on which our republic rests' because he knew that it shaped the Founding Fathers' concept of individual liberty and their vision of a free and just society. The Bible has not only influenced the development of our Nation's values and institutions, but also enriched the daily lives of millions of men and women who have looked to it for comfort, hope and guidance. On the American frontier, the Bible was often the only book a family owned. For those pioneers living far from any church or school, it served both as a source of religious instruction and as the primary text from which children learned to read. The historical speeches of Abraham Lincoln and Dr. Martin Luther King, Jr., provide compelling evidence of the role Scripture played in shaping the struggle against slavery and discrimination. Today the Bible continues to give courage and direction to those who seek truth and righteousness. In recognizing its enduring value, we recall the words of the prophet Isaiah, who declared 'The grass withereth, the flower fadeth; but the word of our God shall stand forever.' Containing revelations of God's intervention in human history, the Bible offers moving testimony to His love for mankind. Treasuring the Bible as a source of knowledge and inspiration, President Abraham Lincoln called this Great Book 'the best gift God has given to man.' President Lincoln believed that the Bible not only reveals the infinite goodness of our Creator, but also reminds us of our worth as individuals and our responsibilities toward one another''; and

Whereas, the First Amendment in the Bill of Rights states, ''Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peacefully to assemble, and to petition the Government for a redress of grievances''; and

Whereas, recent court rulings have prevented the displaying of the Ten Commandments and have been the cause of the removal of these documents from public buildings; and

Whereas, eighty percent of the people are in favor of displaying the Ten Commandments in public places; and

Whereas, the General Assembly finds the Ten Commandments to be the precedent legal code of the Commonwealth which has provided the foundation for many of the civil and criminal statutes enacted into law throughout the history of the Commonwealth; and

Whereas, under Article V of the Constitution of the United States, Amendments to said Constitution may be proposed by the United States Congress whenever two-thirds of both chambers deem it necessary: Now, therefore, be it

Resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly of the Commonwealth of Kentucky, a majority of all members of the chambers voting separately to concur herein, hereby petitions the United States Congress to propose an Amendment to the Constitution of the United States, for submission to the several States for ratification, to allow the people of the United States and the several States the freedom to exercise their religion in public places.

Section 2. The text of the proposed Amendment to the Constitution of the United States should read substantially as follows:

''Nothing in the Constitution shall be construed to prohibit or otherwise limit the practice of individual or group prayer, the reading of the posting of the Ten Commandments, the recital of the Pledge of Allegiance, and the display of the motto 'In God We Trust' or similar phrases from historical documents referencing God in any public place, including a school; nor shall it require any person to join in prayer or other religious activity.''

Section 3. Certified copies of this joint resolution shall be transmitted by the Secretary of State to the Administrator of General Services of the United States, to the President of the United States Senate, to the Speaker of the House of Representatives of the United States, to each member of the Commonwealth's delegation to the Congress of the United States, and to the presiding officer of each house of each state legislature of the several States.

POM–244. A resolution adopted by the Evanston City Council of Cook County of the State of Illinois relative to a repeal of the USA Patriot Act; to the Committee on the Judiciary.

POM–245. A concurrent resolution adopted by the Legislature of the State of Hawaii relative to improving benefits for Filipino Veterans of World War II; to the Committee on Veterans' Affairs.

HOUSE CONCURRENT RESOLUTION NO. 76

Whereas, on February 11, 2003, Representative Neil Abercrombie, along with other members, introduced H.R. 664 in the United States House of Representatives, which bill was then referred to the Committee on Veterans' Affairs; and

Whereas, H.R. 664 proposes to amend title 38 of the United States Code, to improve benefits for Filipino veterans of World War II and for the surviving spouses of those veterans; and

Whereas, H.R. 664 would mandate the Secretary of Veterans Affairs to provide hospital and nursing home care and medical services for service-connected disabilities for any Filipino World War II veteran who resides in the United States and is a United States citizen or lawful permanent resident alien; and

Whereas, H.R. 664 would further increase the rate of payment of dependency and indemnity compensation of surviving spouses of certain Filipino veterans; and

Whereas, H.R. 664 would also increase the rate of payment of compensation benefits and burial benefits to certain Filipino veterans designated in title 38 United States Code section 107(b) and referred to as New Philippine Scouts: Now, therefore, be it

Resolved by the House of Representatives of the Twenty-second Legislature of the State of Hawaii, Regular Session of 2003, the Senate concurring, That the United States Congress is respectfully urged to support the passage of H.R. 664, to improve benefits for Filipino veterans of World War II and the surviving spouses of those veterans; and be it further

Resolved, That certified copies of this Concurrent Resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, the members of Hawaii's congressional delegation, and the Secretary of Veterans Affairs.

POM–246. A concurrent resolution adopted by the Legislature of the State of Hawaii relative to improving benefits for Filipino veterans for World War II; to the Committee on Veterans' Affairs.

HOUSE CONCURRENT RESOLUTION NO. 77

Whereas, on January 7, 2003, Senator Daniel K. Inouye introduced S. 68 in the United States Senate, which bill was read twice and then referred to the Committee on Veterans' Affairs; and

Whereas, S. 68 proposes to amend title 38 of the United States Code, to improve benefits for Filipino veterans of World War II and for the surviving spouses of those veterans; and

Whereas, S. 68 would increase the rate of payment of compensation benefits to certain Filipino veterans, designated in title 38 United States Code section 107(b) and referred to as New Philippine Scouts, who reside in the United States and are United States citizens or lawful permanent resident aliens; and

Whereas, S. 68 would further increase the rate of payment of dependency and indemnity compensation of surviving spouses of certain Filipino veterans; and

Whereas, S. 68 would further make eligible for full disability pensions certain Filipino veterans who reside in the United States and are United States citizens or lawful permanent resident aliens; and

Whereas, S. 68 would further mandate the Secretary of Veterans Affairs to provide hospital and nursing home care and medical services for service-connected disabilities for any Filipino World War II veteran who resides in the United States and is a United States citizen or lawful permanent resident alien; and

Whereas, S. 68 would further require the Secretary of Veterans Affairs to furnish care

and services to all Filipino World War II veterans for service-connected disabilities and nonservice-connected disabilities residing in the Republic of the Philippines on an outpatient basis at the Manila VA Outpatient Clinc; Now therefore, be it

Resolved by the House of Representatives of the Twenty-second Legislature of the State of Hawaii, Regular Session of 2003, the Senate concurring, That the United States Congress is respectfully urged to support the passage of S. 68 to improve benefits for certain Filipino veterans of World War II; and be it further

Resolved, That certified copies of this Concurrent Resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, the members of the Hawaii congressional delegation, and the Secretary of Veterans Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Ms. COLLINS, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 678. A bill to amend chapter 10 of title 39, United States Code, to include postmasters and postmasters organizations in the process for the development and planning of certain policies, schedules, and programs, and for other purposes (Rept. No. 108–112).

By Mr. LUGAR, from the Committee on Foreign Relations, with amendments and an amendment to the title and with an amended preamble:

H. Con. Res. 209. A concurrent resolution commending the signing of the United States-Adriatic Charter, a charter of partnership among the United States, Albania, Croatia, and Macedonia.

By Mr. LUGAR, from the Committee on Foreign Relations, with amendments and with an amended preamble:

S. Res. 184. A resolution calling on the Government of the People's Republic of China immediately and unconditionally to release Dr. Yang Jianli, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Ms. CANTWELL:

S. 1455. A bill to regulate international marriage broker activity in the United States, to provide for certain protections for individuals who utilize services of international marriage brokers, and for other services; to the Committee on the Judiciary.

By Mr. BREAUX:

S. 1456. A bill to amend the Public Health Service Act with respect to mental health services for elderly individuals; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BUNNING (for himself and Mr. ALLEN):

S. 1457. A bill to amend the Internal Revenue Code of 1986 to reduce the rate of tax on distilled spirits on its pre-1985 level; to the Committee on Finance.

By Mr. NELSON of Florida:

S. 1458. A bill to amend the Gramm-Leach-Bliley Act to provide for enhanced protection of nonpublic personal information, including health information, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MCCAIN (for himself, Mr. DASCHLE, and Mr. JOHNSON):

S. 1459. A bill to provide for reform of management of Indian trust funds and assets under the jurisdiction of the Department of the Interior, and for other purposes; to the Committee on Indian Affairs.

By Mr. KENNEDY (for himself, Ms. SNOWE, Mr. REED, and Mr. BINGAMAN):

S. 1460. A bill to amend the Federal Food, Drug, and Cosmetic Act to preserve the effectiveness of medically important antibiotics used in the treatment of human and animal diseases; to the Committee on Health, Education, Labor, and Pensions.

By Mr. MCCAIN:

S. 1461. A bill to establish two new categories of nonimmigrant workers, and for other purposes; to the Committee on the Judiciary.

By Mr. CHAMBLISS (for himself and Mr. MILLER):

S. 1462. A bill to adjust the boundary of the Cumberland Island Wilderness, to authorize tours of the Cumberland Island National Seashore, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. CLINTON:

S. 1463. A bill to amend the Magnuson-Stevens Fishery Conservation and Management Act to add New York to the New England Fishery Management Council; to the Committee on Commerce, Science, and Transportation.

By Mr. HAGEL (for himself and Mr. DORGAN):

S. 1464. A bill to amend the Internal Revenue Code of 1986 to provide an exclusion for gain from the sale of farmland to encourage the continued use of the property for farming, and for other purposes; to the Committee on Finance.

By Mr. FRIST (for himself and Mr. ALEXANDER):

S. 1465. A bill to authorize the President to award a gold medal on behalf of Congress honoring Wilma G. Rudolph, in recognition of her enduring contributions to humanity and women's athletics in the United States and the world; to the Committee on Banking, Housing, and Urban Affairs.

By Ms. MURKOWSKI:

S. 1466. A bill to facilitate the transfer of land in the State of Alaska, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CAMPBELL:

S. 1467. A bill to establish the Rio Grande Outstanding Natural Area in the State of Colorado, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. CLINTON (for herself and Mr. JOHNSON):

S. 1468. A bill to amend title 4, United States Code, to add National Korean War Veterans Armistice Day to the list of days on which the flag should especially be displayed; 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. JOHNSON (for himself, Mr. DASCHLE, Mrs. LINCOLN, Mr. BAUCUS, Mr. KENNEDY, Mr. GRAHAM of Florida, Ms. CANTWELL, Mr. CORZINE, and Mr. LEAHY):

S. Res. 200. A resolution expressing the sense of the Senate that Congress should adopt a conference agreement on the child tax credit and on tax relief for military personnel; to the Committee on Finance.

By Mr. SESSIONS (for himself, Mr. REID, Mr. SHELBY, Mr. KERRY, Mr. BROWNBACK, Ms. CANTWELL, Mr. HATCH, Mrs. BOXER, Ms. COLLINS, Mr. LIEBERMAN, Mr. INHOFE, Mr. BREAUX, Mr. DEWINE, Mrs. LINCOLN, Mr. CRAIG, Mr. MILLER, Ms. SNOWE, Mr. BAYH, Mr. CRAPO, Mr. DOMENICI, Mr. ROBERTS, Mr. NELSON of Florida, Mr. GRASSLEY, Mr. DODD, Mr. SMITH, Mr. DURBIN, Mr. BUNNING, Mrs. FEINSTEIN, Mr. HAGEL, Ms. MIKULSKI, Mr. VOINOVICH, Mr. EDWARDS, Mr. CAMPBELL, Mr. INOUYE, Mr. FEINGOLD, Mr. SCHUMER, Ms. LANDRIEU, Mr. DORGAN, Mr. LAUTENBERG, Ms. STABENOW, and Mrs. CLINTON):

S. Res. 201. A resolution designating the month of September 2003 as ''National Prostate Cancer Awareness Month''; considered and agreed to.

By Mr. LOTT:

S. Con. Res. 61. A concurrent resolution authorizing and requesting the President to issue a proclamation to commemorate the 200th anniversary of the birth of Constantino Brumidi; to the Committee on the Judiciary.

By Mr. DASCHLE (for himself, Mr. HAGEL, and Mr. LEVIN):

S. Con. Res. 62. A concurrent resolution honoring the service and sacrifice of Korean War veterans; considered and agreed to.

ADDITIONAL COSPONSORS

S. 794

At the request of Mr. DURBIN, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 794, a bill to amend title 49, United States Code, to improve the system for enhancing automobile fuel efficiency, and for other purposes.

S. 874

At the request of Mr. TALENT, the names of the Senator from Idaho (Mr. CRAPO), the Senator from Idaho (Mr. CRAIG), the Senator from Nebraska (Mr. HAGEL), the Senator from Pennsylvania (Mr. SPECTER), the Senator from Pennsylvania (Mr. SANTORUM) and the Senator from Texas (Mr. CORNYN) were added as cosponsors of S. 874, a bill to amend title XIX of the Social Security Act to include primary and secondary preventative medical strategies for children and adults with Sickle Cell Disease as medical assistance under the medicaid program, and for other purposes.

S. 1037

At the request of Ms. SNOWE, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 1037, a bill to amend title XVIII of the Social Security Act to provide for coverage under the medicare program of all oral anticancer drugs.

S. 1283

At the request of Mr. GRAHAM of Florida, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1283, a bill to require advance notification of Congress regarding any action proposed to be taken by the Secretary of Veterans Affairs in the implementation of the Capital Asset Realignment for Enhanced Services initiative of the Department of

Veterans Affairs, and for other purposes.

S. 1374

At the request of Mr. DURBIN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1374, a bill to provide health care professionals with immediate relief from increased medical malpractice insurance costs and to deal with the root causes of the current medical malpractice insurance crisis.

S. 1379

At the request of Mr. JOHNSON, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 1379, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 1380

At the request of Mr. SMITH, the names of the Senator from Pennsylvania (Mr. SANTORUM) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 1380, a bill to distribute universal service support equitably throughout rural America, and for other purposes.

S. 1396

At the request of Ms. SNOWE, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 1396, a bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans.

S. 1409

At the request of Mrs. FEINSTEIN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1409, a bill to provide funding for infrastructure investment to restore the United States economy and to enhance the security of transportation and environmental facilities throughout the United States.

S. RES. 167

At the request of Mr. CAMPBELL, the names of the Senator from Pennsylvania (Mr. SPECTER) and the Senator from Nevada (Mr. ENSIGN) were added as cosponsors of S. Res. 167, a resolution recognizing the 100th anniversary of the founding of the Harley-Davidson Motor Company, which has been a significant part of the social, economic, and cultural heritage of the United States and many other nations and a leading force for product and manufacturing innovation throughout the 20th century.

AMENDMENT NO. 1379

At the request of Mr. BAYH, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of amendment No. 1379 proposed to H.R. 2555, a bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2004, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. CANTWELL:

S. 1455. A bill to regulate international marriage broker activity in the United States, to provide for certain protections for individuals who utilize services of international marriage brokers, and for other services; to the Committee on the Judiciary.

Ms. CANTWELL. I rise today to introduce the International Marriage Broker Regulation Act of 2003. This legislation will provide much needed protections for the thousands of foreign women who meet their American husbands through for-profit Internet sites and catalogs.

While mail order bride catalogs may seem like a relic from the past, the use of marriage broker services has exploded in recent years with the growth of the Internet. While many of these matches result in happy, long unions, there is a growing epidemic of domestic abuse among couples who meet via international marriage brokers. Immigrant and women's advocacy groups across the country report seeing an increase in the number of these wives seeking to escape a physically abusive husband they met through an IMB. In several cases, the abuse has progressed to murder.

A 1999 study found there were over 200 Internet sites marketing foreign women primarily from Eastern Europe and Asia seeking American husbands. Recent studies suggest that there are now as many as 400 currently operating in this country. These sites feature pictures of hundreds of women who, according to the Web sites, are looking to meet and marry an American man. The international marriage brokers operating these sites promise a wife with ''traditional values,'' who will honor her husband.

Unfortunately, women meeting their husbands in this manner frequently have little opportunity to get to know their prospective spouses or assess their potential for violence. They also have little knowledge of their rights as victims of domestic violence in our country even if they are not yet citizens or permanent residents.

In my State of Washington alone there have been three cases of serious domestic violence including two murders of women who met their husbands through an Internet-based international marriage broker. Susanna Blackwell met her husband through an IMB and, in 1994, left her native Philippines to move to Washington to marry him. During their short marriage, Timothy Blackwell physically abused his wife regularly. Within a few months, she had left him and begun divorce proceedings. The Blackwells had been separated for more than a year when Timothy Blackwell learned Susanna was eight months pregnant with another man's child. On the last day of the divorce proceedings, Timothy Blackwell shot and killed Susanna, her unborn child, and two friends who were waiting outside of the Seattle courtroom.

In 1999, 18-year-old Anastasia Solovyova married Indle King, a man she met through an IMB. Entries from Anastasia's diary detail the abuse she suffered and the fear she had of her husband who threatened her with death if she were to leave him. In December 2000, Anastasia was found strangled to death and buried in a shallow grave in Washington. King's accomplice later told police that he strangled Anastasia with a necktie while King lay on her chest to keep her from moving. At trial, it was discovered that Indle King had previously married another woman he met through an internet IMB, who later got a domestic violence protection order against him before divorcing him in 1997. It was also discovered that he was seeking his third wife through an IMB when he and his accomplice developed the plot to kill Anastasia.

Unfortunately, there are similar examples across the country of women who have met their American spouses through an Internet IMB only to be seriously injured or killed by an American spouse with a preexisting history of violence against women.

My legislation is modeled on a groundbreaking Washington State law, the first State effort to regulate the international matchmaking industry. The Washington Legislature took action on this important issue after the Blackwell and King cases, and multiple States are currently looking at enacting similar legislation.

The primary goal of my legislation is to better inform women entering this country as fiancées and prospective spouses about the past history of their prospective spouse and to better inform them of their rights as residents of the United States if they become victims of domestic violence.

The bill would first of all halt the current practice of allowing Americans to simultaneously seek visas for multiple fiancées, by requiring that only one fiancée visa may be sought per applicant each year. Currently, multiple request for fiancée visas can be simultaneously filed with the Bureau of Citizenship and Immigration, and the American requesting the visa will simply choose to marry the first woman who is approved.

Second, my bill would require that, before an IMB may release the contact information of a foreign national client, it must first obtain her consent to the release of that information and second, provide her with information on the rights of victims of domestic violence in this country in her own language.

Third, the IMB would be required to ask American clients to provide information on any previous arrest, conviction or court-ordered restriction relating to crimes of violence along with their previous marital history. This information would also be made available to the foreign national.

Finally, it would require a U.S. citizen seeking a foreign fiancée visa to undergo a criminal background check, a check that is already performed for the fiancées entering the country

themselves. Information on convictions and civil orders would be relayed to the visa applicant by the consular official along with information on their legal rights should they find themselves in an abusive relationship.

Currently, an American seeking to marry someone through an IMB holds all of the cards. The American client has the benefit of a complete background check on his future wife, a requirement of the immigration process. In addition, the IMBs provide clients extensive information about the women they offer, everything from their favorite movies and hobbies to whether they are sexually promiscuous.

Conversely, the foreign fiancée' only gets whatever information her future spouse wants to share. These women have no way of confirming what they are told about previous marriages or relationships or the American client's criminal history.

Researchers describe the typical American client as Caucasian, educated, professional, and financially secure. More than half have been married once already and express a desire to find a bride with more ''traditional values,'' attitudes they feel are not held by many American women today.

Most of the foreign brides advertised by the IMBs come from countries where women are oppressed, have a few educational or professional opportunities, and where violence against women is condoned, if not encouraged. Because of the cultural differences, researchers say there is an inherent imbalance of power in these relationships between American men and foreign women.

The men who seek these more traditional wives typically control the household finances and make basic decisons like whether the wife will have a driver's license, get a job or spend time with friends. Because these women often immigrate alone, they have no family or other support network and rely on their husbands for everything. Such dependency can make it difficult for a wife to report abuse without worrying that doing so is a surefire ticket to deportation. Researchers agree that isolation and dependency put these women at greater risk of domestic abuse.

Documenting the extent of this problem has been quite difficult. Marriages arranged by IMBs are not tracked separately from other immigrant marriages. However, experts agree that abuse is more likely in such an arranged marriages and that abuse in these relationships is likely underreported since the women are likely to be more afraid of deportation than the abuse they suffer at home.

Attempting to get a handle on the problem, the Immigration and Naturalization Service commissioned a study of the industry in 1999. The INS study estimated that there are more than 200 IMBs operating around the globe, arranging between 4,000 and 6,000 marriages between American men and foreign women every year. Experts today put the number of IMBs at nearly 500 worldwide. And based on the 1999 statistics, there are between 20,000 and 30,000 women who have entered the U.S. using an IMB in the past 5 years. While there are a few IMBs aimed at female clients, the overwhelming majority of people who seek IMB services are men.

IMBs also are being used as a cover for those seeking servants. That is what happened to Helen Clemente, a Filipina brought to the U.S. by retired Seattle-area police officer Eldon Doty and his wife, Sally. Eldon and Sally Doty had divorced to allow Eldon to marry Helen Clemente. However, Eldon and Sally Doty continued to live as man and wife, forcing Helene Clemente to work as their servant. After 3 years, Helen ran way. The Dotys have worked with INS in exchange for de facto immunity, while Helen Clemente continues to fight deportation.

It is critical for legal immigrants to know that they don't have to suffer abuse or work without pay to remain in this country. The Violence Against Women Act provided some safeguards for these female immigrants, ensuring that in cases of abuse a woman's immigration petition may proceed without the sponsorship of her abuser. That important legislation provided protections for women who come here and find themselves in abusive relationships; however, more can and should be done.

My legislation would give foreign financées critical information they need to make an informed decision about the person they are going to marry. It puts these foreign brides on more equal footing with their American grooms.

My legislation enjoys support from more than 80 organizations and advocacy groups across the country, including religious coalitions, laws firms, women's rights and social justice groups. I hope my colleagues in the Senate will support it as well.

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. 1455

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 Marriage Broker Regulation Act of 2003''.

SEC. 2. LIMIT ON CONCURRENT PETITIONS FOR FIANCÉ(E) VISAS.

Section 214(d) of the Immigration and Nationality Act (8 U.S.C. 1184(d)) is amended—

(1) by inserting ''(1)'' before ''A visa''; and

(2) by adding at the end the following:

''(2) A United States citizen or a legal permanent resident may not file more than 1 application for a visa under section 101(a)(15)(K)(i) in any 1-year period.''.

SEC. 3. INTERNATIONAL MARRIAGE BROKERS.

Section 652 of the Omnibus Consolidated Appropriations Act, 1997 (8 U.S.C. 1375), is amended to read as follows:

''SEC. 652. INTERNATIONAL MARRIAGE BROKERS.

''(a) FINDINGS.—Congress finds the following:

''(1) There is a substantial international marriage broker business worldwide. A 1999 study by the Immigration and Naturalization Service estimated that in 1999 there were at least 200 such companies operating in the United States, and that as many as 4,000 to 6,000 persons in the United States, almost all male, find foreign spouses through for-profit international marriage brokers each year.

''(2) Aliens seeking to enter the United States to marry citizens of the United States currently lack the ability to access and fully verify personal history information about their prospective American spouses.

''(3) Persons applying for fiancé(e) visas to enter the United States are required to undergo a criminal background information investigation prior to the issuance of a visa. However, no corresponding requirement exists to inform those seeking fiancé(e) visas of any history of violence by the prospective United States spouse.

''(4) Many individuals entering the United States on fiancé(e) visas for the purpose of marrying a person in the United States are unaware of United States laws regarding domestic violence, including protections for immigrant victims of domestic violence, prohibitions on involuntary servitude, protections from automatic deportation, and the role of police and the courts in providing assistance to victims of domestic violence.

''(b) DEFINITIONS.—In this section:

''(1) CLIENT.—The term 'client' means a United States citizen or legal permanent resident who makes a payment or incurs a debt in order to utilize the services of an international marriage broker.

''(2) CRIME OF VIOLENCE.—The term 'crime of violence' has the same meaning given the term in section 16 of title 18, United States Code.

''(3) DOMESTIC VIOLENCE.—The term 'domestic violence' means any crime of violence, or other act forming the basis for past or outstanding protective orders, restraining orders, no-contact orders, convictions, arrests, or police reports, committed against a person by—

''(A) a current or former spouse of the person;

''(B) an individual with whom the person shares a child in common;

''(C) an individual who is cohabiting with or has cohabited with the person;

''(D) an individual similarly situated to a spouse of the person under the domestic or family violence laws of the jurisdiction where the offense occurs; or

''(E) any other individual if the person is protected from that individual's acts under the domestic or family violence laws of the United States or any State, Indian tribal government, or unit of local government.

''(4) FOREIGN NATIONAL CLIENT.—The term 'foreign national client' means a non-resident alien who utilizes the services of an international marriage broker.

''(5) INTERNATIONAL MARRIAGE BROKER.—

''(A) IN GENERAL.—The term 'international marriage broker' means a corporation, partnership, business, individual, or other legal entity, whether or not organized under any law of the United States, that charges fees for providing dating, matrimonial, social referrals, or matching services between United States citizens or legal permanent residents and nonresident aliens by providing information that would permit individuals to contact each other, including—

''(i) providing the name, telephone number, address, electronic mail address, or voicemail of an individual; or

''(ii) providing an opportunity for an in-person meeting.

''(B) EXCEPTIONS.—Such term does not include—

''(i) a traditional matchmaking organization of a religious nature that operates on a nonprofit basis and otherwise operates in compliance with the laws of the countries in which it operates including the laws of the United States; or

''(ii) an entity that provides dating services between United States citizens or legal permanent residents and aliens, but not as its principal business, and charges comparable rates to all clients regardless of the gender or country of residence of the client.

''(6) PERSONAL CONTACT INFORMATION.—

''(A) IN GENERAL.—The term 'personal contact information' means information that would permit an individual to contact another individual, including—

''(i) the name, address, phone number, electronic mail address, or voice message mailbox of that individual; and

''(ii) the provision of an opportunity for an in-person meeting.

''(B) EXCEPTION.—Such term does not include a photograph or general information about the background or interests of a person.

''(c) OBLIGATIONS OF INTERNATIONAL MARRIAGE BROKER WITH RESPECT TO INFORMED CONSENT.—An international marriage broker shall not provide any personal contact information about any foreign national client, not including photographs, to any person unless and until the international marriage broker has—

''(1) provided the foreign national client with information in his or her native language that explains the rights of victims of domestic violence in the United States, including the right to petition for residence independent of, and without the knowledge, consent, or cooperation of, the spouse; and

''(2) received from the foreign national client a signed consent to the release of such personal contact information.

''(d) MANDATORY COLLECTION OF INFORMATION.—

''(1) IN GENERAL.—Each international marriage broker shall require each client to provide the information listed in paragraph (2), in writing and signed by the client (including by electronic writing and electronic signature), to the international marriage broker prior to referring any personal contact information about any foreign national client to the client.

''(2) INFORMATION.—The information required to be provided in accordance with paragraph (1) is as follows:

''(A) Any arrest, charge, or conviction record for homicide, rape, assault, sexual assault, kidnap, or child abuse or neglect.

''(B) Any court ordered restriction on physical contact with another person, including any temporary or permanent restraining order or civil protection order.

''(C) Marital history, including if the person is currently married, if the person has previously been married and how many times, how previous marriages were terminated and the date of termination, and if the person has previously sponsored an alien to whom the person has been engaged or married.

''(D) The ages of any and all children under the age of 18.

''(E) All States in which the client has resided since the age of 18.

''(e) ADDITIONAL OBLIGATIONS OF THE INTERNATIONAL MARRIAGE BROKER.—An international marriage broker shall not provide any personal contact information about any foreign national client to any client, unless and until—

''(1) the client has been informed that the client will be subject to a criminal background check should they petition for a visa under clause (i) or (iii) of section 101(a)(15)(K) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(K)); and

''(2) the foreign national client has been provided a copy of the information required under subsection (d) regarding that client.

''(f) CIVIL PENALTY.—

''(1) VIOLATION.—An international marriage broker that the Secretary of Homeland Security determines has violated any provision of this section or section 7 of the International Marriage Broker Regulation Act of 2003 shall be subject, in addition to any other penalties that may be prescribed by law, to a civil penalty of not more than $20,000 for each such violation.

''(2) PROCEDURES FOR IMPOSITION OF PENALTY.—A penalty imposed under paragraph (1) may be imposed only after notice and an opportunity for an agency hearing on the record in accordance with sections 554 through 557 of title 5, United States Code.

''(g) CRIMINAL PENALTY.—An international marriage broker that, within the special maritime and territorial jurisdiction of the United States, violates any provision of this section or section 7 of the International Marriage Broker Regulation Act of 2003 shall be fined in accordance with title 18, United States Code, or imprisoned for not less than 1 year and not more than 5 years, or both.

''(h) ENFORCEMENT.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been, or is threatened to be, adversely affected by a violation of this section, the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to —

''(1) enjoin that practice;

''(2) enforce compliance with this section; or

''(3) obtain damages.

''(i) STUDY AND REPORT.—

''(1) STUDY.—Not later than 2 years after the date of enactment of the International Marriage Broker Regulation Act of 2003, the Attorney General, in consultation with the Director of the Bureau of Citizenship and Immigration Services within the Department of Homeland Security, shall conduct a study—

''(A) regarding the number of international marriage brokers doing business in the United States and the number of marriages resulting from the services provided, and the extent of compliance with this section and section 7 of the International Marriage Broker Regulation Act of 2003;

''(B) that assesses information gathered under this section and section 7 of the International Marriage Broker Regulation Act of 2003 from clients and petitioners by international marriage brokers and the Bureau of Citizenship and Immigration Services;

''(C) that examines, based on the information gathered, the extent to which persons with a history of violence are using the services of international marriage brokers and the extent to which such persons are providing accurate information to international marriage brokers in accordance with this section and section 7 of the International Marriage Broker Regulation Act of 2003; and

''(D) that assesses the accuracy of the criminal background check at identifying past instances of domestic violence.

''(2) REPORT.—Not later than 3 years after the date of enactment of the International Marriage Broker Regulation Act of 2003, the Secretary of Homeland Security shall submit a report to the Committees on the Judiciary of the Senate and the House of Representatives setting forth the results of the study conducted pursuant to paragraph (1).''.

SEC. 4. CRIMINAL BACKGROUND CHECK.

Section 214(d) of the Immigration and Nationality Act (8 U.S.C. 1184(d)), as amended by section 2, is further amended by adding at the end the following:

''(3) A petitioner for a visa under clause (i) or (iii) of section 101(a)(15)(K) shall undergo a national criminal background check conducted using the national criminal history background check system and State criminal history repositories of all States in which the applicant has resided prior to the petition being approved by the Secretary of Homeland Security, and the results of the background check shall be included in the petition forwarded to the consular office under that section.''.

SEC. 5. CHANGES IN CONSULAR PROCESSING OF FIANCÉ(E) VISA APPLICATIONS.

(a) IN GENERAL.—During the consular interview for purposes of the issuance of a visa under clause (i) or (iii) of section 101(a)(15)(K) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(K)), a consular officer shall disclose to the alien applicant information in writing in the native language of the alien concerning—

(1) the illegality of domestic violence in the United States and the availability of resources for victims of domestic violence (including aliens), including protective orders, crisis hotlines, free legal advice, and shelters;

(2) the requirement that international marriage brokers provide foreign national clients with responses of clients to questions regarding the client's domestic violence history and marital history, but that such information may not be accurate;

(3) the right of an alien who is or whose children are subjected to domestic violence or extreme cruelty by a United States citizen spouse or legal permanent resident spouse, to self-petition for legal permanent immigration status under the Violence Against Women Act independently of, and without the knowledge, consent, or cooperation of, such United States citizen spouse or legal permanent resident spouse; and

(4) any information regarding the petitioner that—

(A) was provided to the Bureau of Citizenship and Immigration Services within the Department of Homeland Security pursuant to section 7; and

(B) is contained in the background check conducted in accordance with section 214(d)(3) of the Immigration and Nationality Act, as added by section 4, relating to any conviction or civil order for a crime of violence, act of domestic violence, or child abuse or neglect.

(b) DEFINITIONS.—In this section, the terms ''client'', ''domestic violence'', ''foreign national client'', and ''international marriage brokers'' have the same meaning given such terms in section 652 of the Omnibus Consolidated Appropriations Act, 1997 (8 U.S.C. 1375).

SEC. 6. INTERAGENCY TASK FORCE TO MONITOR AND COMBAT TRAFFICKING.

Section 105 of the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7103) is amended—

(1) in subsection (d)(2), by inserting ''and the role of international marriage brokers (as defined in section 652 of the Omnibus Consolidated Appropriations Act, 1997 (8 U.S.C. 1375))'' after ''public corruption''; and

(2) by adding at the end the following:

''(f) MEETINGS.—The Task Force shall meet not less than 2 times in a calendar year.''.

SEC. 7. BUREAU OF CITIZENSHIP AND IMMIGRATION SERVICES.

The Bureau of Citizenship and Immigration Services within the Department of Homeland Security shall require that information described in section 652(c) of the Omnibus Consolidated Appropriations Act, 1997

(8 U.S.C. 1375(c)), as amended by section 3, be provided to the Bureau of Citizenship and Immigration Services by a client (as defined in section 652 of the Omnibus Consolidated Appropriations Act, 1997 (8 U.S.C.1375)) in writing and signed under penalty of perjury as part of any visa petition under section 214(d) of the Immigration and Nationality Act (8 U.S.C. 1184(d)).

SEC. 8. GOOD FAITH MARRIAGES.

The fact that an alien who is in the United States on a visa under clause (i) or (iii) of section 101(a)(15)(K) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(K)) is aware of the criminal background of a client (as defined in section 652 of the Omnibus Consolidated Appropriations Act, 1997 (8 U.S.C. 1375)) cannot be used as evidence that the marriage was not entered into in good faith.

SEC. 9. TECHNICAL AND CONFORMING AMENDMENTS.

Section 214(d) of the Immigration and Nationality Act (8 U.S.C. 1184(d)) is amended by striking ''Attorney General'' each place that term appears and inserting ''Secretary of Homeland Security''.

SEC. 10. PREEMPTION.

Nothing in this Act, or the amendments made by this Act, shall preempt any State law that provides additional protection for aliens who are utilizing the services of an international marriage broker (as defined in section 652 of the Omnibus Consolidated Appropriations Act, 1997 (8 U.S.C. 1375)).

By Mr. BREAUX:

S. 1456. A bill to amend the Public Health Service Act with respect to mental health services for elderly individuals; to the Committee on Health, Education, Labor, and Pensions.

Mr. BREAUX. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1456

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 ''Positive Aging Act of 2003''.

SEC. 2. FINDINGS; STATEMENT OF PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) although, on average, ¼ of all patients seen in primary care settings have a mental disorder, primary care practitioners identify such illness in only about half of these cases;

(2) four mental disorders are among the 10 leading causes of disability in the United States;

(3) among the elderly, 10 percent have dementia and as many as one quarter have significant clinical depression;

(4) access to mental health services by the elderly is compromised by health benefits coverage limits, gaps in the mental health services delivery system, and shortages of geriatric mental health practitioners;

(5) the integration of medical and mental health treatment provides an effective means of coordinating care, improving mental health outcomes, and saving health care dollars; and

(6) the treatment of mental disorders in older patients, particularly those with other chronic diseases, can improve health outcomes and the quality of life for these patients.

(b) STATEMENT OF PURPOSE.—In order to address the emerging crisis in the identification and treatment of mental disorders among the elderly, it is the purpose of this Act to—

(1) promote models of care that integrate mental health services and medical care within primary care settings; and

(2) improve access by older adults to mental health services in community-based settings.

TITLE I—ENHANCING ACCESS TO MENTAL HEALTH SERVICES FOR THE ELDERLY

SEC. 101. SERVICES IMPLEMENTATION PROJECTS TO SUPPORT INTEGRATION OF MENTAL HEALTH SERVICES IN PRIMARY CARE SETTINGS.

Subpart 3 of part B of title V of the Public Health Service Act (42 U.S.C. 290bb–31 et seq.) is amended—

(1) in section 520(b)—

(A) in paragraph (14), by striking ''and'' at the end;

(B) in paragraph (15), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following paragraph:

''(16) conduct the demonstration projects specified in section 520K.''; and

(2) by adding at the end the following section:

''SEC. 520K. PROJECTS TO DEMONSTRATE INTEGRATION OF MENTAL HEALTH SERVICES IN PRIMARY CARE SETTINGS.

''(a) IN GENERAL.—The Secretary, acting through the Director of the Center for Mental Health Services, shall make grants to public and private nonprofit entities for evidence-based projects to demonstrate ways of integrating mental health services for older patients into primary care settings, such as health centers receiving a grant under section 330 (or determined by the Secretary to meet the requirements for receiving such a grant), other Federally qualified health centers, primary care clinics, and private practice sites.

''(b) REQUIREMENTS.—In order to qualify for a grant under this section, a project shall provide for collaborative care within a primary care setting, involving psychiatrists, psychologists, and other licensed mental health professionals with appropriate training and experience in the treatment of older adults, in which screening, assessment, and intervention services are combined into an integrated service delivery model, including—

''(1) screening services by a mental health professional with at least a masters degree in an appropriate field of training, supported by psychiatrists and psychologists with appropriate training and experience in the treatment of older adults to ensure adequate consideration of biomedical and psychosocial conditions, respectively;

''(2) referrals for necessary prevention, intervention, follow-up care, consultations, and care planning oversight for mental health and other service needs, as indicated; and

''(3) adoption and implementation of evidence-based protocols, to the extent available, for prevalent mental health disorders, including depression, anxiety, behavioral and psychological symptoms of dementia, psychosis, and misuse of, or dependence on, alcohol or medication.

''(c) CONSIDERATIONS IN AWARDING GRANTS.—To the extent feasible, the Secretary shall ensure that—

''(1) grants under this section are awarded to projects in a variety of geographic areas, including urban and rural areas; and

''(2) the needs of ethnically diverse at-risk populations are addressed.

''(d) DURATION.—A project may receive funding pursuant to a grant under this section for a period of up to 3 years, with an extension period of 2 additional years at the discretion of the Secretary.

''(e) APPLICATION.—In order to receive a grant under this section, a public or private nonprofit entity shall—

''(1) submit an application to the Secretary (in such form, containing such information, and at such time as the Secretary may specify); and

''(2) agree to report to the Secretary standardized clinical and behavioral data necessary to evaluate patient outcomes and to facilitate evaluations across participating projects.

''(f) EVALUATION.—Not later than 6 months after the close of a calendar year, the Secretary shall submit to the Congress a report evaluating the projects receiving awards under this section for such year.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 2004 and each fiscal year thereafter such sums as may be necessary to carry out this section.''.

SEC. 102. GRANTS FOR COMMUNITY-BASED MENTAL HEALTH TREATMENT OUTREACH TEAMS.

Subpart 3 of part B of title V of the Public Health Service Act (42 U.S.C. 290bb–31 et seq.), as amended by section 101 of this Act, is further amended by adding at the end the following section:

''SEC. 520L. GRANTS FOR COMMUNITY-BASED MENTAL HEALTH TREATMENT OUTREACH TEAMS.

''(a) IN GENERAL.—The Secretary, acting through the Director of the Center for Mental Health Services, shall make grants to public or private nonprofit entities that are community-based providers of geriatric mental health services, to support the establishment and maintenance by such entities of multi-disciplinary geriatric mental health outreach teams in community settings where older adults reside or receive social services. Entities eligible for such grants include—

''(1) mental health service providers of a State or local government;

''(2) outpatient programs of private, nonprofit hospitals;

''(3) community mental health centers meeting the criteria specified in section 1913(c); and

''(4) other community-based providers of mental health services.

''(b) REQUIREMENTS.—In order to qualify for a grant under this section, an entity shall—

''(1) adopt and implement, for use by its mental health outreach team, evidence-based intervention and treatment protocols (to the extent such protocols are available) for mental disorders prevalent in older adults, relying to the greatest extent feasible on protocols that have been developed—

''(A) by or under the auspices of the Secretary; or

''(B) by academicians with expertise in mental health and aging;

''(2) provide screening for mental disorders, diagnostic services, referrals for treatment, and case management and coordination through such teams; and

''(3) coordinate and integrate the services provided by such team with the services of social service, mental health, medical, and other health care providers at the site or sites where the team is based in order to—

''(A) improve patient outcomes; and

''(B) to ensure, to the maximum extent feasible, the continuing independence of older adults who are residing in the community.

''(c) COOPERATIVE ARRANGEMENTS WITH SITES SERVING AS BASES FOR OUTREACH TEAMS.—An entity receiving a grant under this section may enter into an agreement with a person operating a site at which a geriatric mental health outreach team of the entity is based, including—

''(1) senior centers;

''(2) adult day care programs;

''(3) assisted living facilities; and

''(4) recipients of grants to provide services to senior citizens under the Older Americans Act, under which such person provides (and is reimbursed by the entity, out of funds received under the grant, for) any supportive services, such as transportation and administrative support, that such person provides to an outreach team of such entity.

''(d) CONSIDERATIONS IN AWARDING GRANTS.—To the extent feasible, the Secretary shall ensure that—

''(1) grants under this section are awarded to projects in a variety of geographic areas, including urban and rural areas; and

''(2) the needs of ethnically diverse at-risk populations are addressed.

''(e) APPLICATION.—In order to receive a grant under this section, an entity shall—

''(1) submit an application to the Secretary (in such form, containing such information, and at such time as the Secretary may specify); and

''(2) agree to report to the Secretary standardized clinical and behavioral data necessary to evaluate patient outcomes and to facilitate evaluations across participating projects.

''(f) EVALUATION.—Not later than 6 months after the close of a calendar year, the Secretary shall submit to the Congress a report evaluating the programs receiving a grant under this section for such year.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 2004 and each fiscal year thereafter such sums as may be necessary to carry out this section.''.

TITLE II—ADMINISTRATIVE CHANGES TO STRENGTHEN PROGRAMS FOR GERIATRIC MENTAL HEALTH SERVICES

SEC. 201. DESIGNATION OF DEPUTY DIRECTOR FOR GERIATRIC MENTAL HEALTH SERVICES IN CENTER FOR MENTAL HEALTH SERVICES.

Section 520 of the Public Health Service Act (42 U.S.C. 290bb–31) is amended by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following:

''(c) DEPUTY DIRECTOR FOR GERIATRIC MENTAL HEALTH SERVICES.—The Director, after consultation with the Administrator, shall designate a Deputy Director for Geriatric Mental Health Services, who shall be responsible for the development and implementation of initiatives of the Center to address the mental health needs of older adults. Such initiatives shall include—

''(1) research on prevention and identification of mental disorders in the geriatric population;

''(2) innovative demonstration projects for the delivery of community-based mental health services for older Americans;

''(3) support for the development and dissemination of evidence-based practice models, including models to address dependence on, and misuse of, alcohol and medication in older adults; and

''(4) development of model training programs for mental health professionals and caregivers serving older adults.''.

SEC. 202. MEMBERSHIP OF ADVISORY COUNCIL FOR THE CENTER FOR MENTAL HEALTH SERVICES.

Section 502(b)(3) of the Public Health Service Act (42 U.S.C. 290aa–1(b)(3)) is amended by adding at the end the following:

''(C) In the case of the advisory council for the Center for Mental Health Services, the members appointed pursuant to subparagraphs (A) and (B) shall include representatives of older Americans, their families, and geriatric mental health specialists, including at least 1 physician with board certification in geriatric psychiatry and at least 1 psychologist with appropriate training and experience in the treatment of older adults.''.

SEC. 203. PROJECTS OF NATIONAL SIGNIFICANCE TARGETING SUBSTANCE ABUSE IN OLDER ADULTS.

Section 509(b)(2) of the Public Health Service Act (42 U.S.C. 290bb–2(b)(2)) is amended by inserting before the period the following: '', and to providing treatment for older adults with alcohol or substance abuse or addiction, including medication misuse or dependence''.

SEC. 204. CRITERIA FOR STATE PLANS UNDER COMMUNITY MENTAL HEALTH SERVICES BLOCK GRANTS.

(a) IN GENERAL.—Section 1912(b) of the Public Health Service Act (42 U.S.C. 300x–2(b)) is amended by inserting after paragraph (5) the following:

''(6) GOALS AND INITIATIVES FOR IMPROVING ACCESS TO SERVICES FOR OLDER ADULTS.—The plan—

''(A) specifies goals for improving access by older Americans to community-based mental health services;

''(B) includes a plan identifying and addressing the unmet needs of such individuals for mental health services; and

''(C) includes an inventory of the services, personnel, and treatment sites available to improve the delivery of mental health services to such individuals.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to State plans submitted under section 1912 of the Public Health Service Act on or after the date that is 180 days after the date of the enactment of this Act.

By Mr. MCCAIN (for himself, Mr. DASCHLE, and Mr. JOHNSON):

S. 1459. A bill to provide for reform of management of Indian trust funds and assets under the jurisdiction of the Department of the Interior, and for other purposes; to the Committee on Indian Affairs.

Mr. MCCAIN. Mr. President, I rise to introduce legislation to serve as the basis for much needed reforms to the Federal Government's management of Indian trust funds and trust assets within the U.S. Department of the Interior. I am joined by my colleagues, Senators DASCHLE and JOHNSON, in this effort, as well as by Representatives MARK UDALL and NICK RAHALL whom are sponsoring a companion measure in the House of Representatives.

This legislation is a reflection of a continuing effort by my colleagues and myself to develop a trust reform proposal that will not only serve to improve the Federal Government's administration and management of Indian trust funds and trust assets but it will also institute a role for Indian tribes to participate in developing additional needed reforms and enhance the principles of tribal self-determination.

Earlier this year, Senators DASCHLE, JOHNSON, and myself introduced similar trust reform legislation and received substantive feedback from Indian country on the bill. This feedback helped us in developing this new legislative proposal, which will serve as the framework for instituting broader reforms necessary for long-term management of tribal trust resources and enhancing Federal Indian policy. I thank the tribes and tribal organizations such as the Inter Tribal Monitoring Association, the Native American Rights Fund, and the National Congress of American Indians, which worked with our offices and helped to formulate the concepts embodied in this proposal. We are encouraged by their efforts and support to seek a legislative remedy to these difficult problems.

The basic elements of this bill focus on three primary areas: the management of trust funds and trust assets will be elevated in the overall Department by designating a Deputy Secretary of Indian Affairs to assume the current responsibilities of the Assistant Secretary of Indian Affairs and the Special Trustee. Second, as determined by the court and the administration, it is Congress' duty to affirm fiduciary standards for proper management of these trust funds and trust assets, and this bill includes such standards. And, third, the role of the tribes is enhanced through affirmation of the authority of tribes to utilize self-determination laws to manage their own funds and assets. Tribes will also be engaged in determining additional necessary reforms through participation in an established congressional commission.

The mismanagement of Indian trust funds is a long and disgraceful chapter in the history of this Nation. The 1994 American Indian Trust Fund Management Reform Act was enacted to take measures to reconcile these accounts and return the money to the Native American beneficiaries. Unfortunately, as continuing management problems persist and Native Americans are left out of the decision-making process about the management of their resources, it is time for Congress to step up and take decisive action to once again require significant reform with the active participation of the tribes.

I am pleased that Senators DASCHLE and JOHNSON are committed to working with me once again on this legislation, and I am also encouraged by the interest of our House counterparts to jointly introduce this bill with us. I look forward to working with my colleagues and the tribes to advance this legislation. We are willing to consider additional review and comments and expect to further refine this bill as it moves through the legislative process.

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. 1459

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 ''American Indian Trust Fund Management Reform Act Amendments Act of 2003''.

SEC. 2. DEFINITIONS.

Section 2 of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001) is amended—

(1) by redesignating paragraphs (1), (2), (3), (4), (5), and (6) as paragraphs (7), (4), (6), (5), (2), and (3), respectively, and moving those paragraphs so as to appear in numerical order; and

(2) by inserting before paragraph (2) (as redesignated by paragraph (1)) the following:

''(1) AUDIT.—The term 'audit' means an audit using accounting procedures that conform to generally accepted accounting principles and auditing procedures that conform to chapter 75 of title 31, United States Code (commonly known as the 'Single Audit Act of 1984'); and

(3) by adding at the end the following:

''(8) TRIBAL GOVERNMENT—The term 'tribal government' means the governing body of an Indian tribe.

''(9) TRUST ASSET.—The term 'trust asset' means any tangible property (such as land, a mineral, coal, oil or gas, a forest resource, an agricultural resource, water, a water source, fish, or wildlife) held by the Secretary for the benefit of an Indian tribe or an individual member of an Indian tribe in accordance with Federal law.

''(10) TRUST FUNDS.—The term 'trust funds' means—

''(A) all monies or proceeds derived from trust assets; and

''(B) all funds held by the Secretary for the benefit of an Indian tribe or an individual member of an Indian tribe in accordance with Federal law.

''(11) TRUSTEE.—The term 'trustee' means the Secretary or any other person that is authorized to act as a trustee for trust assets and trust funds.''.

SEC. 3. RESPONSIBILITIES OF SECRETARY.

Section 102 of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4011) is amended to read as follows:

''SEC. 102. RESPONSIBILITIES OF SECRETARY.

''(a) ACCOUNTING FOR DAILY AND ANNUAL BALANCES OF INDIAN TRUST FUNDS.—

''(1) IN GENERAL.—The Secretary shall account for the daily and annual balances of all trust funds.

''(2) PERIODIC STATEMENT OF PERFORMANCE.—

''(A) IN GENERAL.—Not later than 20 business days after the close of the second calendar quarter after the date of enactment of this paragraph, and not later than 20 business days after the close of each calendar quarter thereafter, the Secretary shall provide to each Indian tribe and individual Indian for whom the Secretary manages trust funds a statement of performance for the trust funds.

''(B) REQUIREMENTS.—Each statement under subparagraph (A) shall identify, with respect to the period covered by the statement—

''(i) the source, type, and status of the funds;

''(ii) the beginning balance of the funds;

''(iii) the gains and losses of the funds;

''(iv) receipts and disbursements of the funds; and

''(v) the ending balance of the funds.

''(3) AUDITS.—With respect to each account containing trust funds, the Secretary shall—

''(A) for accounts with less than $1,000, group accounts separately to allow for statistical sampling audit procedures;

''(B) for accounts containing more than $1,000 at any time during a given fiscal year—

''(i) conduct, for each fiscal year, an audit of all trust funds; and

''(ii) include, in the first statement of performance after completion of the audit, a letter describing the results of the audit.

''(b) ADDITIONAL RESPONSIBILITIES.—The responsibilities of the Secretary in carrying out the trust responsibility of the United States include, but are not limited to—

''(1) providing for adequate systems for accounting for and reporting trust fund balances;

''(2) providing for adequate controls over receipts and disbursements;

''(3) providing for periodic, timely reconciliations of financial records to ensure the accuracy of account information;

''(4) determining accurate cash balances;

''(5) preparing and supplying to account holders periodic account statements;

''(6) establishing and publishing in the Federal Register consistent policies and procedures for trust fund management and accounting;

''(7) providing adequate staffing, supervision, and training for trust fund management and accounting; and

''(8) managing natural resources located within the boundaries of Indian reservations and trust land.''.

SEC. 4. AFFIRMATION OF STANDARDS.

Title I of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4011 et seq.) is amended by adding at the end the following:

''SEC. 105. AFFIRMATION OF STANDARDS.

''Congress affirms that the proper discharge of trust responsibility of the United States requires, without limitation, that the trustee, using the highest degree of care, skill, and loyalty—

''(1) protect and preserve Indian trust assets from loss, damage, unlawful alienation, waste, and depletion;

''(2) ensure that any management of Indian trust assets required to be carried out by the Secretary—

''(A) promotes the interest of the beneficial owner; and

''(B) supports, to the maximum extent practicable in accordance with the trust responsibility of the Secretary, the beneficial owner's intended use of the assets;

''(3)(A) enforce the terms of all leases or other agreements that provide for the use of trust assets; and

''(B) take appropriate steps to remedy trespass on trust or restricted land;

''(4) promote tribal control and self-determination over tribal trust land and resources without diminishing the trust responsibility of the Secretary;

''(5) select and oversee persons that manage Indian trust assets;

''(6) confirm that Indian tribes that manage Indian trust assets in accordance with contracts and compacts authorized by the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) protect and prudently manage those Indian trust assets;

''(7) provide oversight and review of the performance of the trust responsibility of the Secretary, including Indian trust asset and investment management programs, operational systems, and information systems;

''(8) account for and identify, collect, deposit, invest, and distribute, in a timely manner, income due or held on behalf of tribal and individual Indian account holders;

''(9) maintain a verifiable system of records that, at a minimum, is capable of identifying, with respect to a trust asset—

''(A) the location of the trust asset;

''(B) the beneficial owners of the trust asset;

''(C) any legal encumbrances (such as leases or permits) applicable to the trust asset;

''(D) the user of the trust asset;

''(E) any rent or other payments made;

''(F) the value of trust or restricted land and resources associated with the trust asset;

''(G) dates of—

''(i) collections;

''(ii) deposits;

''(iii) transfers;

''(iv) disbursements;

''(v) imposition of third-party obligations (such as court-ordered child support or judgments);

''(vi) statements of earnings;

''(vii) investment instruments; and

''(viii) closure of all trust fund accounts relating to the trust fund asset;

''(H) documents pertaining to actions taken to prevent or compensate for any diminishment of the Indian trust asset; and

''(I) documents that evidence the actions of the Secretary regarding the management and disposition of the Indian trust asset;

''(10) establish and maintain a system of records that—

''(A) permits beneficial owners to obtain information regarding Indian trust assets in a timely manner; and

''(B) protects the privacy of that information;

''(11) invest tribal and individual Indian trust funds to ensure that the trust account remains reasonably productive for the beneficial owner consistent with market conditions existing at the time at which investment is made;

''(12) communicate with beneficial owners regarding the management and administration of Indian trust assets; and

''(13) protect treaty-based fishing, hunting, gathering, and similar rights-of-access and resource use on traditional tribal land.''.

SEC. 5. INDIAN PARTICIPATION IN TRUST FUND ACTIVITIES.

Section 202 of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4022) is amended by striking subsection (c) and inserting the following:

''(c) MANAGEMENT THROUGH SELF-DETERMINATION AUTHORITY.—

''(1) IN GENERAL.—An Indian tribe may use authority granted to the Indian tribe under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) to manage Indian trust funds and trust assets without terminating—

''(A) the trust responsibility of the Secretary; or

''(B) the trust status of the funds and assets.

''(2) NO EFFECT ON TRUST RESPONSIBILITY.—Nothing in this subsection diminishes or otherwise impairs the trust responsibility of the United States with respect to the Indian people.''.

SEC. 6. DEPUTY SECRETARY FOR INDIAN AFFAIRS.

(a) IN GENERAL.—Section 302 of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4042) is amended to read as follows:

''SEC. 302. DEPUTY SECRETARY FOR INDIAN AFFAIRS.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—There is established within the Department the position of Deputy Secretary for Indian Affairs (referred to in this section as the 'Deputy Secretary'), who shall report directly to the Secretary.

''(2) APPOINTMENT.—The Deputy Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

''(b) DUTIES.—

''(1) IN GENERAL.—The Deputy Secretary shall—

''(A) oversee the Bureau of Indian Affairs;

''(B) be responsible for carrying out all duties assigned to the Assistant Secretary for Indian Affairs as of the day before the date of enactment of the American Indian Trust Fund Management Reform Act Amendments Act of 2003;

''(C) oversee all trust fund and trust asset matters of the Department, including—

''(i) administration and management of the Reform Office;

''(ii) financial and human resource matters of the Reform Office; and

''(iii) all duties relating to trust fund and trust asset matters;

''(D) engage in appropriate government-to-government relations and consultations with Indian tribes and individual trust asset and trust fund account holders on matters involving trust asset and trust fund management and reform within the Department; and

''(E) carry out such other duties relating to Indian affairs as the Secretary may assign.

''(2) TRANSFER OF DUTIES OF ASSISTANT SECRETARY.—As of the date of enactment of the American Indian Trust Fund Management Reform Act Amendments Act of 2003, all duties assigned to the Assistant Secretary for Indian Affairs shall be transferred to, and become the responsibility of, the Deputy Secretary.

''(3) SUCCESSION.—Any official who is serving as Assistant Secretary for Indian Affairs on the date of enactment of the American Indian Trust Fund Management Reform Act Amendments Act of 2003 and who was appointed by the President, by and with the advice and consent of the Senate, shall not be required to be reappointed under subsection (a) to the successor position authorized under subsection (a) if the Secretary approves the occupation by the official of the position by the date that is 180 days after the date of enactment of the American Indian Trust Fund Management Reform Act Amendments Act of 2003 (or such later date determined by the Secretary if litigation delays rapid succession).

''(c) STAFF.—In carrying out this section, the Deputy Secretary may hire such staff having expertise in trust asset and trust fund management, financial organization and management, and Federal Indian law and policy as the Deputy Secretary determines is necessary to carry out this title.

''(d) EFFECT ON DUTIES OF OTHER OFFICIALS.—

''(1) IN GENERAL.—Except as provided in subsection (c) and paragraph (2), nothing in this section diminishes any responsibility or duty of the Deputy Secretary of the Interior appointed under the Act of May 9, 1935 (43 U.S.C. 1452), or any other Federal official, relating to any duty established under this Act or any other provision of law.

''(2) TRUST ASSET AND TRUST FUND MANAGEMENT AND REFORM.—Notwithstanding any other provision of law, the Deputy Secretary shall have overall management and oversight authority on matters of the Department relating to trust asset and trust fund management and reform (including matters that, as of the day before the date of enactment of the Indian Trust Asset and Trust Fund Management and Reform Act of 2003, were carried out by the Commissioner of Indian Affairs).

''(e) OFFICE OF TRUST REFORM IMPLEMENTATION AND OVERSIGHT.—

''(1) ESTABLISHMENT.—There is established within the Office of the Secretary the Office of Trust Reform Implementation and Oversight.

''(2) REFORM OFFICE HEAD.—The Reform Office shall be headed by the Deputy Secretary.

''(3) DUTIES.—The Reform Office shall—

''(A) supervise and direct the day-to-day activities of the Deputy Secretary, the Commissioner of Reclamation, the Director of the Bureau of Land Management, and the Director of the Minerals Management Service, to the extent that those officials administer or manage any Indian trust assets or funds;

''(B) administer, in accordance with title II, all trust properties, funds, and other assets held by the United States for the benefit of Indian tribes and individual members of Indian tribes;

''(C) require the development and maintenance of an accurate inventory of all trust funds and trust assets;

''(D) ensure the prompt posting of revenue derived from a trust fund or trust asset for the benefit of each Indian tribe (or individual member of each Indian tribe) that owns a beneficial interest in the trust fund or trust asset;

''(E) ensure that all trust fund accounts are audited at least annually, and more frequently as determined to be necessary by the Deputy Secretary;

''(F) ensure that the Deputy Secretary, the Director of the Bureau of Land Management, the Commissioner of Reclamation, and the Director of the Minerals Management Service provide to the Secretary current and accurate information relating to the administration and management of trust funds and trust assets; and

''(G) provide for regular consultation with trust fund account holders on the administration of trust funds and trust assets to ensure, to the maximum extent practicable in accordance with applicable law and a Plan approved under section 202, the greatest return on those funds and assets for the trust fund account holders consistent with the beneficial owners intended uses for the trust funds.

''(4) CONTRACTS AND COMPACTS.—The Reform Office may carry out its duties directly or through contracts and compacts under section 102 of the Indian Self-Determination Act (25 U.S.C. 450f) or section 403 of the Indian Self Determination and Education Assistance Act (25 U.S.C. 458cc) to provide for the management of trust assets and trust funds by Indian tribes pursuant to a Trust Fund and Trust Asset Management and Monitoring Plan developed under section 202 of this Act.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.''.

(b) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—

(A) Section 5313 of title 5, United States Code, is amended by inserting ''Deputy Secretary of the Interior for Indian Affairs'' after ''Deputy Secretary of the Interior''.

(B) Section 5315 of title 5, United States Code, is amended by striking ''Assistant Secretaries of the Interior (6)'' and inserting ''Assistant Secretaries of the Interior (5)''.

(C) Title III of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4041 et seq.) is amended by striking the title heading and inserting the following:

''TITLE III—REFORMS RELATING TO TRUST RESPONSIBILITY''.

(D) Section 301(1) of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4041(1)) is amended by striking ''by establishing in the Department of the Interior an Office of Special Trustee for American Indians'' and inserting ''by directing the Deputy Secretary''.

(E) Section 303 of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4043) is amended—

(i) by striking the section heading and inserting the following:

''SEC. 303. ADDITIONAL AUTHORITIES AND FUNCTIONS OF THE DEPUTY SECRETARY.'';

(ii) in subsection (a)(1), by striking ''section 302(b) of this title'' and inserting ''section 302(a)(2)'';

(iii) in subsection (e)—

(I) by striking the subsection heading and inserting the following:

''(e) ACCESS OF DEPUTY SECRETARY.—''; and

(II) by striking ''of his duties'' and inserting ''of the duties of the Deputy Secretary''; and

(iv) by striking ''Special Trustee'' each place it appears and inserting ''Deputy Secretary''.

(F) Sections 304 and 305 of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4044, 4045) are amended by striking ''Special Trustee'' each place it appears and inserting ''Deputy Secretary''.

(G) The first section of Public Law 92–22 (43 U.S.C. 1453a) is repealed.

(H) Any reference in a law, map, regulation, document, paper, or other record of the United States to the Assistant Secretary of the Interior for Indian Affairs shall be deemed to be a reference to the Deputy Secretary of the Interior for Indian Affairs.

(2) EFFECTIVE DATE.—The amendments made by this subsection take effect on the date on which a Deputy Secretary for Indian Affairs is appointed under section 302 of the American Indian Trust Fund Management Reform Act (as amended by subsection (a)).

SEC. 7. COMMISSION FOR REVIEW OF INDIAN TRUST FUND MANAGEMENT RESPONSIBILITIES.

(a) ESTABLISHMENT.—There is established a commission, to be known as the ''Commission for Review of Indian Trust Fund Management Responsibilities'' (referred to in this section as the ''Commission''), for the purpose of assessing the fiduciary and management responsibilities of the Federal Government with respect to Indian tribes and individual Indian beneficiaries.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be composed of 12 members, of whom—

(A) 4 members shall be appointed by the President;

(B) 2 members shall be appointed by the Majority Leader of the Senate;

(C) 2 members shall be appointed by the Minority Leader of the Senate;

(D) 2 members shall be appointed by the Speaker of the House of Representatives; and

(E) 2 members shall be appointed by the Minority Leader of the House of Representatives.

(2) QUALIFICATIONS.—The membership of the Commission—

(A) shall include a majority of individuals who are representatives of federally recognized Indian tribes, including at least 1 representative who is an individual Indian trust fund account holder; and

(B) shall include members who have experience in—

(i) trust management;

(ii) fiduciary investment management;

(iii) Federal Indian law and policy; and

(iv) financial management.

(3) CHAIRPERSON.—The Commission shall select a Chairperson from among the members of the Commission.

(4) DATE OF APPOINTMENTS.—The appointment of a member of the Commission shall be made not later than 90 days after the date of enactment of this Act.

(5) TERM; VACANCIES.—

(A) TERM.—A member shall be appointed for the life of the Commission.

(B) VACANCIES.—A vacancy on the Commission—

(i) shall not affect the powers of the Commission; and

(ii) shall be filled in the same manner as the original appointment was made.

(c) MEETINGS.—

(1) INITIAL MEETING.—Not later than 60 days after the date on which all members of the Commission have been appointed, the Commission shall hold the initial meeting of the Commission.

(2) PROCEDURES.—The Commission shall—

(A) meet at the call of the Chairperson; and

(B) establish procedures for conduct of business of the Commission, including public hearings.

(3) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(d) DUTIES.—The Commission shall—

(1) review and assess Federal laws and policies relating to the management of Indian trust funds;

(2) make recommendations (including legislative and administrative recommendations) relating to management of Indian trust funds, including but not limited to options for—

(A) historical accounting;

(B) settlement of disputed tribal and individual accounts; and

(C) revisions of—

(i) management standards;

(ii) administrative management structure;

(iii) investment policies and accounting; and

(iv) reporting procedures; and

(3) carry out such other duties as the President may assign to the Commission.

(e) REPORT.—Not later than 32 months after the date on which the Commission holds the initial meeting of the Commission, the Commission shall submit to Congress, the Secretary of the Interior, and the Secretary of the Treasury a report that includes the results of the assessment conducted, and the recommendations made, by the Commission under subsection (d).

(f) POWERS OF COMMISSION.—

(1) HEARINGS.—The Commission may hold such hearings, meet and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this section.

(2) INFORMATION FROM FEDERAL AGENCIES.—

(A) IN GENERAL.—The Commission may secure directly from a Federal agency such information as the Commission considers necessary to carry out this section.

(B) PROVISION OF INFORMATION.—On request of the Chairperson of the Commission, the head of the agency shall provide the information to the Commission.

(3) ACCESS TO PERSONNEL.—The Commission shall have reasonable access to staff responsible for Indian trust management in—

(A) the Department of the Interior;

(B) the Department of Treasury; and

(C) the Department of Justice.

(4) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other agencies of the Federal Government.

(5) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(g) COMMISSION PERSONNEL MATTERS.—

(1) COMPENSATION OF MEMBERS.—

(A) NON-FEDERAL EMPLOYEES.—A member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Commission.

(B) FEDERAL EMPLOYEES.—A member of the Commission who is an officer or employee of the Federal Government shall serve without compensation in addition to the compensation received for the services of the member as an officer or employee of the Federal Government.

(2) TRAVEL EXPENSES.—A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(3) STAFF.—

(A) IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws (including regulations), appoint and terminate an executive director and such other additional personnel as are necessary to enable the Commission to perform the duties of the Commission.

(B) CONFIRMATION OF EXECUTIVE DIRECTOR.—The employment of an executive director shall be subject to confirmation by the Commission.

(C) COMPENSATION.—

(i) IN GENERAL.—Except as provided in clause (ii), the Chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(ii) MAXIMUM RATE OF PAY.—The rate of pay for the executive director and other personnel shall not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(h) EXEMPTION FROM FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

(j) TERMINATION OF COMMISSION.—The Commission and the authority of the Commission under this section terminates on the date that is 3 years after the date on which the Commission holds the initial meeting of the Commission.

SEC. 8. REGULATIONS.

The Secretary of the Interior, in consultation with interested Indian tribes, shall promulgate such regulations as are necessary to carry out this Act and amendments made by this Act.

SEC. 9. EFFECT OF ACT.

(a) COURT PROCEEDINGS.—Nothing in this Act limits the findings, remedies, jurisdiction, authority, or discretion of the courts in the matter entitled Cobell v. Norton, Civ. No. 96–1285 (RCL).

(b) USE OF FUNDS.—No funds appropriated for the purpose of an historical accounting of the individual Indian trust funds shall be used except as provided in an order of the court in Cobell v. Norton, Civ. No. 96–1285 (RCL) entered after the date of enactment of this Act.

Mr. DASCHLE. Mr. President, today I once again join with Senators JOHN MCCAIN and TIM JOHNSON in introducing legislation that addresses the longstanding problem of mismanagement of assets held by the United States in trust for federally recognized Indian tribes and individual American Indians.

Indian country has faced many challenges over the years. Few, however, have had more far-ranging ramifications on the lives of individual Native Americans, or been more vexing, than that of restoring integrity to trust fund management.

For over 100 years, the Department of the Interior has administered a trust fund containing the proceeds of leasing of oil, gas, land and mineral rights on Indian land for the benefit of Indian people. Today, that trust fund may owe as much as $10 billion to as many as 500,000 Indians.

To provide some perspective, the 16 tribes of the Great Plains in South Dakota, North Dakota, and Nebraska hold 10 million acres of trust lands representing over one-third of the tribal trust assets. Many enrolled members of the nine South Dakota tribes have individual trust accounts.

There is little disagreement that current government administration of the trust fund is a failure. However, there is no consensus on how to reform it.

Senators MCCAIN, JOHNSON, and I believe that Congress should be more assertive in promoting a solution to the trust management problem and in ensuring that tribes and individual Indian account holders have a true voice in shaping that solution. That is why we have proposed legislation that would redesign the trust management process.

Today, Senators MCCAIN, JOHNSON, and I are introducing a revised version of S. 175, a trust reform proposal we introduced earlier this year. This bill incorporates feedback we received from interested stakeholders and responds to developments that have occurred since S. 175 was introduced.

We are joined in this effort by Representatives MARK UDALL and NICK RAHALL who are introducing a companion measure in the House. I commend them for their commitment to correcting the trust management problem and value their leadership on this issue.

This legislation lays out legislative standards that form the cornerstone of the United States of America's trust responsibility to Indian nations. It directs the Secretary of the Interior to conduct a historical accounting for all trust accounts, regardless of amount, and authorizes an Indian tribe to manage Indian trust funds or trust assets through contracts or compacts. The trust responsibility of the Secretary or the trust status of funds and assets is not terminated but a voluntary option of cobeneficiary management is allowed if a tribe chooses that option.

A clear line of authority for trust management is established by elevating the Assistant Secretary of Indian Affairs to Deputy Secretary of Indian Affairs status. The special trustee's responsibilities are transferred to the Deputy Secretary, and the special trustee is terminated as intended in the 1994 act.

Finally, a temporary congressional commission is created to review trust funds management by the Department of the Interior. Comprised of 12 members, it will review and assess Federal management of trust funds and provide recommendations relating to the administrative and management duties of the Department.

It is our hope that this proposal will encourage more constructive dialog among the Congress, the Interior Department, and Indian country on the

trust management problem and lead to a true consensus solution. With that goal in mind, the bill has been reviewed by representatives of the Great Plains tribes, the Native American Rights Fund, the National Congress of American Indians, the InterTribal Monitoring Association, and the tribes of Arizona.

With respect to the Great Plains tribes, I would like to note that Mike Jandreau, chairman of the Lower Brule Sioux Tribe, has been a particularly eloquent advocate and effective champion of trust reform. Mike and Cheyenne River Sioux tribal chairman, Harold Frazier, led very productive working sessions with tribal leaders from South Dakota, North Dakota, and Nebraska that both raised awareness of the importance of this issue and built support for the bill that is being introduced today.

I commend the commitment and contribution of the participating Great Plains tribal leaders who have been an integral part of a public process that will not stop until the trust management problem is solved. The McCain-Daschle-Johnson bill is intended to contribute to this result.

It should also be noted and understood that we are not addressing the Cobell litigation or settlement issues in this bill. Our focus is the broader trust responsibility of the Department of the Interior.

The issues of trust reform and reorganization within the Bureau of Indian Affairs are nothing new to us here on Capitol Hill or in Indian country. Collectively, we have endured many efforts—some well intentioned and some clearly not—to fix, reform, adjust, improve, streamline, downsize, and even terminate the Bureau of Indian Affairs and its trust activities.

These efforts have been pursued under both Republican and Democratic administrations. Unfortunately, they have rarely included meaningful involvement of tribal leadership or respected the Federal Government's treaty obligation to tribes.

Restoring accountability and efficiency to trust management is a matter of fundamental justice. Nowhere do the principles of self-determination and tribal sovereignty come more into play than in the management and distribution of trust funds and assets.

I am deeply disappointed that this problem has not been solved to the satisfaction of tribal leaders by now. That fight is not over.

An effective long-term solution to the trust problem must be based on government-to-government dialog. The McCain-Daschle-Johnson bill will not only provide the catalyst for meaningful tribal involvement in the search for solutions, it can also form the basis for true trust reform. I look forward to participating with tribal leaders, administration officials, and my congressional colleagues in pursuit of this essential objective.

By Mr. KENNEDY (for himself, Ms. SNOWE, Mr. REED, and Mr. BINGAMAN):

S. 1460. A bill to amend the Federal Food, Drug, and Cosmetic Act to preserve the effectiveness of medically important antibiotics used in the treatment of human and animal diseases; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, it is a privilege to join Senator SNOWE, Senator REED, and Senator BINGAMAN in introducing The Preservation of Antibiotics for Medical Treatment Act.

Our legislation is both important and timely because we face unprecedented challenges to our health and safety from deadly diseases. As we have seen from SARS, new diseases can arise naturally and spread rapidly around the world. As we have seen from the anthrax attack, diseases can also be spread by terrorists.

We rely heavily on miracle drugs and vaccines to protect us against both of these threats. In fact, antibiotics are our strongest weapon in combating deadly bacterial diseases. But we have failed for too long to deal with a related and increasingly serous aspect of the problem the indiscriminate use of antibiotics for livestock and poultry which is reducing the effectiveness of these indispensable drugs that have become the crown jewels of modern medicine.

Every year, literally tons of antibiotics are routinely added to animal feed to enhance growth, fatten animals, and fatten profits too. Mounting scientific evidence, though, shows that nontherapeutic use of antibiotics in agricultural animals can lead to the development of antibiotic-resistant bacteria. These resistant bacteria are easily transferred to people by tainted food, making it very difficult or impossible to treat deadly infections.

The use of antibiotics in medicines began in the 1940s, and in the last 60 years, many different antibiotics have been discovered and widely used in treating patients. But the race has accelerated between patients and bacteria. Miracle drugs have saved countless lives but, inevitably, as their use in medicine increased, bacteria have developed resistance as well. Already, some older antibiotics have become useless in medicine.

There have also been cases of infections resistant even to some of the newest and most powerful antibiotics. According to the Centers for Disease Control and Prevention, thousands of Americans die each year from antibiotic-resistant diseases. The widespread use of antibiotics in agriculture was clearly contributing to this serious problem. In 1997, the World Health Organization recommended that antibiotics should not be used to promote animal growth, although they could still be used to treat sick animals. Last month, McDonald's Corporation took a major step in dealing with this problem. It announced a directive to its meat suppliers to stop or reduce the use of antibiotics for growth promotion of livestock.

The legislation we propose will phase out nontherapeutic uses of medically important antibiotics in livestock and poultry production, unless their manufacturers can demonstrate that they are no danger to public health.

The bill applies the same strict standard to applications for approval of new animal antibiotics. It does not restrict the use of antibiotics to treat sick animals or to treat pets and other animals not used for food.

There may well be certain circumstances in which the use of antibiotics briefly to prevent the spread of a specific disease in a limited area is legitimate. I look forward to working with my colleagues as we move ahead on this legislation to ensure that we properly distinguish the different uses of antibiotics for disease prevention.

The bill also recognizes that FDA is conducting needed studies to analyze the risks of using specific antibiotics in raising animals. The agency's current risk analysis focuses on the antibiotic known as virginiamycin. Our legislation allows such studies to be conducted in determining whether antibiotics can be used with a reasonable certainty of no harm, and we welcome FDA's scientific analysis of the use of these products.

In addition, the bill authorizes Federal payments to small family farms to defray the cost of compliance, and also authorizes research and demonstration projects to reduce the use of antibiotics in raising food-producing animals. Finally, the bill provides a needed mechanism for collecting data to monitor the use of antibiotics in animals, so that we can stay ahead of the growing public health threat of antibiotic-resistant bacteria.

The American Medical Association and 300 other organizations support our legislation. At a time when the nation is relying heavily on antibiotics to protect our security from bioterrorism, we can't afford to squander these essential defenses. I urge my colleagues to support this legislation, and I look forward to its enactment.

Ms. SNOWE. Mr. President, I rise today to join my colleague from Massachusetts, Senator KENNEDY, in introducing legislation addressing the critical issue of bacterial resistance to antibiotics arising from overuse of these valuable drugs in humans and animals.

Alexander Fleming's discovery of the antibacterial effects of penicillin in 1929 represented the dawning of a new era in medicine. In the decades after its discovery, penicillin became a miracle drug—allowing physicians to cure diseases that previously would have been untreatable—and literally saved millions of lives.

Antibiotics are crucial in curing a variety of common diseases that could result in severe illness or even death if left untreated. The anthrax attacks

after September 11 showed us another need for antibiotics that sadly is a continuing threat in our global community—bioterrorism. Many of us in the Capitol relied on the effective treatment of antibiotics to counteract exposure to the anthrax spores and maintain our health during those weeks and months when our Nation was grieving the horrible impact of terrorism in our homeland.

Unfortunately, decades after the discovery of penicillin and other antibiotics, diseases of bacterial origin remain a real and increasing threat to public health. Overuse of medically important antibiotics in humans and animals promotes resistance in bacteria. Infections caused by resistant bacteria cannot be treated with traditional antibiotics. If left unchecked, the problem of bacterial resistance represents an impending public health crisis.

Recogizing the public health threat, Congress already took steps to curb antibiotic overuse in humans by amending the Public Health Service Act and the Public Health Threats and Emergencies Act. Unfortunately, the issue of antibiotic overuse in animals has not been addressed in Federal law.

We recognize the value of antibiotics in treating disease in humans and animals. Unfortunately, it is common practice to put antibiotics, which are similar or identical to those used in human medicine, in the food or water of healthy animals intended for human consumption to promote these animals' growth and compensate for their unsanitary conditions. This practice poses an environmental threat and jeopardizes the effectiveness of these drugs in treating ill people and animals. Our legislation provides for the phased elimination of nontherapeutic use of medically important antibiotics in food animals unless such usage is deemed safe through rigorous scientific evaluation.

Foodborne illness affects millions of Americans each year and is estimated to cost the economy up to $35 billion annually in medical expenses and lost productivity alone. Tragically, the worst foodborne illnesses cause thousands of deaths and disproportionally target the very young and the elderly each year in the United States. The impact of foodborne illness in developing countries is even more severe. By itself, the magnitude of this public health hazard necessitates action to ensure the safety of our food supply. I hope the improved data collection and monitoring of antibiotics used in food animals included in our legislation will help provide a more complete picture of the contributing factors to these devastating illnesses.

Our legislation provides for research and demonstration grants to colleges and universities to exploit advances in biotechnology and animal science to discover new, safer methods of inexpensive, responsible agricultural productivity. We appreciate the good intentions of the many farmers across our Nation, and our legislation establishes transition funds to help these families and businesses implement changes that will benefit us all.

I have received numerous letters from groups and individuals in Maine who were concerned that the overuse of antibiotics in animal agriculture was not being actively addressed by Congress. I appreciate all who took the time to voice their concerns to me. I extend my personal thanks to all who have invested so much time and energy in educating Members of Congress as well as the public on this critical issue.

I am pleased to join Senator KENNEDY in introducing legislation today that will address this crucial issue. I applaud the steps that some businesses have taken voluntarily to discourage use of antibiotics in healthy animals. It is my hope that our legislation as well as the voluntary efforts by businesses across the Nation will help to ensure that we have drugs available that are effective in treating diseases for many years to come.

By Mr. MCCAIN:

S. 1461. A bill to establish two new categories of nonimmigrant workers, and for other purposes; to the committee on the Judiciary.

Mr. MCCAIN. Mr. President, in the aftermath of the September 11 attacks, our Nation awoke to the realization that we are not as safe as we once believed. Soon after, we began critical efforts to improve our homeland security. Those efforts remain ongoing today. As we work to improve the security of our homeland, securing our borders remains one of the most difficult and important challenges facing our Nation today. The simple fact is, our borders are not secure, and no amount of money, equipment, or manpower alone will not ensure the safety of our Nation.

Over the past several years, I have supported many efforts to improve border security and address the repercussions of poor enforcement and failed immigration policies. It is imperative that we not shirk from what are Federal responsibilities. We must address the many unfunded mandates born by States and local communities because control of immigration is principally the responsibility of the Federal Government. We must continue efforts designed to improve infrastructure and technology at and between our ports of entry as well as enhance coordination between Federal, State and local law enforcement personnel. However, without comprehensive immigration reform, all of these efforts will be ineffective and meaningless.

In order to address these concerns and to balance the need to secure our borders while addressing the inconsistencies and contradictions of our Nation's immigration policy, I am introducing the Border Security and Immigration Improvement Act. This bill is the first comprehensive immigration reform package introduced this Congress, and I hope that it will serve to initiate an important and necessary dialog so that we may address the security needs of our country and reform our failed immigration system.

The Border Security and Immigration Improvement Act establishes two new visa programs. One addresses individuals wishing to enter the United States to work on a short-term basis while the other will be available for the undocumented immigrants currently residing in the U.S.

Fully cognizant of the failures and abuses of previous temporary worker programs, I am committed to ensuring that this new program prevents abuse and protects the rights of workers. Important protections are built into the new visa program. Complete portability across all sectors will allow workers the freedom to leave abusive employers and seek work elsewhere. This program would allow employers to immediately apply for permanent resident status on behalf of the employee, but unlike previous programs, this bill would allow workers self-petition after 3 years so that no employer could use residency status to manipulate and abuse any worker. Additionally, all U.S. labor laws are applicable to ensure full worker protection.

In another departure from previous visa programs, this legislation does not put a finite number on the available visas, rather it is designed to allow the market to dictate the need for workers. Through the establishment of a job registry system, U.S. employers in need of workers can post available jobs on this registry. To ensure that U.S. workers do not lose out on valuable job opportunities, each job posted on the registry must be available to U.S. workers for a minimum of 14 days before it is open to a foreign worker. Additionally, to ensure that we do not incentivize employers to look abroad for labor that is less expensive than the domestic workforce, all employers will be charged a fee for the worker's visa.

The second visa program included in this bill addresses the estimated 6 to 10 million people currently residing in the United States. Today, undocumented immigrants live in constant fear, in a shadowy underground that affords them limited opportunities and frequently leads to both exploitation and abuse. Establishing a process by which this population can voluntarily come forward and seek legal status is a necessary component to comprehensive immigration reform and ensuring the safety of our Nation.

Under this bill, every undocumented individual currently residing in the U.S. will have the opportunity to obtain a visa authorizing them to remain in the United States and work for 3 years, after which time they may apply for the temporary worker visa program which has a built in path to permanent legal residency.

Every year, millions of people enter this country legally, in a monitored

and controlled manner. Although a majority enter legally, an increasing number of people risk their lives to cross our borders illegally. According to the U.S. Border Patrol apprehension statistics, it is estimated that almost 4 million people crossed our borders illegally in 2002. The majority of these people are seeking the American dream, looking for a good paying job that will enable them to provide a better life for themselves and their families. We must recognize that as long as there are jobs available and employers in need of workers, people will continue to migrate. Our Nation was built by immigrants, and like those who came hundreds of years ago, this population represents a significant portion of our workforce.

In recent years, improved security and enhanced infrastructure in California and Texas have created a funneling effect through the Sonoran desert, which straddles Arizona and the Mexican State of Sonora. This is easily the most treacherous portion of the southern border, and in recent years, it has become more dangerous. Last fiscal year, an estimated 320 people died crossing the southern border into this country, 145 of those deaths were in the Arizona desert. Since last October, over 200 people have died, 113 along the Arizona border. The Arizona Republic found that undocumented immigrants are seven times as likely to die crossing the Arizona-Mexico border now than they were 5 years ago.

Many people desperate to cross the border pay large sums of money to human smugglers who guarantee their entrance into the U.S. Our Nation witnessed the extreme danger of human smugglers first hand in May when 100 people were found packed into a tractor trailer truck at a truck stop in Victoria, TX. These people, abandoned by their smugglers, were trapped for hours in the extreme desert heat. Nineteen people died as a result.

These are not merely numbers, these figures represent men, women, and children. This unnecessary loss of human life deserves our Nation's attention and should compel all of us to action. Our current border and immigration policies create a contradictory situation whereby we attempt to keep people from crossing our borders illegally but reward those who survive the dangerous journey with bountiful employment opportunities. This system is not sustainable.

In addition to the human tragedy, this mass migration also represents a threat to our national security. Although over 99 percent of the people crossing our borders do not intend to harm Americans, we must be cognizant of the fact that a small number do. As long as we are unable to control and monitor who enters our country and what they bring in, Americans will not be safe. We must establish a system by which to allow people seeking work to enter the country in a safe manner, through controlled ports of entry—freeing up Federal agents to monitor the border and focus their efforts on the individuals who do pose a potential threat to our national security.

We can no longer afford to bury our heads in the sand and expect this problem to go away. Anyone who has visited the border and seen the challenges we face first hand or who hears of the number of unnecessary deaths, must recognize that we can no longer ignore this problem. It is time we dispense with partisan politics and put human lives and our national security above special interest groups. I hold no illusions. Reforming our Nation's immigration laws will not be an easy task. This will be a long and arduous process, however we must not let the difficulty dissuade us from trying, and this legislation represents a meaningful first step. I am committed to this issue and to working towards a balanced solution to this crisis.

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. 1461

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 ''Border Security and Immigration Improvement Act''.

SEC. 2. NEW NONIMMIGRANT WORKER VISA CATEGORIES.

Section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)) is amended—

(1) by striking ''or (iii)'' and inserting ''(iii)''; and

(2) by striking ''and the alien spouse'' and inserting the following:

''or (iv)(a) subject to section 218A, who is coming to the United States to fill a job opportunity for temporary full-time employment at a place in the United States; or (b) whose status is adjusted under section 251 and who (except in the case of a spouse or child provided derivative status) is employed in the United States; and, except as provided in sections 218A and 251, the alien spouse''.

SEC. 3. ADMISSION OF TEMPORARY H–4A WORKERS.

(a) IN GENERAL.—Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C. 1181 et seq.) is amended by inserting after section 218 the following:

''ADMISSION OF TEMPORARY H–4A WORKERS

''SEC. 218A. (a) PETITION.—In the case of a petition under section 214(c) initially to grant an alien nonimmigrant status described in section 101(a)(15)(H)(iv)(a), the Secretary of Homeland Security—

''(1) shall impose a fee on the petitioning employer of—

''(A) $1000, in the case of an employer employing more than 500 employees; or

''(B) $500, in the case of any other employer; and

''(2) shall approve the petition only after determining that the petitioning employer—

''(A) has satisfied the recruitment requirements of subsection (i); and

''(B) has attested in such petition that the employer—

''(i) with respect to the employment eligibility confirmation system established under subsection (j)—

''(I) will use such system to verify the alien's identity and employment authorization after such approval and before the commencement of employment;

''(II) will advise the alien of any nonconfirmation with respect to the alien provided by such system; and

''(III) will provide the alien an opportunity to correct the information in the system causing such nonconfirmation before revoking the offer of employment in order that the requirement of subclause (I) is satisfied before the commencement of employment;

''(ii) will provide the nonimmigrant the same benefits, wages, and working conditions provided to other employees similarly employed in the same occupation at the place of employment;

''(iii) will require the nonimmigrant to work hours commensurate with those of such other employees;

''(iv) will not ask the nonimmigrant to refrain from accepting work for any competitor of the employer;

''(v) did not displace and will not displace a United States worker (as defined in section 212(n)(4)) employed by the employer within the period beginning 90 days before and ending 90 days after the date of filing of the petition; and

''(vi) otherwise will comply with all applicable Federal, State, and local labor laws, including laws affecting migrant and seasonal agricultural workers, with respect to the nonimmigrant.

''(b) NONIMMIGRANT VISAS.—

''(1) NO FEE.—Neither the Secretary of State, nor the Secretary of Homeland Security, shall authorize the imposition of an application fee on an alien seeking a nonimmigrant visa under section 101(a)(15)(H)(iv)(a) in an amount that exceeds the actual cost of processing and adjudicating such application.

''(2) BIOMETRIC IDENTIFIERS.—The Secretary of State and the Secretary of Homeland Security shall issue to aliens obtaining status under section 101(a)(15)(H)(iv)(a) only machine-readable, tamper-resistant visas and other travel and entry documents that use biometric identifiers. The Secretary of State and the Secretary of Homeland Security shall jointly establish document authentication standards and biometric identifier standards to be employed on such visas and other travel and entry documents from among those biometric identifiers recognized by domestic and international standards organizations.

''(3) PHYSICAL EXAMINATION.—Prior to the issuance of a nonimmigrant visa to any alien under section 101(a)(15)(H)(iv)(a), the consular officer shall require such alien to submit to a medical examination to ascertain whether such alien is ineligible to receive a visa on a health-related ground.

''(4) PRIORITY FOR VISITOR VISAS FOR IMMEDIATE RELATIVES.—In the case of an alien who is the spouse, parent, son, or daughter of a nonimmigrant described in section 101(a)(15)(H)(iv), if the alien is applying for a nonimmigrant visa under section 101(a)(15)(B)—

''(A) the alien's application shall be given priority; and

''(B) notwithstanding sections 214(b) and 291, in establishing that the alien has a residence in a foreign country which the alien has no intention of abandoning, the burden of proof required shall not be greater than a preponderance of the evidence.

''(5) VISITS OUTSIDE UNITED STATES.—Pursuant to regulations established by the Secretary of Homeland Security, an alien having status as a nonimmigrant described in section 101(a)(15)(H)(iv)(a) may make brief visits outside the United States and may be readmitted without having to obtain a new

visa. Such periods of time spent outside the United States shall not cause the period of authorized admission in the United States to be extended.

''(c) PERIOD OF AUTHORIZED ADMISSION.—

''(1) INITIAL PERIOD.—In the case of a nonimmigrant described in section 101(a)(15)(H)(iv)(a), the initial period of authorized admission as such a nonimmigrant shall be 3 years.

''(2) RENEWALS.—

''(A) IN GENERAL.—The Secretary of Homeland Security may extend such period not more than once, in a 3-year increment.

''(B) TREATMENT OF LONG-TERM EMPLOYEES.—In any case in which a nonimmigrant has held a job for 3 years or more, an extension under subparagraph (A) may be granted only upon the filing of a petition by the nonimmigrant's employer establishing that—

''(i) not earlier than 2 months prior to such filing, the employer advertised the availability of the nonimmigrant's job exclusively to United States workers for not less than 14 days using the electronic job registry described in subsection (i); and

''(ii) the employer offered the job to any eligible United States worker who applied by means of such registry and was equally or better qualified for such job and available at the time and place of need.

(C) NO FEES.—The Secretary of Homeland Security shall not impose a fee on a petitioning employer in the case of a petition to extend the stay of an alien having nonimmigrant status described in section 101(a)(15)(H)(iv)(a).

''(3) LOSS OF EMPLOYMENT.—

''(A) IN GENERAL.—Subject to subsection (e), any period of authorized admission of an alien having nonimmigrant status described in section 101(a)(15)(H)(iv)(a) shall terminate if the nonimmigrant is unemployed for 45 or more consecutive days.

''(B) RETURN TO FOREIGN RESIDENCE.—An alien whose period of authorized admission terminates under subparagraph (A) shall be required to return to the country of the alien's nationality or last residence.

''(C) VISA VALIDITY.—An alien whose period of authorized admission terminates under subparagraph (A), and who returns to the country of the alien's nationality or last residence under subparagraph (B), may reenter the United States on the basis of the same visa to resume the status existing at the time of the alien's departure if the alien satisfies all the other requirements otherwise applicable to an alien seeking an initial grant of status under section 101(a)(15)(H)(iv)(a). The period of authorized admission of an alien entering under this subparagraph shall expire on the date on which it would have expired had the alien not been required to depart the United States.

''(d) RETURN TRANSPORTATION.—

''(1) IN GENERAL.—In the case of an alien who is provided nonimmigrant status under section 101(a)(15)(H)(iv)(a) and who is dismissed without cause from employment by the employer before the end of the period of authorized admission, the employer shall be liable for the reasonable costs of return transportation of the alien abroad and may not require or permit the alien to reimburse, or otherwise compensate, the employer for part or all of such costs.

''(2) CIVIL MONEY PENALTY.—If the Secretary of Homeland Security finds, after notice and opportunity for a hearing, a failure to meet a condition of paragraph (1), the Secretary—

''(A) shall require the employer to pay each nonimmigrant with respect to whom such a failure occurs the costs owed under paragraph (1); and

''(B) may impose a civil money penalty in an amount not to exceed $5,000 for each nonimmigrant with respect to whom such a failure occurs.

''(e) PORTABILITY.—

''(1) IN GENERAL.—A nonimmigrant alien described in paragraph (2) who was previously issued a visa or otherwise provided nonimmigrant status under section 101(a)(15)(H)(iv)(a) is authorized to accept new employment upon the filing by the prospective employer of a new petition on behalf of such nonimmigrant as provided under subsection (a). The Secretary of Homeland Security shall impose a fee for such a petition consistent with the fee imposed under subsection (a)(1). Employment authorization shall continue for such alien until the new petition is adjudicated. If the new petition is denied, no other such petition is pending, and the alien has ceased employment with the previous employer, such authorization shall cease and the alien shall be required to return to the country of the alien's nationality or last residence in accordance with subsection (c)(3).

''(2) ALIENS DESCRIBED.—A nonimmigrant alien described in this paragraph is a nonimmigrant alien—

''(A) who has been lawfully admitted into the United States;

''(B) on whose behalf an employer has filed a nonfrivolous petition for new employment not later than 45 days after the last date on which the employee was lawfully employed in the United States; and

''(C) who, subsequent to such lawful admission, has not been employed without authorization in the United States.

''(f) TREATMENT OF SPOUSES AND CHILDREN.—

''(1) SPOUSES.—A spouse of an alien having nonimmigrant status described in section 101(a)(15)(H)(iv)(a) shall not be eligible for derivative status by accompanying or following to join the alien. Such a spouse may obtain status under section 101(a)(15)(H)(iv)(a) based only on an independent petition filed by an employer petitioning under subsection (a) with respect to the employment of the spouse.

''(2) CHILDREN.—A child of an alien having nonimmigrant status described in section 101(a)(15)(H)(iv)(a) shall not be eligible for the same nonimmigrant status unless—

''(A) the child is accompanying or following to join the alien; and

''(B) the alien is the sole custodial parent of the child or both custodial parents of the child have obtained such status.

''(3) SPECIAL RULE FOR SPOUSES AND CHILDREN OF FORMER H–4B NONIMMIGRANTS.—In the case of a spouse or child of an alien who was a nonimmigrant described in section 101(a)(15)(H)(iv)(b) before obtaining a change in nonimmigrant status to that of a nonimmigrant under section 101(a)(15)(H)(iv)(a), the spouse or child shall be eligible for nonimmigrant status under section 101(a)(15)(H)(iv)(a) if the principal alien is the only alien among them authorized to be employed in the United States.

''(g) GROUNDS FOR INELIGIBILITY.—

''(1) BAR TO FUTURE VISAS FOR CONDITION VIOLATIONS.—Any alien having nonimmigrant status described in section 101(a)(15)(H)(iv)(a) shall not again be eligible for the same nonimmigrant status if the alien violates any term or condition of such status.

''(2) ALIENS UNLAWFULLY PRESENT.—Any alien who enters the United States after August 1, 2003, without being admitted or paroled shall be ineligible for nonimmigrant status described in section 101(a)(15)(H)(iv)(a) during the 3-year period beginning on the date of such alien's departure or removal from the United States,

''(h) ADJUSTMENT TO LAWFUL PERMANENT RESIDENT STATUS.—

''(1) IN GENERAL.—For purposes of adjustment of status under section 245(a), employment-based immigrant visas shall be made available without numerical limitation to an alien having nonimmigrant status described in section 101(a)(15)(H)(iv)(a) upon the filing of a petition for such a visa—

''(A) by the alien's employer; or

''(B) by the alien, but only if the alien has maintained such nonimmigrant status for at least 3 years.

''(2) CONSTRUCTION.—The fact that an alien is the beneficiary of a petition described in paragraph (1), or has otherwise sought permanent residence in the United States, shall not constitute evidence of ineligibility for nonimmigrant status under section 101(a)(15)(H)(iv)(a).

''(3) SPECIAL RULE FOR FORMER H–4B NONIMMIGRANTS.—In the case of an alien who was a nonimmigrant described in section 101(a)(15)(H)(iv)(b) before obtaining a change in nonimmigrant status to that of a nonimmigrant under section 101(a)(15)(H)(iv)(a), in determining admissibility for purposes of adjustment of status under section 245(a), the grounds for inadmissibility specified in paragraphs (6)(A), (6)(B), (6)(C), (7)(A), and (9)(B) of section 212(a) shall not apply.

''(i) MANDATORY USE OF ELECTRONIC JOB REGISTRY.—

''(1) ADVERTISEMENT OF JOB OPPORTUNITY TO U.S. WORKERS.—In order to satisfy the recruitment requirements of this subsection, the employer shall have—

''(A) taken good faith steps to recruit United States workers for the job for which the nonimmigrant is sought, including advertising the job opportunity exclusively to United States workers for not less than 14 days on an electronic job registry established by the Secretary of Labor (or a designee of the Secretary, which may be a nongovernmental entity) to carry out this section;

''(B) offered the job to any United States worker who applied by means of such registry and was equally or better qualified for the job for which the nonimmigrant was sought; and

''(C) advertised and offered the job to individuals other than United States workers solely by means of such registry and after the termination of such 14-day period.

''(2) EXCEPTION.—The requirements of this subsection shall not apply to any employer who is continuing—

''(A) employment of an employee granted a change in nonimmigrant status from that of a nonimmigrant under section 101(a)(15)(H)(iv)(b) to that of a nonimmigrant under section 101(a)(15)(H)(iv)(a); or

''(B) self-employment after being granted such a change in status.

''(3) AVAILABILITY OF JOB REGISTRY INFORMATION.—

''(A) CIRCULATION IN INTERSTATE EMPLOYMENT SERVICE SYSTEM.—The Secretary of Labor shall ensure that job opportunities advertised on the electronic job registry established under this subsection are circulated through the interstate employment service system and otherwise furnished to State public employment services throughout the country.

''(B) INTERNET.—Consistent with subsection (c)(2)(B) and this subsection, the Secretary of Labor shall ensure that the electronic job registry established under this subsection may be accessed by all interested workers, employers, and labor organizations by means of the Internet.

''(4) DEFINITION.—For purposes of this subsection, the term 'United States worker' means an individual who—

''(A) is a citizen or national of the United States; or

''(B) is an alien who is lawfully admitted for permanent residence, is admitted as a refugee under section 207, is granted asylum under section 208, or is an immigrant otherwise authorized, by this Act or by the Secretary of Homeland Security, to be employed.

''(j) EMPLOYMENT ELIGIBILITY CONFIRMATION SYSTEM.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall establish a confirmation system through which the Secretary (or a designee of the Secretary, which may be a nongovernmental entity)—

''(A) responds to inquiries made by persons and other entities (including those made by the transmittal of data from machine-readable documents) at any time through a toll-free telephone line or other toll-free electronic media concerning an individual's identity and whether the individual is authorized to be employed; and

''(B) maintains records of the inquiries that were made, of confirmations provided (or not provided), and of the codes provided to inquirers as evidence of their compliance with their obligations under the this Act.

''(2) INITIAL RESPONSE.—The confirmation system shall provide confirmation or a tentative nonconfirmation of an individual's identity and employment eligibility within 3 working days of the initial inquiry. If providing confirmation or tentative nonconfirmation, the confirmation system shall provide an appropriate code indicating such confirmation or such nonconfirmation.

''(3) SECONDARY VERIFICATION PROCESS IN CASE OF TENTATIVE NONCONFIRMATION.—In cases of tentative nonconfirmation, the Secretary of Homeland Security shall specify, in consultation with the Commissioner of Social Security, an available secondary verification process to confirm the validity of information provided and to provide a final confirmation or nonconfirmation within 10 working days after the date of the tentative nonconfirmation. When final confirmation or nonconfirmation is provided, the confirmation system shall provide an appropriate code indicating such confirmation or nonconfirmation.

''(4) DESIGN AND OPERATION OF SYSTEM.—The confirmation system shall be designed and operated—

''(A) to maximize its reliability and ease of use consistent with insulating and protecting the privacy and security of the underlying information;

''(B) to respond to all inquiries made by employers seeking to employ nonimmigrants described in section 101(a)(15)(H)(iv) on whether individuals are authorized to be employed and to register all times when such inquiries are not received;

''(C) with appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information; and

''(D) to have reasonable safeguards against the system's resulting in unlawful discriminatory practices based on national origin or citizenship status, including—

''(i) the selective or unauthorized use of the system to verify eligibility;

''(ii) the use of the system prior to an offer of employment; or

''(iii) the exclusion of certain individuals from consideration for employment as a result of a perceived likelihood that additional verification will be required, beyond what is required for most job applicants.

''(5) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—

''(A) IN GENERAL.—As part of the confirmation system, the Commissioner of Social Security, in consultation with the entity responsible for administration of the system, shall use the information maintained by the Commissioner to assist in confirming (or not confirming) the identity and employment eligibility of an individual in a manner that is determined by the Secretary of Homeland Security to be reliable, secure, not susceptible to identity theft, and to minimize fraud. The Commissioner shall not disclose or release social security information (other than such confirmation or nonconfirmation).

''(6) RESPONSIBILITIES OF THE SECRETARY.—As part of the confirmation system, the Secretary of Homeland Security, in consultation with the entity responsible for administration of the system, shall establish a reliable, secure method, which, within the time periods specified under paragraphs (2) and (3), compares the name of the alien, the alien identification or authorization number, the date, and the workplace location which are provided in an inquiry against such information maintained by the Secretary in order to confirm (or not confirm) the identity and employment eligibility of an individual in a manner that is determined by the Secretary to be reliable, secure, not susceptible to identity theft, and to minimize fraud.

''(7) UPDATING INFORMATION.—The Commissioner of Social Security and the Secretary of Homeland Security shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information, including instances in which it is brought to their attention in the secondary verification process described in paragraph (3).

''(8) LIMITATION ON USE.—Notwithstanding any other provision of law, nothing in this subsection shall be construed to permit or allow any department, bureau, or other agency of the United States Government to utilize any information, data base, or other records assembled under this subsection for any other purpose other than as provided for under this section or section 251.

''(k) ENFORCEMENT OF EMPLOYER OBLIGATIONS.—

''(1) IN GENERAL.—

''(A) SECRETARY OF HOMELAND SECURITY.—Except as provided in paragraphs (2) and (3), if the Secretary of Homeland Security finds, after notice and opportunity for a hearing, a failure to meet a condition of subsection (a)(2), the Secretary may impose a civil money penalty in an amount not to exceed $10,000 for each nonimmigrant with respect to whom such a failure occurs.

''(B) SECRETARY OF LABOR.—Except as provided in paragraphs (2) and (3), the Secretary of Labor exclusively may exercise any enforcement authority granted in the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) to address a failure to meet a condition of subsection (a)(2).

''(2) PROHIBITION ON FEE REIMBURSEMENT.—An employer who has filed a petition under section 214(c) to grant an alien nonimmigrant status described in section 101(a)(15)(H)(iv)(a) may not require the alien to reimburse, or otherwise compensate, the employer for part or all of the cost of the fee imposed under subsection (a)(1). It is a violation of this paragraph for such an employer otherwise to accept any reimbursement or compensation from such an alien as a condition on employment. If the Secretary of Homeland Security finds, after notice and opportunity for a hearing, a violation of this paragraph, the Secretary may impose a civil money penalty in an amount not to exceed $10,000 for each such violation.

''(3) REQUIRED USE OF EMPLOYMENT ELIGIBILITY CONFIRMATION SYSTEM.—If the Secretary of Labor finds, after notice and opportunity for a hearing, a failure to use the employment eligibility confirmation system established under subsection (j) to verify a nonimmigrant's identity and employment authorization before the commencement of employment, or any other violation of subsection (a)(2)(B)(i), the Secretary may impose a civil money penalty in an amount not to exceed $5,000 for each nonimmigrant with respect to whom such a violation occurs.

''(4) WAGE PROTECTIONS.—For purposes of subsection (a)(2)(B)(ii), all provisions of Federal, State, and local law pertaining to payment of wages shall apply to nonimmigrants described in section 101(a)(15)(H)(iv)(a) in the same manner as they apply to other employees similarly employed in the same occupation at the place of employment.

''(l) LABOR RECRUITERS.—The Secretary of Labor shall develop rules regulating the conduct of labor recruiters under this section.''.

(b) EXEMPTION FROM NUMERICAL LIMITATIONS ON ADJUSTMENT OF STATUS.—Section 201(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(1)) is amended by adding at the end the following:

''(F) Nonimmigrants described in section 101(a)(15)(H)(iv)(a) whose status is adjusted to permanent resident under section 245(a).''.

(c) CONFORMING AMENDMENT REGARDING PRESUMPTION OF NONIMMIGRANT STATUS.—Section 214(b) of the Immigration and Nationality Act (8 U.S.C. 1184(b)) is amended by striking ''(other than a nonimmigrant described in subparagraph (H)(i), (L), or (V) of section 101(a)(15))'' and inserting ''(other than a nonimmigrant described in subparagraph (L) or (V) of section 101(a)(15), and other than a nonimmigrant described in clause (i) or (vi)(a) of section 101(a)(15)(H))''.

(d) ASSISTANCE TO FOREIGN GOVERNMENTS.—The Secretary of Labor and the Secretary of State shall consult with and advise foreign governments in the use and construction of facilities to assist their nationals in obtaining nonimmigrant status under section 101(a)(15)(H)(iv)(a) of the Immigration and Nationality Act, as added by section 2.

(e) CLERICAL AMENDMENT.—The table of contents for the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after the item relating to section 218 the following:

''Sec. 218A. Admission of temporary H–4A workers.''.

SEC. 4. ADJUSTMENT OF STATUS TO THAT OF H–4B NONIMMIGRANT.

(a) IN GENERAL.—Chapter 5 of title II of the Immigration and Nationality Act (8 U.S.C. 1255 et seq.) is amended by inserting after section 250 the following:

''ADJUSTMENT OF STATUS TO THAT OF H–4B NONIMMIGRANTS

''SEC. 251. (a) IN GENERAL.—The Secretary of Homeland Security may adjust the status of an alien to that of a nonimmigrant under section 101(a)(15)(H)(iv)(b) if the alien meets the following requirements:

''(1) UNLAWFUL RESIDENCE SINCE 2003.—

''(A) IN GENERAL.—The alien must establish that the alien entered the United States before August 1, 2003, and has resided in the United States in an unlawful status since such date and through the date the application is filed under this subsection.

''(B) NONIMMIGRANTS.—In the case of an alien who entered the United States as a nonimmigrant before August 1, 2003, the alien must establish that the alien's period of authorized stay as a nonimmigrant expired before such date through the passage of time or the alien's unlawful status was known to the Federal Government as of such date.

''(C) EXCHANGE VISITORS.—If the alien was at any time a nonimmigrant exchange alien (as defined in section 101(a)(15)(J)), the alien must establish that the alien was not subject

to the two-year foreign residence requirement of section 212(e) or has fulfilled that requirement or received a waiver thereof.

''(2) ADMISSIBLE AS IMMIGRANT.—The alien must establish that the alien—

''(A) is not inadmissible to the United States under paragraph (2), (3), or (4) of section 212(a);

''(B) has not been convicted of any felony or misdemeanor committed in the United States, excluding crimes related to unlawful entry or presence in the United States and crimes related to document fraud undertaken for the purpose of satisfying a requirement of this Act or obtaining a benefit under this Act; and

''(C) has not assisted in the persecution of any person or persons on account of race, religion, nationality, membership in a particular social group, or political opinion.

''(3) EMPLOYED.—The alien must establish that the alien—

''(A) was employed in the United States before August 1, 2003, and has worked in the United States since such date and through the date the application is filed under this subsection; or

''(B) is the spouse or child of an alien who satisfies the requirement of subparagraph (A).

''(b) APPLICATION FEE.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall provide for a fee to be charged for the filing of applications for adjustment of status under this section. Such fee shall be sufficient to cover the administrative and other expenses incurred in connection with the review of such applications.

''(2) PENALTY PAYMENT.—

''(A) IN GENERAL.—In addition to the fee imposed under paragraph (1), except as provided in subparagraph (B), the Secretary of Homeland Security may accept an application for adjustment of status under this section only if the alien remits with such application $1,500, but such sum shall not be required from a child under the age of 17.

''(B) WAGE GARNISHMENT.—

''(i) IN GENERAL.—In lieu of paying the sum under subparagraph (A) upon filing the application, an alien may elect to pay such sum by having the Secretary of Homeland Security garnish 10 percent of the disposable pay of the alien, in accordance with section 3720D of title 31, United States Code.

''(ii) INTEREST.—In the case of an outstanding debt created by an election under clause (i), the Secretary of Homeland Security shall charge an annual fixed rate of interest on the debt that is equal to the bond equivalent rate of 5-year Treasury notes auctioned at the final auction held prior to the date on which interest begins to accrue.

''(iii) FINAL PAYMENT.—Any outstanding debt created by an election under clause (i), and any interest due under clause (ii), shall be considered delinquent if not paid in full 30 days after the end of the alien's period of authorized stay as a nonimmigrant described in section 101(a)(15)(H)(iv)(b).

''(3) USE OF FUNDS FOR ADMINISTERING PROGRAM.—

''(A) IN GENERAL.—There is established in the general fund of the Treasury a separate account, which shall be known as the 'H–4B Nonimmigrant Applicant Account'. Notwithstanding any other section of this title, there shall be deposited as offsetting receipts into the account all fees and penalties collected under this subsection.

''(B) EXPENDITURE.—Amounts deposited into the H–4B Nonimmigrant Petitioner Account shall remain available to the Secretary of Homeland Security until expended to carry out duties related to nonimmigrants described in section 101(a)(15)(H)(iv)(b).

''(c) ADMISSIONS.—Nothing in this section shall be construed as authorizing an alien to apply for admission to, or to be admitted to, the United States in order to apply for adjustment of status under this section.

''(d) STAY OF REMOVAL.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall provide by regulation for an alien subject to a final order of deportation or removal to seek a stay of such order based on the filing of an application under subsection (a).

''(2) DURING CERTAIN PROCEEDINGS.—Notwithstanding any provision of the Immigration and Nationality Act, the Secretary of Homeland Security shall not order any alien to be removed from the United States, if the alien is in exclusion, deportation, or removal proceedings under any provision of such Act and has applied for adjustment of status under subsection (a), except where the Secretary has rendered a final administrative determination to deny the application.

''(e) PERIOD OF AUTHORIZED STAY.—In the case of a nonimmigrant described in section 101(a)(15)(H)(iv)(b), the period of authorized stay as such a nonimmigrant shall be 3 years. The Secretary of Homeland Security may not authorize a change from such nonimmigrant classification to any other immigrant or nonimmigrant classification until the termination of such 3-year period. Such period may not be extended except in the discretion of the Secretary and for a reasonable time solely in order to accommodate the processing of an application for a change in nonimmigrant status to that of a nonimmigrant under section 101(a)(15)(H)(iv)(a) pursuant to a petition described in section 218A(a).

''(f) REQUIRED USE OF EMPLOYMENT ELIGIBILITY CONFIRMATION SYSTEM.—

''(1) IN GENERAL.—It is unlawful for a person or other entity to hire for employment in the United States a nonimmigrant described in section 101(a)(15)(H)(iv)(b) without—

''(A) using the employment eligibility confirmation system established under section 218A(j) to verify the nonimmigrant's identity and employment authorization before the commencement of employment;

''(B) advising the nonimmigrant of any nonconfirmation with respect to the nonimmigrant provided by such system; and

''(C) providing the nonimmigrant an opportunity to correct the information in the system causing such nonconfirmation before revoking the offer of employment in order that the requirement of subparagraph (A) is satisfied before the commencement of employment.

''(2) CIVIL MONEY PENALTY.—If the Secretary of Labor finds, after notice and opportunity for a hearing, a failure to meet a violation of paragraph (1), the Secretary may impose a civil money penalty in an amount not to exceed $5,000 for each nonimmigrant with respect to whom such a violation occurs.

''(g) EXTENSION OF H–4A LABOR PROTECTIONS TO H–4B NONIMMIGRANTS.—A person or other entity employing a nonimmigrant described in section 101(a)(15)(H)(iv)(b) shall comply with the requirements of clauses (ii) through (vi) of section 218A(a)(2) in the same manner as an employer having an approved petition described in section 218A(a). The Secretary of Labor exclusively may exercise any enforcement authority granted in the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) to address a failure to meet a requirement of this subsection.''.

(b) CLERICAL AMENDMENT.—The table of contents for the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after the item relating to section 250 the following:

''Sec. 251. Adjustment of status to that of H–4B nonimmigrant.''.

SEC. 5. INCREASED FUNDS FOR UNITED STATES EMPLOYMENT SERVICE.

There are authorized to be appropriated to the Secretary of Labor such additional sums as may be necessary for fiscal year 2004 and subsequent fiscal years to permit the United States Employment Service to assist State public employment services in meeting any increased demand for services by employers and persons seeking employment engendered by the amendments made by this Act.

By Mr. CHAMBLISS (for himself and Mr. MILLER):

S. 1462. A bill to adjust the boundary of the Cumberland Island Wilderness, to authorize tours of the Cumberland Island National Seashore, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. CHAMBLISS. Mr. President, I rise today to introduce the Cumberland Island National Seashore Wilderness Boundary Act. With the introduction of this important legislation, we will be able to better preserve and manage one of Georgia's unique islands. The purpose of this bill is to allow for more efficient management of the Cumberland Island National Seashore and to preserve the historical and ecological significance of the island.

As one of Georgia's Golden Isles, Cumberland Island is truly a historical and ecological masterpiece encompassing 36,415 acres. The island contains a 5000-year history of human habitation that is inscribed into the natural landscape of the island. This history can be seen by visiting the early Indian burial grounds to the vast plantations that were once home to abundant corn, cotton, and rice fields, as well as the workers who tended the land. And we cannot forget about the rich ecological environment found on Cumberland Island. It is one that many sea turtles, marsh microorganisms, and abundant shore birds call home amongst the numerous dune fields, salt marshes, and maritime forest areas. These historic and natural resources are important elements of Cumberland Island's past, present, and future.

As many of you know, I am an avid outdoorsman and conservationist. I am a supporter of sound wildlife management and the preservation of our Nation's unique and complex history. Another key point that I wish to make is that this history has been preserved for all of us to see and experience. Under the enactment of Public Law 97–250, 96 Stat. 709, in 1982, Congress designated approximately 8,840 acres of Cumberland Island as wilderness under the national wilderness preservation system and authorized an additional 11,718 acres to be designated as potential wilderness. Currently, the main road on the island passes through the designated wilderness area. Due to the location of the designated wilderness area, access to historic settlements such as: Plum Orchard Mansion and Dungeness, both former homes of Andrew Carnegie descendants; the First African Baptist Church established in 1893 and rebuilt in the 1930s; as well as the High Point/Half Moon Bluff historic district, is severely restricted.

Such restrictions make it extremely difficult for visitors to experience this unique collection of Georgia's history and diverse ecology. I believe that history and nature can best be appreciated when one is given the opportunity to experience it first hand. It is vitally important for the unique history and ecology of Cumberland Island to be properly managed and protected so that many generations to come will be able to experience this beautiful treasure found in the State of Georgia.

The nature and history of Cumberland Island needs to be preserved and managed in such a manner that will allow many generations to experience this golden treasure of Georgia. The Cumberland Island National Seashore Wilderness Boundary of 2003 will do just that. This bill will allow for greater access to key areas of the island by removing the Main Road, the Spur Road to Plum Orchard, as well as the North Cut Road from the previously designated wilderness area. Further, the bill allows for the addition of 210 acres to the wilderness area upon acquisition by the National Park Service. I should clarify and stress that this bill does not suggest that we open this land to the public for further habitation and degradation of the area's natural history and ecological habitats. The purpose of this bill is very simple—I want to improve the management and preservation of Cumberland Island's history and diverse ecosystem so that others in the future will be able to experience and learn about the treasures of the Golden Isles and all that they represent.

It is crucial that Cumberland Island's history and unique ecosystem is properly managed and protected. We want to ensure that these treasures are available to all of our Nation's citizens to experience and enjoy. This bill allows Congress to address this issue and to make the necessary changes so that Cumberland Island can remain as one of Georgia's treasured Golden Isles for many years to come.

By Mr. HAGEL (for himself and Mr. DORGAN):

S. 1464. A bill to amend the Internal Revenue Code of 1986 to provide an exclusion for gain from the sale of farmland to encourage the continued use of the property for farming, and for other purposes; to the Committee on Finance.

Mr. HAGEL. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1464

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 ''Beginning Farmers and Ranchers Tax Incentive Act of 2003''.

SEC. 2. EXCLUSION OF GAIN FROM SALE OF CERTAIN FARMLAND.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by adding after section 121 the following new section:

''SEC. 121A. EXCLUSION OF GAIN FROM SALE OF QUALIFIED FARM PROPERTY.

''(a) EXCLUSION.—In the case of a natural person, gross income shall not include—

''(1) 100 percent of the gain from the sale or exchange of qualified farm property to a first-time farmer (as defined in section 147(c)(2)(C) (determined without regard to clause (i)(II) thereof)) who certifies that the use of such property shall be as a farm for farming purposes for not less than 10 years after such sale or exchange,

''(2) 50 percent of the gain from the sale or exchange of qualified farm property to any other person who certifies that the use of such property shall be as a farm for farming purposes for not less than 10 years after such sale or exchange, and

''(3) 25 percent of the gain from the sale or exchange of qualified farm property to any other person for any other use.

''(b) LIMITATION ON AMOUNT OF EXCLUSION.—

''(1) IN GENERAL.—The amount of gain excluded from gross income under subsection (a) with respect to any taxable year shall not exceed $500,000 ($250,000 in the case of a married individual filing a separate return), reduced by the aggregate amount of gain excluded under subsection (a) for all preceding taxable years.

''(2) SPECIAL RULE FOR JOINT RETURNS.—The amount of the exclusion under subsection (a) on a joint return for any taxable year shall be allocated equally between the spouses for purposes of applying the limitation under paragraph (1) for any succeeding taxable year.

''(c) QUALIFIED FARM PROPERTY.—

''(1) QUALIFIED FARM PROPERTY.—For purposes of this section, the term 'qualified farm property' means real property located in the United States if, during periods aggregating 3 years or more of the 5-year period ending on the date of the sale or exchange of such real property—

''(A) such real property was used as a farm for farming purposes by the taxpayer or a member of the family of the taxpayer, and

''(B) there was material participation by the taxpayer (or such a member) in the operation of the farm.

''(2) DEFINITIONS.—For purposes of this subsection, the terms 'member of the family', 'farm', and 'farming purposes' have the respective meanings given such terms by paragraphs (2), (4), and (5) of section 2032A(e).

''(3) SPECIAL RULES.—For purposes of this section, rules similar to the rules of paragraphs (4) and (5) of section 2032A(b) and paragraphs (3) and (6) of section 2032A(e) shall apply.

''(d) OTHER RULES.—For purposes of this section, rules similar to the rules of subsection (e) and subsection (f) of section 121 shall apply.

''(e) TREATMENT OF DISPOSITION OR CHANGE IN USE OF PROPERTY.—

''(1) IN GENERAL.—If, as of the close of any taxable year, there is a recapture event with respect to any qualified farm property transferred to the taxpayer in a sale or exchange described in paragraph (1) or (2) of subsection (a), then the tax of the taxpayer under this chapter for such taxable year shall be increased by an amount equal to the product of—

''(A) the applicable recapture percentage, and

''(B) 10 percent of the taxpayer's adjusted basis in the property on the date such property was transferred to the taxpayer.

''(2) APPLICABLE RECAPTURE PERCENTAGE.—

''(A) IN GENERAL.—For purposes of this subsection, the applicable recapture percentage shall be determined from the following table:

''If the recapture event occurs in:	**The applicable recapture percentage is:**
Years 1 through 5	100
Year 6	80
Year 7	60
Year 8	40
Year 9	20
Years 10 and thereafter	0.

''(B) YEARS.—For purposes of subparagraph (A), year 1 shall begin on the date of the sale or exchange described in paragraph (1) or (2) of subsection (a).

''(3) RECAPTURE EVENT DEFINED.—For purposes of this subsection, the term 'recapture event' means—

''(A) CESSATION OF OPERATION.—The cessation of the operation of any property the sale or exchange of which to the taxpayer is described in paragraph (1) or (2) of subsection (a) as a farm for farming purposes.

''(B) CHANGE IN OWNERSHIP.—

''(i) IN GENERAL.—Except as provided in clause (ii), the disposition of a taxpayer's interest in any property the sale or exchange of which to the taxpayer is described in paragraph (1) or (2) of subsection (a).

''(ii) AGREEMENT TO ASSUME RECAPTURE LIABILITY.—Clause (i) shall not apply if the person acquiring such interest in the property agrees in writing to assume the recapture liability of the person disposing of such interest in effect immediately before such disposition. In the event of such an assumption, the person acquiring the interest in the property shall be treated as the taxpayer for purposes of assessing any recapture liability (computed as if there had been no change in ownership).

''(4) SPECIAL RULES.—

''(A) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under subpart A, B, or D of this part.

''(B) NO RECAPTURE BY REASON OF HARDSHIP.—The increase in tax under this subsection shall not apply to any disposition of property or cessation of the operation of any property as a farm for farming purposes by reason of any hardship as determined by the Secretary.''.

(b) CONFORMING AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by adding after the item relating to section 121 the following new item:

''Sec. 121A. Exclusion of gain from sale of qualified farm property.''.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to any sale or exchange on or after the date of the enactment of this Act, in taxable years ending after such date.

By Mr. FRIST (for himself and Mr. ALEXANDER):

S. 1465. A bill to authorize the President to award a gold medal on behalf of Congress honoring Wilma G. Rudolph, in recognition of her enduring contributions to humanity and women's athletics in the United States and the world; to the Committee on Banking, Housing, and Urban Affairs.

Mr. FRIST. Mr. President, today Senator ALEXANDER and I introduce legislation to award a Congressional Gold Medal to Clarksville, Tennessee native Wilma Rudolph for her contributions to women's athletics and racial

equality in the United States and the world.

I take a moment to say a few words about this remarkable woman.

Wilma was the 20th of 22 children in her packed family. After overcoming scarlet fever, double pneumonia and polio, Wilma went onto win three Olympic gold medals in track and field. She became an international star and a hero to the people of Tennessee. Wilma showed the world that hard work and determination could overcome nearly anything.

Wilma was inducted into the National Track and Field Hall of Fame in 1973 and received the Humanitarian of the Year Award of the Special Olympics in 1985. She was the first woman to ever receive the National Collegiate Athletic Association's Silver Anniversary Award in 1987. And in 1989 earned the Jackie Robinson Image Award of the National Association for the Advancement of Colored People. Wilma remains the only woman ever to have received the National Sports Award, which she was granted in 1993.

Wilma Rudolph is an inspiration to all Tennesseans and is eminently deserving of the Congressional Gold Medal.

I urge my colleagues to confer this well earned honor.

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. 1465

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

SECTION 1. FINDINGS.

Congress finds that—

(1) Wilma G. Rudolph of Clarksville, Tennessee, the 20th of 22 children, overcame a series of childhood diseases, including scarlet fever, double pneumonia, and polio, to become an athletic pioneer and champion in the State of Tennessee, the United States, and the world, first as an outstanding basketball player and track athlete in Tennessee, then as a 3-time gold medal winner in the 1960 Olympics in Rome, and finally as a pioneer for racial equality, goodwill, and justice;

(2) Wilma G. Rudolph's winning of 3 gold medals in the 1960 Olympics served as an inspiration to athletes of all sports, all races, and both genders;

(3) Wilma G. Rudolph's ability to inspire endured after her performance in the 1960 Olympics, as demonstrated by—

(A) her receipt in 1987 of the National Collegiate Athletic Association's Silver Anniversary Award, the first time a woman ever received the award;

(B) her receipt of the 1989 Jackie Robinson Image Award of the National Association for the Advancement of Colored People (NAACP);

(C) her induction into the National Track and Field Hall of Fame in 1973;

(D) her receipt of the 1985 Humanitarian of the Year Award of the Special Olympics; and

(E) her receipt in 1993 of the National Sports Award, the only time a woman has received the award;

(4) Wilma G. Rudolph, a graduate of Tennessee State University, a successful businessperson, a mother, an athlete, a coach, and a teacher, who passed away on November 12, 1994, will forever remain an inspiration to all able-bodied and physically-challenged individuals in overcoming odds;

(5) Wilma G. Rudolph blazed a trail that helped all people understand the contributions of women to the world of athletics;

(6) the legacy of Wilma G. Rudolph continues to serve as a particular inspiration to women; and

(7) Wilma G. Rudolph's life truly embodied the American values of hard work, determination, and love of humanity.

SEC. 2. CONGRESSIONAL GOLD MEDAL.

(a) PRESENTATION AUTHORIZED.—The President is authorized to award to the family of Wilma G. Rudolph, on behalf of Congress, a gold medal of appropriate design honoring Wilma G. Rudolph (posthumously) in recognition of her outstanding and enduring contributions to humanity and to women's athletics, in the United States and the world.

(b) DESIGN AND STRIKING.—For the purpose of the award referred to in subsection (a), the Secretary of the Treasury (in this Act referred to as the ''Secretary'') shall strike a gold medal with suitable emblems, devices, and inscriptions, to be determined by the Secretary.

SEC. 3. DUPLICATE MEDALS.

The Secretary may strike and sell duplicates in bronze of the gold medal struck pursuant to section 2 under such regulations as the Secretary may prescribe, and at a price sufficient to cover the costs thereof, including labor, materials, dies, use of machinery, overhead expenses, and the cost of the gold medal.

SEC. 4. STATUS AS NATIONAL MEDALS.

The medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

SEC. 5. FUNDING.

(a) AUTHORITY TO USE FUND AMOUNTS.—There is authorized to be charged against the United States Mint Public Enterprise Fund an amount not to exceed $30,000 to pay for the cost of the medals authorized by this Act.

(b) PROCEEDS OF SALE.—Amounts received from the sale of duplicate bronze medals under section 3 shall be deposited in the United States Mint Public Enterprise Fund.

By Ms. MURKOWSKI:

S. 1466. A bill to facilitate the transfer of land in the State of Alaska, and for other purposes; to the Committee on Energy and Natural Resources.

Ms. MURKOWSKI. Mr. President, the Alaska Land Transfer Acceleration Act of 2003 will transfer millions of acres of land to Alaska Natives, the State of Alaska and to Native Corporations by 2009. The Federal agencies in Alaska have management jurisdiction of over 63 percent of the State. It is time to transfer these public lands from Federal Government control to private ownership. This legislation creates a strategic plan for the Bureau of Land Management to finally resolve long-standing land survey, land entitlement issues and land claims issues, some of which date back to 1906. Since 1906 Congress has enacted other legislation that requires the BLM to transfer public lands to Alaska Natives, the State of Alaska and to Alaska Native Corporations.

The land conveyance program is the largest and most complex of any in United States history. For many years, BLM's primary goal was to convey title to unsurveyed lands to the State and Native Corporations by tentative approval and interim conveyance, respectively. This management practice allowed the State and Native Corporations to manage their lands, subject only to the survey of the final boundary.

This legislation will accelerate release of lands for conveyance to Native coporations and the State of Alaska. It will complete land patterns to allow land owners to more efficiently manage their land. It will clarify that certain minerals can be transferred to Native landowners. And frankly, split estates can be minimized. The University will be given the opportunity to select the remaining Federal interests in lands the University already owns, that will likely produce economic opportunities not presently available under this land lock.

The complexity of land patterns and uses in Alaska is evident in the presence of federal mining claims that are within lands owned or selected by the State of Alaska. Our legislation would clarify miners' right to convert from Federal to State claims without jeopardizing ongoing mining operations. At the same time, BLM would be allowed to expedite conveyances to the State. Properly maintained Federal claims will continue to be excluded from conveyance. Entitlements to the State will remain secure. The miner will decide when or whether to convert his claims to State claims.

For too many years, individuals, Native corporations and the State have been patiently waiting to receive title to their land. In 1958 the State of Alaska was promised 104 million acres of land, and has to date received final title to only 42 million acres; less than half of what is due. Of the 44 million acres of land that the Native Corporations are entitled to, only about a third has been conveyed or about 15 million acres. Worse, yet, are the 2,500 parcels pending title to Native individuals out of 16,000 parcels. Almost 14,000 parcels are still awaiting basic adjudication to even make a determination of land transfer. Too much land is hanging in the balance that must be surveyed and patented to rightful owners. Between now and the sunset of this bill in 2009, more than 89 million acres must be surveyed on State and Native Corporation lands. The lands that are awaiting survey do not include lands that will eventually be titled to Native individuals; these lands too must first be surveyed.

While some Native allotments have been conveyed, issues have arisen to challenge final conveyance to the land. Such challenges have included whether actual use of land occurred; the location of the parcel; or even who should receive title to the land. Sadly, some of the original Native allotment applicants have died waiting to receive title or have disputes resolved. Oftentimes, the death of an applicant can present

the agency with chain of title questions to determine who the rightful heir is, causing further delays to getting the lands transferred.

Some disputes have been easier to handle than others, resulting in settlement through an administrative appeals process. The Federal agencies have been hampered by many administrative and legal obstacles. There have been court decisions and lawsuit settlements, new legislation creating new rights of changing rules midstream. Old cases have been reopened that have created new land patterns for adjudication and survey. The administrative appeals process was designed to be efficient, and immediately accessible to individuals who believe they have been adversely impacted by actions taken by the BLM. It too many instances this process has resulted in long delays that hinder the BLM from finalizing its work. In the meantime, the applicant suffers at the hands of a process that generally takes years just for a case to be reviewed for resolution.

This legislation will provide the BLM with broader authority for solving many of the problems associated with land claims affecting all disputes that occur in Alaska. When disputes arise over the adjudication of land claims, BLM needs to have full authority to work in a more collaborative environment with its clientele.

This legislation will provide the BLM the opportunity to caucus with its clients. It will allow for a process of negotiation to gain consensus on final resolution of land applications. What has been missing all these years is the flexibility for the Federal agencies to work in such a cooperative fashion. This new process is intended to be free of complicated rules that have plagued the agency to finding solutions. Resolution and closure must come quicker.

Mr. President, I give great credit to the management and the employees of the BLM Alaska for their efforts over the years to transfer the land. They have proven to be dedicated and committed public servants. I believe they have tried to do the right thing; they just need the tools and the resources. They want to close the books on the Alaska conveyance program once and for all, and this bill will help them achieve that goal by 2009.

In 1973 the Alaska Native Claims Appeal Board was established. The Board had jurisdiction over decisions made under the Alaska Native Claims Settlement Act. The Board consisted of four judges, and was able to decide a case within 3 to 6 months of the close of briefing. It usually had a small backlog. While the Board was able to act in a fairly responsive manner, there was criticism the Board did not correctly apply general Federal land law precedent and that some of their rulings were inconsistent with policy of the Department of the Interior. The Board was dissolved in 1981. The backlog of cases was not necessarily attributed to Native Corporation cases; most of the backlog related to all other matters. This legislation will create a hearings and appeals process located in Alaska. Presently, there are almost 100 appeals of Alaska decisions pending before the Interior Board of Land Appeals. It usually takes this Board several years to rule on a case, sometimes as long as 3 to 5 years. The present process is broken. There should never be a process that controls the fate of someone's livelihood. Matters requiring resolution must not sit and languish for years without resolution. This practice is unacceptable and unreasonable.

Additionally, more than 20 cases are pending before Administrative Law judges at various Office of Hearings Appeals offices—Virginia, Minnesota and Utah. The cases currently in their hands are Native allotments and mining claims. Substantial delays have resulted from the slow pace of scheduling hearings in Alaska. Establishing an Alaska hearings unit to handle all Alaska appeals would significantly speed up the current process. Such a new process would be able to routinely issue decisions within 3 to 6 months of the close of briefing.

Challenges likely to emerge on land actions requiring judicial review will be handled by judges located in Alaska. Moreover, having judges located in Alaska, conducting Alaska business, would ensure an understanding of the special laws that are applicable to Alaska. In addition, this process would include all land transfer matters, not just claims under the Alaska Native Claims Settlement Act.

To achieve the acceleration of land conveyances, we must be able to count on a consistent level of funding. We do not want any aspect of the acceleration plan to be hampered. As I pointed out earlier, almost 90 million acres must be surveyed between now and 2009. The BLM is the single agency of the Federal Government that is charged with the authority and responsibility for surveys and land title record keeping. Official survey plats are the Government's record of the boundaries of an area and the description of such surveyed land is known as the legal land description. Land title or patents are based on such plats of survey. And, until the land is surveyed, the Alaska Natives, the State of Alaska and the Native Corporations will still be waiting way off into the future for this work to be finalized.

The Alaska Land Transfer Acceleration Act of 2003 imposes very strict provisions on the agency to complete land conveyances by 2009 to Alaska Natives, the State of Alaska and to the Native Corporations. Some might view this plan as ambitious. I view it as being long overdue.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 200—EXPRESSING THE SENSE OF THE SENATE THAT CONGRESS SHOULD ADOPT A CONFERENCE AGREEMENT ON THE CHILD TAX CREDIT AND ON TAX RELIEF FOR MILITARY PERSONNEL

Mr. JOHNSON (for himself, Mr. DASCHLE, Mrs. LINCOLN, Mr. BAUCUS, Mr. KENNEDY, Mr. GRAHAM of Florida, Ms. CANTWELL, Mr. CORZINE, and Mr. LEAHY) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 200

Whereas the Department of the Treasury will begin sending refund checks to taxpayers reflecting the increase in the child tax credit from $600 to $1,000 for 2003;

Whereas over 6,500,000 working families earning between $10,500 and $26,625, which include over 12,000,000 children, will not receive an increase in the child tax credit or a refund check;

Whereas nearly 150,000 United States soldiers are in Iraq sacrificing their lives to ensure freedom for Iraqi citizens;

Whereas of the 300,000 soldiers in combat zones throughout the world, 192,000 will have an earned income below $26,625;

Whereas many military families, which include 1,000,000 children, will not be eligible for the child tax credit unless the Senate Amendment to H.R. 1308 is enacted; and

Whereas many military personnel serving in combat zones and many working families would be eligible for the child tax credit under the Senate Amendment to H.R. 1308: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the committee of conference between the Senate and House of Representatives on H.R. 1308 should agree to a conference report before the August recess;

(2) any conference report on H.R. 1308 should contain the provisions in the Senate Amendment to H.R. 1308 concerning the refundability of the child tax credit;

(3) any conference report on H.R. 1308 should contain the provisions in the Senate Amendment to H.R. 1308 concerning the availability of the child tax credit for military families;

(4) any conference report on H.R. 1308 should contain the provisions in the Armed Forces Tax Fairness Act of 2003; and

(5) any conference report on H.R. 1308 should contain provisions to fully offset its cost.

SENATE RESOLUTION 201—DESIGNATING THE MONTH OF SEPTEMBER 2003 AS ''NATIONAL PROSTATE CANCER AWARENESS MONTH''

Mr. SESSIONS (for himself, Mr. REID, Mr. SHELBY, Mr. KERRY, Mr. BROWNBACK, Ms. CANTWELL, Mr. HATCH, Mrs. BOXER, Ms. COLLINS, Mr. LIEBERMAN, Mr. INHOFE, Mr. BREAUX, Mr. DEWINE, Mrs. LINCOLN, Mr. CRAIG, Mr. MILLER, Ms. SNOWE, Mr. BAYH, Mr. CRAPO, Mr. DOMENICI, Mr. ROBERTS, Mr. NELSON of Florida, Mr. GRASSLEY, Mr. DODD, Mr. SMITH, Mr. DURBIN, Mr. BUNNING, Mrs. FEINSTEIN, Mr. HAGEL, Ms. MIKULSKI, Mr. VOINOVICH, Mr. EDWARDS, Mr. CAMPBELL, Mr. INOUYE, Mr.

FEINGOLD, Mr. SCHUMER, Ms. LANDRIEU, Mr. DORGAN, Mr. LAUTENBERG, Ms. STABENOW, and Mrs. CLINTON) submitted the following resolution; which was considered and agreed to:

S. RES. 201

Whereas countless families in the United States have a family member living with prostate cancer;

Whereas in the United States, 1 man in 6 will be diagnosed with prostate cancer in his lifetime;

Whereas between 1993 and 2003, prostate cancer has been the most commonly diagnosed nonskin cancer and the second most common cancer killer of men in the United States;

Whereas the American Cancer Society estimates that in the United States, 220,900 men will be diagnosed with prostate cancer and 28,900 men will die of prostate cancer in 2003;

Whereas 30 percent of new cases of prostate cancer occur in men under the age of 65;

Whereas in the United States, as the population ages, the occurrence of prostate cancer will also increase;

Whereas African Americans suffer from a prostate cancer incidence rate that is up to 60-percent higher than White males and are more than twice as likely as White males to die of the disease;

Whereas in the United States, a man with 1 family member diagnosed with prostate cancer has double the risk of developing prostate cancer, a man with 2 such family members has 5 times the risk, and a man with 3 such family members has a 97-percent risk of developing the disease;

Whereas screening by both digital rectal examination (DRE) and prostate specific antigen blood test (PSA) can diagnose the disease in earlier and more treatable stages, thus reducing prostate cancer mortality;

Whereas developing research promises further improvements in prostate cancer prevention, early detection, and treatment; and

Whereas educating the people of the United States, including health care providers, about prostate cancer and early detection strategies is crucial to saving the lives of men and preserving and protecting families: Now, therefore, be it

Resolved, That the Senate—

(1) designates the month of September 2003 as ''National Prostate Cancer Awareness Month'';

(2) declares that the Federal Government has a responsibility—

(A) to raise awareness about the importance of screening methods and the treatment of prostate cancer;

(B) to increase research funding that is commensurate with the burden of the disease so that the causes of, and improved screening, treatments, and a cure for, prostate cancer may be discovered; and

(C) to continue to consider ways for improving access to, and the quality of, health care services for detecting and treating prostate cancer; and

(3) requests the President to issue a proclamation calling upon the people of the United States, interested groups, and affected persons to promote awareness of prostate cancer, to take an active role in the fight to end the devastating effects of prostate cancer on individuals, their families, and the economy, and to observe the month of September 2003 with appropriate ceremonies and activities.

SENATE CONCURRENT RESOLUTION 61—AUTHORIZING AND REQUESTING THE PRESIDENT TO ISSUE A PROCLAMATION TO COMMEMORATE THE 200TH ANNIVERSARY OF THE BIRTH OF CONSTANTINO BRUMIDI

Mr. LOTT submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 61

Whereas Constantino Brumidi, born in Rome, Italy, on July 26, 1805, landed at New York Harbor on September 18, 1852, as a political exile, making his flight from Italy to the United States because of his love for liberty;

Whereas Constantino Brumidi's love for his adopted country led him to seek citizenship 2 years after his arrival;

Whereas in 1855, Constantino Brumidi began his artistic work in the Capitol, and spent more than 25 years of his life painting, decorating, and beautifying the corridors, committee rooms, and Rotunda of the Capitol;

Whereas Constantino Brumidi created many magnificent paintings and decorations, depicting the history, inventions, values, and ideals of the United States, thus enhancing the dignity and beauty of the Capitol and inspiring millions of visitors;

Whereas in 1865, Constantino Brumidi painted, in just 11 months, his masterpiece ''The Apotheosis of Washington'' in the canopy of the eye of the Capitol dome;

Whereas in 1871, Constantino Brumidi created the first tribute to an African-American in the Capitol when he placed the figure of Crispus Attucks at the center of his painting of the Boston Massacre;

Whereas in 1877, at the age of 72, Constantino Brumidi began his last work, the fresco frieze encircling the top of the Rotunda, and 3 years later fell from a slipped scaffolding and was never able to return to work;

Whereas Constantino Brumidi died as a result of this experience 3 months later in February 1880;

Whereas Constantino Brumidi has been called ''the Michelangelo of the Capitol'' by historians; and

Whereas the year 2005 marks the 200th anniversary of the birth of Constantino Brumidi, as well as the 150th anniversary of the beginning of his artistic career in the Capitol and the 125th anniversary of his death: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the President is authorized and requested to issue a proclamation commemorating the 200th anniversary of the birth of Constantino Brumidi and calling upon the people of the United States, State and local governments, and interested organizations to commemorate this anniversary with appropriate ceremonies, activities, and programs.

Mr. LOTT. Mr. President, Saturday, July 26, marks the 198th anniversary of the birth of Constantino Brumidi, the great artist who has been called the Michelangelo of the Capitol. When, in 2 years, the 200th anniversary of Brumidi's birth is at hand, I believe the President should issue a proclamation commemorating Brumidi's life. Today, I am introducing a resolution authorizing such a proclamation.

Constantino Brumidi was born in Rome in 1805 and immigrated to America in 1852. He began his artistic work in the Capitol in 1855 and, for the next 25 years, he labored to produce some of the most bold and moving frescoes and murals the world has ever seen. His paintings and decorations depict the history, inventions, values and ideals of the United States immeasurably enhancing the dignity and beauty of the Capitol. He designed and decorated on House and Senate committee rooms in the Capitol, as well as the Senate Reception Room, the Office of the Vice President and the President's Room. In 1856, Brumidi began creating designs for Senate corridors based on a loggia by Raphael in the Vatican, carefully integrating American motifs into a classical framework.

He was very proud of becoming an American citizen and is reported to have said: ''I no longer wish for fame and fortune. My one ambition and my daily prayer is that I may live long enough to make beautiful the Capitol of the one country on Earth in which there is liberty.'' He did not live long enough to finish his work; but he lived long enough to make the Capitol incredibly beautiful.

The man who labored a quarter century to make the Halls of Congress so magnificent deserves the recognition of the American people. Through this resolution, I believe we will provide appropriate recognition.

SENATE CONCURRENT RESOLUTION 62—HONORING THE SERVICE AND SACRIFICE OF KOREAN WAR VETERANS

Mr. DASCHLE (for himself, Mr. HAGEL, and Mr. LEVIN) submitted the following concurrent resolution; which was considered and agreed to:

Whereas Sunday, July 27, 2003, marks the 50th anniversary of the armistice ending the Korean War;

Whereas nearly 1,800,000 members of the United States Armed Forces answered their Nation's call to duty and served in Korea during the Korean War;

Whereas, during the 3-year period of the Korean War, more than 36,500 Americans died and more than 100,000 were wounded in some of the bloodiest, most horrific fighting in the history of warfare;

Whereas the bloodshed and sacrifice of these soldiers made possible the development of a democratic, prosperous, and peaceful Republic of Korea;

Whereas our troops in Korea were at the forefront of a long and difficult struggle against Communism and oppression that ultimately brought freedom to millions of people around the world;

Whereas the Korean War accelerated the final desegregation of the United States Armed Forces and stands as a milestone along the road to racial equality; and

Whereas it has taken decades for the people of this Nation to understand and appreciate the significance of the Korean War and the lasting accomplishments of those who fought in the war, leaving these veterans without the recognition and respect they so rightfully deserve: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) declares its appreciation for the significant and enduring accomplishments of our Nation's Korean War veterans;

(2) remains committed to the ideals of freedom, peace, and democracy on the Korean Peninsula; and

(3) affirms its commitment to preserving the memory of those who made the ultimate sacrifice in the Korean War, and to educating future generations about the achievements of our Nation's Korean War heroes.

AMENDMENTS SUBMITTED & PROPOSED

SA 1387. Mr. BINGAMAN (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table.

SA 1388. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1389. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1390. Mr. DOMENICI (for Mr. INHOFE) proposed an amendment to the bill S. 14, supra.

SA 1391. Mr. BINGAMAN (for Mr. DURBIN (for himself and Ms. COLLINS)) proposed an amendment to the bill S. 14, supra.

SA 1392. Mr. BINGAMAN (for Mr. HARKIN) proposed an amendment to the bill S. 14, supra.

SA 1393. Mr. BINGAMAN (for Mr. SCHUMER) proposed an amendment to the bill S. 14, supra.

SA 1394. Mr. BINGAMAN (for himself and Mr. DOMENICI) proposed an amendment to the bill S. 14, supra.

SA 1395. Mr. BINGAMAN (for Mr. LAUTENBERG) proposed an amendment to the bill S. 14, supra.

SA 1396. Mr. DOMENICI proposed an amendment to the bill S. 14, supra.

SA 1397. Mr. DOMENICI (for himself and Ms. MURKOWSKI) proposed an amendment to the bill S. 14, supra.

SA 1398. Mr. DOMENICI proposed an amendment to the bill S. 14, supra.

SA 1399. Mr. DOMENICI proposed an amendment to the bill S. 14, supra.

SA 1400. Mr. DOMENICI proposed an amendment to the bill S. 14, supra.

SA 1401. Mr. BINGAMAN (for Ms. LANDRIEU) proposed an amendment to the bill S. 14, supra.

SA 1402. Mr. FEINGOLD (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1387. Mr. BINGAMAN (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 105, strike lines 6 through 19, and insert the following:

''(C) for property described in subsection (d)(6)—

''(i) $150 for each electric heat pump water heater,

''(ii) $250 for each electric heat pump,

''(iii) $125 for each advanced natural gas, oil, propane furnace, or hot water boiler,

''(iv) $250 for each central air conditioner,

''(v) $150 for each advanced natural gas, oil, or propane water heater,

''(vi) $50 for each natural gas, oil, or propane water heater,

''(vii) $250 for each geothermal heat pump,

''(viii) $50 for an advanced main air circulating fan,

''(ix) $150 for each advanced combination space and water heating system,

''(x) $50 for each combination space and water heating system.''.

On page 109, line 19, strike ''or propane furnace'' and insert ''propane furnace, or hot water boiler'' after ''furnace''.

On page 110, line 3, strike lines 1 through 7 and insert:

''(v) an advanced natural gas, oil, or propane water heater which has an energy factor of at least 0.80 in the standard Department of Energy test procedure,

''(vi) a natural gas, oil, or propane water heater which has an energy factor of at least 0.65 and less than .080 in the standard Department of Energy test procedure,

''(vii) a geothermal heat pump which has an average efficiency ratio (EER) of at least 21,

''(viii) an advanced main air circulating fan used in a new natural gas, propane, or oil-fired furnace, including main air circulating fans that use a brushless permanent magnet motor or another type of motor that achieves similar or higher efficiency at half and full speed, as determined by the Secretary,

''(ix) an advanced combination space and water heating system which has a combined energy factor of at least 0.80 and a combined annual fuel utilization efficiency (AFUE) of 78 percent or higher in the standard Department of Energy test procedure, and

''(x) a combination space and water heating system which has a combined energy factor of at least 0.65 and less than .080 and a combined annual fuel utilization efficiency (AFUE) of 78 percent or higher in the standard Department of Energy test procedure.''.

SA 1388. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 133, strike lines 12 through 16 and insert the following:

''(ii) which has an electrical capacity of no more than 15,000 kilowatts or a mechanical energy capacity of no more than 2,000 horsepower or an equivalent combination of electrical and mechanical energy capacities,''.

On page 134, line 4, strike ''(70 percent'' and all that follows through ''capacities)'' on line 10.

On page 136, strike lines 16 through ''section 168.'' on line 22.

SA 1389. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 95, line 17, strike ''ending on—'' and all that follows through ''2007.'' on line 21 and insert ''ending on December 31, 2007.''.

SA 1390. Mr. DOMENICI (for Mr. INHOFE) proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

On page 52, after line 22, add the following:

SEC. 1___. RISK-BASED DATA MANAGEMENT SYSTEMS.

(a) IN GENERAL.—The Secretary of Energy shall make grants to the Ground Water Protection Council to develop risk-based data management systems in State oil and gas agencies to assist States and oil and gas producers with compliance, economic forecasting, permitting, and exploration.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,000,000 for each fiscal year.

SA 1391. Mr. BINGAMAN (for Mr. DURBIN (for himself and Ms. COLLINS)) proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

Page 209, after line 6, insert:

''SEC. 6 . CONSERVE BY BICYCLING PROGRAM.

''(A) DEFINITIONS.—In this section:

''(1) The term 'program' means the Conserve by Bicycling Program established by subsection (b).

''(2) The term 'Secretary' means the Secretary of Transportation.

''(b) ESTABLISHMENT.—There is established within the Department of Transportation a program to be known as the 'Conserve by Bicycling Program'.

''(c) PROJECTS.—

''(1) In carrying out the program, the Secretary shall establish not more than 10 pilot projects that are—

''(A) dispersed geographically throughout the United States; and

''(B) designed to conserve energy resources by encouraging the use of bicycles in place of motor vehicles.

''(2) A pilot project described in paragraph (1) shall—

''(A) use education and marketing to convert motor vehicle trips to bicycles trips;

''(B) document project results and energy savings (in estimated units of energy conserved);

''(C) facilitate partnerships among interested parties in at least 2 of the fields of transportation, law enforcement, education, public health, environment, and energy;

''(D) maximize bicycle facility investments;

''(E) demonstrate methods that may be used in other regions of the United States; and

''(F) facilitate the continuation of ongoing programs that are sustained by local resources.

''(3) At least 20 percent of the cost of each pilot project described in paragraph (1) shall be provided from State or local sources.

''(d) ENERGY AND BICYCLING RESEARCH STUDY.—

''(1) Not later than 2 years after the date of enactment of this Act, the Secretary shall enter into a contract with the National Academy of Sciences for, and the National Academy of Sciences shall conduct and submit to Congress, a report on a study on the feasibility of converting motor vehicle trips to bicycle trips.

''(2) The study shall—

''(A) document the results or progress of the pilot projects under subsection (c);

''(B) determine the type of duration of motor vehicle trips that people in the United States may feasibly make by bicycle, taking into consideration factors such as weather, land use and traffic patterns, the carrying capacity of bicycles, and bicycle infrastructure;

''(C) determine any energy savings that would result from the conversion of motor vehicle trips to bicycle trips;

''(D) include a cost-benefit analysis of infrastructure investments; and

''(E) include a description of any factors that would encourage more motor vehicle trips to be replaced with bicycle trips.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $6,200,000, to remain available until expended, of which—

''(1) $5,150,000 shall be used to carry out pilot projects described in subsection (c);

''(2) $300,000 shall be used to by the Secretary to coordinate, publicize, and disseminate the results of the program; and

''(3) $750,000 shall be used to carry out subsection (d).''.

SA 1392. Mr. BINGAMAN (for Mr. HARKIN) proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

On page 290, between lines 19 and 20, insert the following:

SEC. 8___. RENEWABLE PRODUCTION OF HYDROGEN DEMONSTRATION AND COMMERCIAL APPLICATION PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a program to assist projects for the demonstration and commercial application of the production of hydrogen from renewable resources.

(b) SCOPE.—A project funded with assistance under this section may include an element other than production of hydrogen if the Secretary determines that the element contributes to the overall efficiency and commercial viability of the technology employed in the project, including—

(1) joint production of hydrogen and other commercial products from biomass; and

(2) renewable production of hydrogen and use of the hydrogen at a single farm location.

(c) COST SHARING; MERIT REVIEW.—A project carried out using funds made available under this section shall be subject to the cost sharing and merit review requirements under sections 982 and 983, respectively.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $10,000,000 for fiscal year 2004; and

(2) $25,000,000 for each of fiscal years 2005 through 2008.

SA 1393. Mr. BINGAMAN (for Mr. SCHUMER) proposed an amendment to the bill S. 14, to enhance the energy security of the United States and for other purposes; as follows

On page 150, after line 14, insert the following:

SEC. 443. PLAN FOR WESTERN NEW YORK SERVICE CENTER.

Not later than one year after the date of enactment of this Act, the Secretary of Energy shall transmit to the Congress a plan for the transfer to the Secretary of title to, and full responsibility for the possession, transportation, disposal, stewardship, maintenance, and monitoring of, all facilities, property, and radioactive waste at the Western New York Service Center in West Valley, New York. The Secretary shall consult with the President of the New York State Energy Research and Development Authority in developing such plan.

SA 1394. Mr. BINGAMAN (for himself and Mr. DOMENICI) proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

Strike the text starting on page 43, line 19, through page 49, line 19, and insert the following:

''SEC. 112. PRESERVATION OF GEOLOGICAL AND GEOPHYSICAL DATA.

''(a) SHORT TITLE.—This section may be cited as the 'National Geological and Geophysical Data Preservation Program Act of 2003.'

''(b) PROGRAM.—The Secretary of the Interior shall carry out a National Geological and Geophysical Data Preservation Program in accordance with this section—

''(1) to archive geologic, geophysical, and engineering data, maps, well logs, and samples;

''(2) to provide a national catalog of such archival material; and

''(3) to provide technical and financial assistance related to the archival material.

''(c) PLAN.—Within 1 year after the date of the enactment of this section, the Secretary shall develop and submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a plan for the implementation of the Program.

''(d) DATA ARCHIVE SYSTEM.—

''(1) ESTABLISHMENT.—The Secretary shall establish, as a component of the Program, a data archive system, which shall provide for the storage, preservation, and archiving of subsurface, surface, geological, geophysical and engineering data and samples. The Secretary, in consultation with the Advisory Committee, shall develop guidelines relating to the data archive system, including the types of data and samples to be preserved.

''(2) SYSTEM COMPONENTS.—The system shall be comprised of State agencies which elect to be part of the system and agencies within the Department of the Interior that maintain geological and geophysical data and samples that are designated by the Secretary in accordance with this subsection. The Program shall provide for the storage of data and samples through data repositories operated by such agencies.

''(3) LIMITATION OF DESIGNATION.—The Secretary may not designate a State agency as a component of the data archive system unless it is the agency that acts as the geological survey in the State.

''(4) DATA FROM FEDERAL LANDS.—The data archive system shall provide for the archiving of relevant subsurface data and samples obtained from Federal lands—

''(A) in the most appropriate repository designated under paragraph (2), with preference being given to archiving data in the State in which the data was collected; and

''(B) consistent with all applicable law and requirements relating to confidentiality and proprietary data.

''(e) NATIONAL CATALOG.—

''(1) IN GENERAL.—As soon as practicable after the date of the enactment of this section, the Secretary shall develop and maintain, as a component of the program, a national catalog that identifies—

''(A) data and samples available in the data archive system established under subsection (d);

''(B) the repository for particular material in such system; and

''(C) the means of accessing the material.

''(2) AVAILABILITY.—The Secretary shall make the national catalog accessible to the public on the site of the Survey on the World Wide Web, consistent with all applicable requirements related to confidentiality and proprietary data.

''(f) ADVISORY COMMITTEE.—

''(1) IN GENERAL.—The Advisory Committee shall advise the Secretary on planning and implementation of the Program.

''(2) NEW DUTIES.—In addition to its duties under the National Geologic Mapping Act of 1992 (43 U.S.C. 31a et seq.), the Advisory Committee shall perform the following duties.

''(A) Advise the Secretary on developing guidelines and procedures for providing assistance for facilities in subsection (g)(1).

''(B) Review and critique the draft implementation plan prepared by the Secretary pursuant to subsection (c).

''(C) Identify useful studies of data archived under the Program that will advance understanding of the Nation's energy and mineral resources, geologic hazards, and engineering geology.

''(D) Review the progress of the Program in archiving significant data and preventing the loss of such data, and the scientific progress of the studies funded under the Program.

''(E) Include in the annual report to the Secretary required under section 5(b)(3) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31d(b)(3)) an evaluation of the progress of the Program toward fulfilling the purposes of the Program under subsection (b).

''(g) FINANCIAL ASSISTANCE.—

''(1) ARCHIVE FACILITIES.—Subject to the availability of appropriations, the Secretary shall provide financial assistance to a State agency that is designated under subsection (d)(2), for providing facilities to archive energy material.

''(2) STUDIES AND TECHNICAL ASSISTANCE.—Subject to the availability of appropriations, the Secretary shall provide financial assistance to any State agency designated under subsection (d)(2) for studies and technical assistance activities that enhance understanding, interpretation, and use of materials archived in the data archive system established under subsection (d).

''(3) FEDERAL SHARE.—The Federal share of the cost of an activity carried out with assistance under this subsection shall be no more than 50 percent of the total cost of that activity.

''(4) PRIVATE CONTRIBUTIONS.—The Secretary shall apply to the non-Federal share of the cost of an activity carried out with assistance under this subsection the value of private contributions of property and services used for that activity.

''(h) REPORT.—The Secretary shall include in each report under section 8 of the National Geologic Mapping Act of 1992 (43 U.S.C. 31g)—

''(1) a description of the status of the Program;

''(2) an evaluation of the progress achieved in developing the Program during the period covered by the report; and

''(3) any recommendations for legislative or other action the Secretary considers necessary and appropriate to fulfill the purposes of the Program under subsection (b).

''(i) DEFINITIONS.—As used in this section:

''(1) ADVISORY COMMITTEE.—The term ''Advisory Committee'' means the advisory committee established under section 5 of the National Geologic Mapping Act of 1992 (43 U.S.C. 31d).

''(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior acting through the Director of the United States Geological Survey.

''(3) PROGRAM.—The term ''Program'' means the National Geological and Geophysical Data Preservation Program carried out under this section.

''(4) SURVEY.—The term ''Survey'' means the United States Geological Survey.

''(j) MAINTENANCE OF STATE EFFORT.—It is the intent of the Congress that the States not use this section as an opportunity to reduce State resources applied to the activities that are the subject of the Program.

''(k) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary $30,000,000 for each of fiscal years 2004 through 2008 for carrying out this section.''

SA 1395. Mr. BINGAMAN (for Mr. LAUTENBERG) proposed an amendment to the bill S. 14, to enhance the energy

security of the United States, and for other purposes; as follows:

On page 150, line 24, strike ''(tidal and thermal)'' and insert ''(wave, tidal, current, and thermal)''.

On page 156, line 4, strike ''(tidal and thermal)'' and insert ''(wave, tidal, current, and thermal)''.

SA 1396. Mr. DOMENICI proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes, as follows:

On page 90, line 24, strike ''2003 through 2011'' and insert ''2004 through 2012''.

SA 1397. Mr. DOMENICI (for himself and Ms. MURKOWSKI) proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

On page 40, beginning with line 13, strike all through line 20 and insert:

''(4) For purposes of this subsection, calculations of payments shall be made using qualified Outer Continental Shelf revenues received during the previous fiscal year.

SA 1398. Mr. DOMENICI proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

On page 40, strike line 5 and all that follows through line 12, and insert: ''shall not disburse such an amount until the final resolution of any appeal regarding the disapproval of a plan submitted under this section or so long as the Secretary determines that such State is making a good faith effort to develop and submit, or update, a Coastal Impact Assistance Plan.''.

SA 1399. Mr. DOMENICI proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

On page 286, strike line 10 and all that follows through page 287, line 21, and insert:

''SEC. 814. HYDROGEN DEMONSTRATION PROGRAMS IN NATIONAL PARKS.

''(a) STUDY.—Not later than 1 year after the date of enactment of this section, the Secretary of the Interior and the Secretary of Energy shall jointly study and report to Congress on—

''(1) the energy needs and uses in units of the National Park System; and

''(2) the potential for fuel cell and other hydrogen-based technologies to meet such energy needs in—

''(A) stationary applications, including power generation, combined heat and power for buildings and campsites, and standby and backup power systems; and

''(B) transportation-related applications, including support vehicles, passenger vehicles and heavy-duty trucks and buses.

''(b) PILOT PROJECTS.—Based on the results of the study, the Secretary of the Interior shall fund not fewer than 3 pilot projects in units of the National Park System for demonstration of fuel cells or other hydrogen-based technologies in those applications where the greatest potential for such use has been identified. Such pilot projects shall be geographically distributed throughout the United States.

''(c) AUTHORIZATION OF APPROPRIATIONS.—For purposes of this section, there are authorized to be appropriated to the Secretary of the Interior $1,000,000 for fiscal year 2004, and $15,000,000 for fiscal year 2005, to remain available until expended.''.

SA 1400. Mr. DOMENICI proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

On page 305, line 23, strike the word ''basic''.

SA 1401. Mr. BINGAMAN (for Ms. LANDRIEU) proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

On page 37, line 23, ''year. Where'' and insert ''year, except that where''.

SA 1402. Mr. FEINGOLD (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 465, between lines 10 and 11, insert the following:

SEC. 1175. AFFILIATE TRANSACTIONS.

Section 204 of the Federal Power Act (16 U.S.C. 824c) is amended by adding at the end the following:

''(i) TRANSACTIONS WITH AFFILIATES AND ASSOCIATED COMPANIES.—

''(1) DEFINITIONS.—In this subsection, the terms 'affiliate', 'associate company', and 'public utility' have the meanings given the terms in section 1151 of the Energy Policy Act of 2003.

''(2) REGULATIONS.—

''(A) IN GENERAL.—The Commission shall promulgate regulations that shall apply in the case of a transaction between a public utility and an affiliate or associate company of the public utility.

''(B) CONTENTS.—At a minimum, the regulations under subparagraph (A) shall require, with respect to a transaction between a public utility and an affiliate or associate company of the public utility, that—

''(i) the affiliate or associate company shall be an independent, separate, and distinct entity from the public utility;

''(ii) the affiliate or associate company shall maintain separate books, accounts, memoranda, and other records and shall prepare separate financial statements;

''(iii)(I) the public utility shall conduct the transaction in a manner that is consistent with transactions among nonaffiliated and nonassociated companies; and

''(II) shall not use its status as a monopoly franchise to confer on the affiliate or associate company any unfair competitive advantage;

''(iv) the public utility shall not declare or pay any dividend on any security of the public utility in contravention of such rules as the Commission considers appropriate to protect the financial integrity of the public utility;

''(v) the public utility shall have at least 1 independent director on its board of directors;

''(vi) the affiliate or associate company shall not acquire any loan, loan guarantee, or other indebtedness, and shall not structure its governance, in a manner that would permit creditors to have recourse against the assets of the public utility; and

''(vii) the public utility shall not—

''(I) commingle any assets or liabilities of the public utility with any assets or liabilities of the affiliate or associate company; or

''(II) pledge or encumber any assets of the public utility on behalf of the affiliate or associate company;

''(viii)(I) the public utility shall not cross-subsidize or shift costs from the affiliate or associate company to the public utility; and

''(II) the public utility shall disclose and fully value, at the market value or other value specified by the Commission, any assets or services by the public utility that, directly or indirectly, are transferred to, or otherwise provided for the benefit of, the affiliate or associate company, in a manner that is consistent with transfers among nonaffiliated and nonassociated companies; and

''(ix) electricity and natural gas consumers and investors shall be protected against the financial risks of public utility diversification and transactions with and among affiliates and associate companies.

''(3) NO PREEMPTION.—This subsection does not preclude or deny the right of any State or political subdivision of a State to adopt and enforce standards for the corporate and financial separation of public utilities that are more stringent that those provided under the regulations under paragraph (2).

''(4) PROHIBITION.—It shall be unlawful for a public utility to enter into or take any step in the performance of any transaction with any affiliate or associate company in violation of the regulations under paragraph (2).''.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON CRIME, CORRECTIONS AND VICTIMS' RIGHTS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Crime, Corrections and Victims' Rights be authorized to meet to conduct a hearing on ''Alien Smuggling/Human Trafficking: Sending Meaningful Messages of Deterrence,'' on Friday, July 25, 2003, at 10 a.m., in SD226.

Panel 1: John Malcomb, Esq., Assistant Attorney General, Criminal Division, Department of Justice, Washington, DC; Mr. Charles Demore, Interim Assistant Director of Investigations, Department of Homeland Security, Bureau of Immigration and Customs Enforcement, Washington, DC; and Mr. Robert L. Harris, Deputy Chief, U.S. Border Patrol, Department of Homeland Security, Bureau of Customs and Border Protection, Washington, DC.

Panel 2: the Honorable Robert Charleton, United States Attorney, District of Arizona, Phoenix, AZ; the Honorable Jane Boyle, United States Attorney, Northern District of Texas, Dallas, TX; and Sharon Cohn, Esq., Senior Counsel, International Justice Mission, Washington, DC.

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

DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2004

On Thursday, July 24, 2003, the Senate passed H.R. 2555, as follows:

Resolved, That the bill from the House of Representatives (H.R. 2555) entitled ''An Act making appropriations for the Department

of Homeland Security for the fiscal year ending September 30, 2004, and for other purposes.'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Homeland Security for the fiscal year ending September 30, 2004, and for other purposes, namely:

DEPARTMENT OF HOMELAND SECURITY

TITLE I—DEPARTMENTAL OPERATIONS, MANAGEMENT, AND OVERSIGHT

OFFICE OF THE SECRETARY AND EXECUTIVE MANAGEMENT

For necessary expenses of the Office of the Secretary of Homeland Security as authorized by section 102 of the Homeland Security Act of 2002 (6 U.S.C. 112) and executive management of the Department of Homeland Security, as authorized by law, $83,653,000.

OFFICE OF THE UNDER SECRETARY FOR MANAGEMENT

For necessary expenses of the Office of the Under Secretary for Management and Administration, as authorized by sections 701–704 of the Homeland Security Act of 2002 (6 U.S.C. 341–344), $167,521,000: Provided, That of the total amount provided, $30,000,000 shall remain available until expended solely for the alteration and improvement of facilities and for relocation costs necessary for the interim housing of the Department's headquarters' operations and organizations collocated therewith.

DEPARTMENT-WIDE TECHNOLOGY INVESTMENTS

For development and acquisition of information technology equipment, software, services, and related activities for the Department of Homeland Security, and for the costs of conversion to narrowband communications, including the cost for operation of the land mobile radio legacy systems, $185,000,000, to remain available until expended.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978 (5 U.S.C. App.), $58,118,000; of which not to exceed $100,000 may be used for certain confidential operational expenses, including the payment of informants, to be expended at the direction of the Inspector General.

TITLE II—SERVICES

CITIZENSHIP AND IMMIGRATION SERVICES

For necessary expenses for citizenship and immigration services, including international services, as transferred by and authorized by the Homeland Security Act of 2002 (6 U.S.C. 271, 272), $229,377,000.

TITLE III—SECURITY, ENFORCEMENT, AND INVESTIGATIONS

OFFICE OF THE UNDER SECRETARY FOR BORDER AND TRANSPORTATION SECURITY

SALARIES AND EXPENSES

For necessary expenses of the Office of the Under Secretary for Border and Transportation Security, as authorized by Subtitle A, Title IV, of the Homeland Security Act of 2002 (6 U.S.C. 201–203), $8,842,000.

UNITED STATES VISITOR AND IMMIGRANT STATUS INDICATOR TECHNOLOGY

For necessary expenses for the development of the United States Visitor and Immigrant Status Indicator Technology project, as authorized by section 110 of the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (8 U.S.C. 1221 note), $380,000,000, to remain available until expended: Provided, That none of the funds appropriated in this Act for the United States Visitor and Immigrant Status Indicator Technology project may be obligated until the Department of Homeland Security submits a plan for expenditure that has been approved by the Committees on Appropriations of the Senate and the House of Representatives.

CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for border security, immigration, customs, and agricultural inspections and regulatory activities related to plant and animal imports, acquisition, lease, maintenance and operation of aircraft; purchase and lease of up to 4,500 (3,935 for replacement only) police-type vehicles; contracting with individuals for personal services abroad; including not to exceed $1,000,000 to meet unforeseen emergencies of a confidential nature, to be expended under the direction of, and to be accounted for solely under the certificate of, the Under Secretary for Border and Transportation Security; as authorized by any Act enforced by the Bureau of Customs and Border Protection, $4,366,000,000, of which not to exceed $96,000,000 shall remain available until September 30, 2005, for inspection technology; of which such sums as become available in the Customs User Fee Account, except sums subject to section 13031(f)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)), shall be derived from that account; of which not to exceed $150,000 shall be available for payment for rental space in connection with preclearance operations; of which not to exceed $5,000,000 shall be available for payments or advances arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to immigration: Provided, That none of the funds appropriated shall be available to compensate any employee for overtime in an annual amount in excess of $30,000, except that the Under Secretary for Border and Transportation Security may exceed that amount as necessary for national security purposes and in cases of immigration emergencies: Provided further, That of the total amount provided for activities to enforce laws against forced child labor in fiscal year 2004, not to exceed $4,000,000 shall remain available until expended.

In addition, for administrative expenses related to the collection of the Harbor Maintenance Fee, pursuant to Public Law 103–182, and notwithstanding section 1511 (e)(1) of Public Law 107–296, $3,000,000 to be derived from the Harbor Maintenance Trust Fund and to be transferred to and merged with the appropriation for ''Salaries and Expenses'' under this heading.

AUTOMATION MODERNIZATION

For expenses for Customs and Border Protection automated systems, $441,122,000, to remain available until expended, of which not less than $318,690,000 shall be for the development of the Automated Commercial Environment: Provided, That none of the funds appropriated in this Act for the Automated Commercial Environment may be obligated until the Department of Homeland Security submits a plan for expenditure that has been approved by the Committees on Appropriations of the Senate and the House of Representatives.

CONSTRUCTION

For necessary expenses to plan, construct, renovate, equip, and maintain buildings and facilities necessary for the administration and enforcement of the laws relating to customs and immigration, $90,363,000, to remain available until expended.

IMMIGRATION AND CUSTOMS ENFORCEMENT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for enforcement of immigration and customs laws, detention and removals, investigations; purchase and lease of up to 1,600 (1,450 for replacement only) police-type vehicles; including not to exceed $1,000,000 to meet unforeseen emergencies of a confidential nature, to be expended under the direction of, and to be accounted for solely under the certificate of, the Under Secretary for Border and Transportation Security; as authorized by any Act enforced by the Bureau of Immigration and Customs Enforcement, $2,180,000,000, of which not to exceed $5,000,000 shall be available until expended for conducting special operations pursuant to section 3131 of the Customs Enforcement Act of 1986 (19 U.S.C. 2081), of which not less than $40,000,000 shall be available until expended for information technology infrastructure, and of which not to exceed $5,000,000 shall be available to fund or reimburse other Federal agencies for the costs associated with the care, maintenance, and repatriation of smuggled illegal aliens: Provided, That in addition, $424,211,000 shall be transferred from the revenues and collections in the General Services Administration, Federal Buildings Fund for the Federal Protective Service: Provided further, That none of the funds appropriated shall be available to compensate any employee for overtime in an annual amount in excess of $30,000, except that the Under Secretary for Border and Transportation Security may waive that amount as necessary for national security purposes and in cases of immigration emergencies: Provided further, That of the total amount provided for activities to enforce laws against forced child labor in fiscal year 2004, not to exceed $1,000,000 shall remain available until expended: Provided further, That not later than 180 days after the date of enactment of this Act, the General Accounting Office shall transmit to Congress a report on the implementation of the Student and Exchange Visitor Information System (SEVIS), including an assessment of the technical problems faced by institutions of higher education using the system, the need for the detailed information collected, and an analysis of corrective action being taken by the Department to resolve problems in SEVIS.

AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE AND PROCUREMENT

For necessary expenses for the operation and maintenance of marine vessels, aircraft, and other related equipment of the Air and Marine Programs, including operational training and mission-related travel, and rental payments for facilities occupied by the air or marine interdiction and demand reduction programs, the operations of which include the following: the interdiction of narcotics and other goods; the provision of support to Federal, State, and local agencies in the enforcement or administration of laws enforced by the Bureau of Immigration and Customs Enforcement; and at the discretion of the Director of the Bureau of Immigration and Customs Enforcement, the provision of assistance to Federal, State, and local agencies in other law enforcement and emergency humanitarian efforts, $257,291,000, to remain available until expended.

CONSTRUCTION

For necessary expenses to plan, construct, renovate, equip, and maintain buildings and facilities necessary for the administration and enforcement of the laws relating to customs and immigration, $26,775,000, to remain available until expended.

TRANSPORTATION SECURITY ADMINISTRATION

AVIATION SECURITY

For necessary expenses of the Transportation Security Administration related to providing civil aviation security services pursuant to the Aviation and Transportation Security Act (49 U.S.C. 40101 note), $4,523,900,000, to remain available until September 30, 2005, of which $3,185,000,000 shall be available for screening activities and of which $1,338,900,000 shall be available for airport support and enforcement presence: Provided, That security service fees authorized under section 44940 of title 49, United

States Code, shall be credited to this appropriation as offsetting collections and used for providing civil aviation security services authorized by that section: Provided further, That the sum under this heading appropriated from the general fund shall be reduced on a dollar-for-dollar basis as such offsetting collections are received during fiscal year 2004 in order to result in a final fiscal year appropriation from the general fund estimated at not more than $2,453,900,000: Provided further, That any security service fees collected in excess of the amount appropriated under this heading shall be treated as offsetting collections in fiscal year 2005: Provided further, That of the total amount provided under this heading, $309,000,000 shall be available for physical modification of commercial service airports for the purpose of installing checked baggage explosive detection systems, as authorized by section 367 of title III of Division I of the Consolidated Appropriations Resolution, 2003 (49 U.S.C. 47110 note); and $150,500,000 shall be available for procurement of checked baggage explosive detection systems, including explosive trace detection systems, as authorized by section 4490 of title 49, United States Code.

MARITIME AND LAND SECURITY

For necessary expenses of the Transportation Security Administration related to maritime and land transportation security grants and services pursuant to the Aviation and Transportation Security Act (49 U.S.C. 40101 note), $295,000,000, to remain available until September 30, 2005: Provided, That of the total amount provided under this heading, $150,000,000 shall be available for port security grants, which shall be distributed under the same terms and conditions as provided for under Public Law 107–117; and $30,000,000 shall be available to execute grants, contracts, and interagency agreements for the purpose of deploying Operation Safe Commerce.

INTELLIGENCE

For necessary expenses for intelligence activities pursuant to the Aviation and Transportation Security Act (49 U.S.C. 40101 note), $13,600,000, to remain available until September 30, 2004.

RESEARCH AND DEVELOPMENT

For necessary expenses for research and development related to transportation security, $130,200,000, to remain available until expended: Provided, That of the total amount provided under this heading, $45,000,000 shall be available for the research and development of explosive detection devices.

ADMINISTRATION

For necessary administrative expenses of the Transportation Security Administration to carry out the Aviation and Transportation Security Act (49 U.S.C. 40101 note), $433,200,000, to remain available until September 30, 2004.

UNITED STATES COAST GUARD

OPERATING EXPENSES

(INCLUDING RESCISSION OF FUNDS)

For necessary expenses for the operation and maintenance of the Coast Guard not otherwise provided for; purchase of not to exceed five passenger motor vehicles for replacement only; payments pursuant to section 156 of Public Law 97–377 (42 U.S.C. 402 note); and section 229(b) of the Social Security Act (42 U.S.C. 429(b)) and recreation and welfare, $4,719,000,000, of which $340,000,000 shall be available for defense-related activities; and of which $25,000,000 shall be derived from the Oil Spill Liability Trust Fund: Provided, That none of the funds appropriated by this or any other Act shall be available for administrative expenses in connection with shipping commissioners in the United States: Provided further, That of the total amount provided under this heading, funding to operate and maintain the Coast Guard Research and Development Center shall continue at the fiscal year 2003 level: Provided further, That the Commandant of the Coast Guard shall conduct a study, the cost of which is not to exceed $350,000, to be submitted to the Committees on Appropriations of the Senate and the House of Representatives, on the research and development priorities of the Coast Guard and a design for a new research and development organizational structure within the Coast Guard that ensures that the Coast Guard has access to the most advanced technology necessary to perform its missions effectively: Provided further, That the Commandant may seek an independent entity to conduct such a study: Provided further, That none of the funds provided by this Act shall be available for expenses incurred for yacht documentation under section 12109 of title 46, United States Code, except to the extent fees are collected from yacht owners and credited to this appropriation: Provided further, That notwithstanding section 1116(c) of title 10, United States Code, amounts made available under this heading may be used to make payments into the Department of Defense Medicare-Eligible Retiree Health Care Fund for fiscal year 2004 under section 1116(a) of such title.

In addition, of the funds appropriated under this heading in chapter 6 of title I of Public Law 108–11 (117 Stat. 583), $71,000,000 are hereby rescinded.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

For necessary expenses to carry out the Coast Guard's environmental compliance and restoration functions under chapter 19 of title 14, United States Code, $17,000,000, to remain available until expended.

RESERVE TRAINING

For all necessary expenses of the Coast Guard Reserve, as authorized by law; maintenance and operation of facilities; and supplies, equipment, and services, $95,000,000.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For necessary expenses of acquisition, construction, renovation, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto; maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law, $1,035,000,000, of which $23,500,000 shall be derived from the Oil Spill Liability Trust Fund; of which $66,500,000 shall be available to acquire, repair, renovate, or improve vessels, small boats, and related equipment, to remain available until expended; of which $178,500,000 shall be available for other equipment, including $3,500,000 for defense message system implementation and $1,000,000 for oil spill prevention efforts under the Ports and Waterways Safety Systems (PAWSS) program, to remain available until expended; of which $70,000,000 shall be available for personnel compensation and benefits and related costs; of which $702,000,000 shall be available for the Integrated Deepwater Systems program, to remain available until expended; and of which $18,000,000 shall be available for alteration or removal of obstructive bridges, to remain available until expended: Provided, That the Commandant of the Coast Guard is authorized to dispose of surplus real property, by sale or lease, and the proceeds shall be credited to this appropriation as offsetting collections and shall be available only for Rescue 21 and shall remain available until expended: Provided further, That funds for bridge alteration projects conducted pursuant to the Act of June 21, 1940 (33 U.S.C. 511 et seq.) shall be available for such projects only to the extent that the steel, iron, and manufactured products used in such projects are produced in the United States, unless contrary to law or international agreement, or unless the Commandant of the Coast Guard determines such action to be inconsistent with the public interest or the cost unreasonable.

RETIRED PAY

For retired pay, including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, payment for career status bonuses under the National Defense Authorization Act, and for payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $1,020,000,000.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Secret Service, including purchase of not to exceed 730 vehicles for police-type use, of which 610 shall be for replacement only, and hire of passenger motor vehicles; purchase of American-made sidecar compatible motorcycles; hire of aircraft; services of expert witnesses at such rates as may be determined by the Director; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; for payment of per diem or subsistence allowances to employees where a protective assignment during the actual day or days of the visit of a protectee require an employee to work 16 hours per day or to remain overnight at his or her post of duty; the conducting of and participating in firearms matches; presentation of awards; for travel of Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act if approval is obtained in advance from the Committees on Appropriations of the Senate and the House of Representatives; for research and development; for making grants to conduct behavioral research in support of protective research and operations; not to exceed $100,000 to provide technical assistance and equipment to foreign law enforcement organizations in counterfeit investigations; for payment in advance for commercial accommodations as may be necessary to perform protective functions; $1,114,737,000, of which $1,633,000 shall be available for forensic and related support of investigations of missing and exploited children; and of which $5,000,000 shall be available as a grant for activities related to the investigations of exploited children and shall remain available until expended: Provided, That up to $18,000,000 provided for protective travel shall remain available until September 30, 2005: Provided further, That in fiscal year 2004 and thereafter, the James J. Rowley Training Center is authorized to provide short-term medical services for students undergoing training at the Center.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For necessary expenses of construction, repair, alteration, and improvement of facilities, $3,579,000, to remain available until expended.

TITLE IV—ASSESSMENTS, PREPAREDNESS, AND RECOVERY

COUNTERTERRORISM FUND

For necessary expenses, as determined by the Secretary of Homeland Security, $20,000,000, to remain available until expended, to reimburse any Department of Homeland Security organization for the costs of providing support to counter, investigate, or prosecute unexpected threats or acts of terrorism, including payment of rewards in connection with these activities: Provided, That any funds provided under this heading shall be available only after the Secretary notifies the Committees on Appropriations of the Senate and the House of Representatives in accordance with section 605 of this Act.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Law Enforcement Training Center, including materials and support costs of Federal law enforcement basic training; purchase of not to exceed 117 vehicles for police-type use and hire of passenger motor vehicles; for expenses for student athletic and related activities; the conducting of and participating in firearms matches and presentation of awards; for public awareness and

enhancing community support of law enforcement training; room and board for student interns; and services as authorized by section 3109 of title 5, United States Code, $172,736,000, of which up to $44,413,000 for materials and support costs of Federal law enforcement basic training shall remain available until September 30, 2005: Provided, That in fiscal year 2004 and thereafter, the Center is authorized to accept and use gifts of property, both real and personal, and to accept services, for authorized purposes: Provided further, That in fiscal year 2004 and thereafter, the Center is authorized to accept detailees from other Federal agencies, on a non-reimbursable basis, to staff the accreditation function: Provided further, That notwithstanding any other provision of law, in fiscal year 2004 and thereafter, students attending training at any Center site shall reside in on-Center or Center-provided housing, insofar as available and in accordance with Center policy: Provided further, That in fiscal year 2004 and thereafter, funds appropriated in this account shall be available, at the discretion of the Director, for the following: training United States Postal Service law enforcement personnel and Postal police officers; State and local government law enforcement training on a space-available basis; training of foreign law enforcement officials on a space-available basis with reimbursement of actual costs to this appropriation, except that reimbursement may be waived by the Secretary for law enforcement training activities in foreign countries undertaken under section 801 of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–32); training of private sector security officials on a space-available basis with reimbursement of actual costs to this appropriation; and travel expenses of non-Federal personnel to attend course development meetings and training sponsored by the Center: Provided further, That in fiscal year 2004 and thereafter, the Center is authorized to obligate funds in anticipation of reimbursements from agencies receiving training sponsored by the Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available at the end of the fiscal year: Provided further, That in fiscal year 2004 and thereafter, the Center is authorized to provide short-term medical services for students undergoing training at the Center.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For expansion of the Federal Law Enforcement Training Center, for acquisition of necessary additional real property and facilities, and for ongoing maintenance, facility improvements, and related expenses, $28,708,000, to remain available until expended.

OFFICE FOR DOMESTIC PREPAREDNESS

STATE AND LOCAL PROGRAMS

For grants, contracts, cooperative agreements, and other activities, including grants to State and local governments for terrorism prevention activities, notwithstanding any other provision of law, $2,888,000,000, which shall be allocated as follows:

(1) $1,750,000,000 for grants pursuant to section 1014 of the USA PATRIOT Act of 2001 (42 U.S.C. 3711), of which $500,000,000 shall be available for State and local law enforcement terrorism prevention grants: Provided, That no funds shall be made available to any State prior to the submission of an updated state plan to the Office for Domestic Preparedness: Provided further, That the application for grants shall be made available to States within 15 days after enactment of this Act; and that States shall submit applications within 30 days after the grant announcement; and that the Office for Domestic Preparedness shall act on each application within 15 days after receipt: Provided further, That each State shall obligate not less than 80 percent of the total amount of the grant to local governments within 45 days after the grant award;

(2) $30,000,000 for technical assistance;

(3) $750,000,000 for discretionary grants for use in high-threat urban areas, as determined by the Secretary of Homeland Security: Provided, That no less than 80 percent of any grant to a State shall be made available by the State to local governments within 45 days after the receipt of the funds: Provided further, That section 1014(c)(3) of the USA PATRIOT Act of 2001 (42 U.S.C. 3711) shall not apply to these grants; and

(4) $358,000,000 for national programs:

Provided, That none of the funds appropriated under this heading shall be used for the construction or renovation of facilities: Provided further, That funds appropriated for State and local law enforcement terrorism prevention grants under paragraph (1) and discretionary grants under paragraph (3) of this heading shall be available for operational costs, to include personnel overtime and overtime associated with Office for Domestic Preparedness certified training as needed: Provided further, That the Secretary of Homeland Security shall notify the Committees on Appropriations of the Senate and House of Representatives 15 days prior to the obligation of any amount of the funds provided under paragraphs (1) and (3) of this heading: Provided further, That not later than January 1, 2004, the Office of Domestic Preparedness shall submit to the Committees on Appropriations of the Senate and House of Representatives a report detailing efforts to assess and disseminate best practices to emergency responders which, at a minimum, shall discuss (1) efforts to coordinate and share information with State and local officials and emergency preparedness organizations; and (2) steps the Department proposes to improve the coordination and sharing of such information, if any.

FIREFIGHTER ASSISTANCE GRANTS

For necessary expenses for programs authorized by section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), $750,000,000, to remain available until September 30, 2005: Provided, That up to 5 percent of this amount shall be available for program administration.

OFFICE OF THE UNDER SECRETARY FOR EMERGENCY PREPAREDNESS AND RESPONSE

For necessary expenses for the Office of the Under Secretary for Emergency Preparedness and Response as authorized by section 502 of the Homeland Security Act of 2002 (6 U.S.C. 312), $3,615,000.

EMERGENCY PREPAREDNESS AND RESPONSE

OPERATING EXPENSES

(INCLUDING RESCISSION OF FUNDS)

For necessary expenses of the Emergency Preparedness and Response Directorate, $826,801,000, to remain available until expended, including activities authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.), the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947 (50 U.S.C. 404, 405), Reorganization Plan No. 3 of 1978 (5 U.S.C. 903 note), and the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.): Provided, That of the amount provided under this heading: $163,000,000 shall be for activities relating to Preparedness, Mitigation, Response and Recovery; $434,000,000 shall be for Public Health Programs, including the Disaster Medical Assistance Teams and the Strategic National Stockpile; $165,214,000 shall be for Administrative and Regional Operations; and $64,587,000 shall be for Urban Search and Rescue Teams.

In addition, of the funds appropriated under this heading by Public Law 108–11 (117 Stat. 583), $3,000,000 are hereby rescinded.

RADIOLOGICAL EMERGENCY PREPAREDNESS PROGRAM

The aggregate charges assessed during fiscal year 2004, as authorized by the Energy and Water Development Appropriations Act, 2001 (Public Law 106–377; 114 Stat. 114A–46), shall not be less than 100 percent of the amounts anticipated by the Department of Homeland Security necessary for its radiological emergency preparedness program for the next fiscal year. The methodology for assessment and collection of fees shall be fair and equitable; and shall reflect costs of providing such services, including administrative costs of collecting such fees. Fees received under this heading shall be deposited in this account as offsetting collections and will become available for authorized purposes on October 1, 2004, and remain available until expended.

DISASTER RELIEF

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses in carrying out the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $1,956,000,000, notwithstanding the matter under the heading ''Disaster Relief'' under the heading ''Federal Emergency Management Agency'' of chapter II of title I of Public Law 102–229 (42 U.S.C. 5203), to remain available until expended; of which not to exceed $22,000,000 shall be transferred to and merged with the appropriation for ''Office of the Inspector General'' for audits and investigations: Provided, That the Under Secretary for Emergency Preparedness and Response may provide advanced funding to authorize nonprofit entities performing duties under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5131 et seq.) who respond to a disaster declared by the President if the nonprofit entity petitions the Under Secretary for such advanced funding and demonstrates that they would be unable to respond to the disaster absent such funding.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

For direct loans, as authorized by section 319 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5162): Provided, That gross obligations for the principal amount of direct loans not to exceed $25,000,000: Provided further, That the cost of modifying such loans shall be as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a). In addition, for administrative expenses to carry out the direct loan program, $557,000.

NATIONAL PRE-DISASTER MITIGATION FUND

For a pre-disaster mitigation grant program pursuant to title II of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5131 et seq.), $150,000,000, to remain available until expended: Provided, That grants made for pre-disaster mitigation shall be awarded on a competitive basis subject to the criteria in section 203 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133(g)): Provided further, That, notwithstanding section 203(f) of that Act (42 U.S.C. 5133(f)), grant awards shall be made without reference to State allocations, quotas, or other formula-based allocation of funds: Provided further, That total administrative costs shall not exceed 3 percent of the total appropriation.

FLOOD MAP MODERNIZATION FUND

For necessary expenses pursuant to section 1360 of the National Flood Insurance Act of 1968 (42 U.S.C. 4101), $200,000,000, and such additional sums as may be provided by State and local governments or other political subdivisions for cost-shared mapping activities under section 1360(f)(2) of such Act, to remain available until expended: Provided, That total administrative costs shall not exceed 3 percent of the total appropriation.

NATIONAL FLOOD INSURANCE FUND

(INCLUDING TRANSFER OF FUNDS)

For activities under the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.) and the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.), not to exceed $32,663,000 for salaries and expenses associated with flood mitigation and flood insurance operations; and not to exceed $77,809,000 for flood hazard mitigation, to remain available until September 30, 2005, including up to $20,000,000 for expenses under section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c), which amount shall be available for transfer to the National Flood Mitigation Fund until September 30, 2005, and which amounts shall be derived from offsetting collections assessed and collected pursuant to section 1307 of that Act (42 U.S.C. 4014), and shall be retained and used for necessary expenses under this heading: Provided, That in fiscal year 2004, no funds in excess of: (1) $55,000,000 for operating expenses; (2) $565,897,000 for agents' commissions and taxes; and (3) $40,000,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund.

NATIONAL FLOOD MITIGATION FUND

(INCLUDING TRANSFER OF FUNDS)

Notwithstanding subparagraphs (B) and (C) of subsection (b)(3), and subsection (f) of section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c), $20,000,000, to remain available until September 30, 2005, for activities designed to reduce the risk of flood damage to structures pursuant to such Act, of which $20,000,000 shall be derived from the National Flood Insurance Fund.

EMERGENCY MANAGEMENT PERFORMANCE GRANTS

For necessary expenses for emergency management performance grants, as authorized by the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reductions Act of 1977 (42 U.S.C. 7701 et seq.), and the Reorganization Plan No. 3 of 1978 (5 U.S.C. 903 note), $165,000,000.

EMERGENCY FOOD AND SHELTER

To carry out an emergency food and shelter program pursuant to title III of Public Law 100–77 (42 U.S.C. 11331 et seq.), $153,000,000, to remain available until expended: Provided, That total administrative costs shall not exceed 3.5 percent of the total appropriation.

CERRO GRANDE FIRE CLAIMS

For payment of claims under the Cerro Grande Fire Assistance Act (Public Law 106–246; 114 Stat. 583), $38,062,000, to remain available until expended: Provided, That up to 5 percent of this amount may be made available for administrative costs.

OFFICE OF THE UNDER SECRETARY FOR INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

For necessary expenses of the Office of the Under Secretary for Information Analysis and Infrastructure Protection as authorized by section 201 of the Homeland Security Act of 2002 (6 U.S.C. 121), $10,460,000; of which $5,442,000 shall be for operations of the Department of Homeland Security Command Center: Provided, That no later than 120 days after enactment of this Act the Under Secretary of Infrastructure Analysis and Infrastructure Protection shall submit a report to the Committees on Appropriations of the Senate and House of Representatives on the vulnerability of the 250 largest sports and entertainment facilities (based on seating capacity).

INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION, OPERATING EXPENSES

For necessary expenses for information analysis and infrastructure protection as authorized by section 201 of the Homeland Security Act of 2002 (6 U.S.C. 121), $823,700,000, to remain available until September 30, 2005.

TITLE V—RESEARCH AND DEVELOPMENT

OFFICE OF THE UNDER SECRETARY FOR SCIENCE AND TECHNOLOGY

For necessary expenses of the Office of the Under Secretary for Science and Technology as authorized by section 302 of the Homeland Security Act of 2002 (6 U.S.C. 182), $5,400,000.

SCIENCE AND TECHNOLOGY, RESEARCH, DEVELOPMENT, ACQUISITION AND OPERATIONS

For necessary expenses for science and technology research, development, acquisition, and operations, as authorized by sections 302, 307, and 308 of the Homeland Security Act of 2002 (6 U.S.C. 182, 187, 188), $866,000,000, to remain available until expended; of which $55,000,000 is for university-based centers for homeland security as authorized by section 308(b)(2) of the Homeland Security Act of 2002 (6 U.S.C. 188(b)(2)); and of which $70,000,000 is provided for the centralized Federal technology clearinghouse as authorized by section 313 of the Homeland Security Act of 2002 (6 U.S.C. 193): Provided, That of the total amount appropriated, $20,000,000 shall be available for the construction of the National Biodefense Analysis and Countermeasures Center: Provided further, That the Under Secretary for Science and Technology shall work with the Coast Guard Research and Development Center regarding research priorities for the Coast Guard: Provided further, That there may be credited to and used for the purposes of this appropriation funds received from State and local governments, other public authorities, private sources, and foreign countries, for expenses incurred for research, development, testing, and evaluation.

TITLE VI—GENERAL PROVISIONS

(INCLUDING TRANSFERS OF FUNDS)

SEC. 601. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 602. The Federal Emergency Management Agency ''Working Capital Fund'' shall be available to the Department of Homeland Security, as authorized by sections 503 and 1517 of the Homeland Security Act of 2002 (6 U.S.C. 313 and 557), for expenses and equipment necessary for maintenance and operations of such administrative services as the Secretary determines may be performed more advantageously as central services: Provided, That such fund shall hereafter be known as the ''Department of Homeland Security Working Capital Fund''.

SEC. 603. The Federal Emergency Management Agency ''Bequests and Gifts'' account shall be available to the Department of Homeland Security, as authorized by sections 503 and 1517 of the Homeland Security Act of 2002 (6 U.S.C. 313 and 557), for the Secretary of Homeland Security to accept, hold, administer and utilize gifts and bequests, including property, to facilitate the work of the Department of Homeland Security: Provided, That such fund shall hereafter be known as ''Department of Homeland Security, Gifts and Donations'': Provided further, That any gift or bequest is to be used in accordance with the terms of that gift or bequest to the greatest extent practicable.

SEC. 604. No employee of the Department of Homeland Security may be detailed or assigned from an agency, bureau, or office funded by this Act to any other agency, bureau, or office of the Department for more than 30 days unless the individual's employing agency or office is fully reimbursed by the receiving agency or office for the salary and expenses of the employee for the period of assignment unless expressly so provided herein.

SEC. 605. (a) None of the funds provided by this Act, or provided by previous appropriations Acts to the agencies in or transferred to the Department of Homeland Security that remain available for obligation or expenditure in fiscal year 2004, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates a new program; (2) eliminates a program, project, or activity; (3) increases funds for any program, project, or activity for which funds have been denied or restricted by Congress; or (4) proposes to use funds directed for a specific activity by either the House or Senate Committees on Appropriations for a different purpose, unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such reprogramming of funds.

(b) None of the funds provided by this Act, or provided by previous appropriations Acts to the agencies in or transferred to the Department of Homeland Security that remain available for obligation or expenditure in fiscal year 2004, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for programs, projects, or activities through a reprogramming of funds in excess of $5,000,000 or 10 percent, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, projects or activities, as approved by Congress; unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such reprogramming of funds.

(c) Not to exceed 5 percent of any appropriation made available for the current fiscal year to the Department of Homeland Security by this Act or provided by previous appropriations Acts may be transferred between such appropriations, but no such appropriation, except otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: Provided, That any transfer under this section shall be treated as a reprogramming of funds under subsection (b) of this section and shall not be available for obligation unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such transfer.

SEC. 606. Of the funds appropriated by this Act or otherwise made available, not to exceed $100,000 may be used for official reception and representation expenses when specifically approved by the Secretary.

SEC. 607. Funds made available by this Act for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2004 until the date of enactment of an Act authorizing intelligence activities for fiscal year 2004.

SEC. 608. The Federal Law Enforcement Training Center is directed to establish an accrediting body that will include representatives from the Federal law enforcement community, as well as non-Federal accreditation experts involved in law enforcement training. The purpose of this body will be to establish standards for measuring and assessing the quality and effectiveness of Federal law enforcement training programs, facilities, and instructors.

SEC. 609. For fiscal year 2004 and thereafter, none of the funds made available by this Act may be used for the production of customs declarations that do not inquire whether the passenger had been in the proximity of livestock.

SEC. 610. For fiscal year 2004 and thereafter, none of the funds made available by this Act shall be available for any activity or for paying the salary of any Government employee where funding an activity or paying a salary to a Government employee would result in a determination, regulation, or policy that would prohibit

the enforcement of section 307 of the Tariff Act of 1930 (19 U.S.C. 1307).

SEC. 611. For fiscal year 2004 and thereafter, none of the funds made available by this Act may be used to allow—

(1) the importation into the United States of any good, ware, article, or merchandise mined, produced, or manufactured by forced or indentured child labor, as determined under section 307 of the Tariff Act of 1930 (19 U.S.C. 1307); or

(2) the release into the United States of any good, ware, article, or merchandise on which there is in effect a detention order under such section 307 on the basis that the good, ware, article, or merchandise may have been mined, produced, or manufactured by forced or indentured child labor.

SEC. 612. Unless otherwise provided, funds may be used for purchase of insurance for official motor vehicles operated in foreign countries, and for the hire and purchase of motor vehicles as authorized by section 1343 of title 31, United States Code: Provided, That purchase for police-type use of passenger vehicles may be made without regard to the general purchase price limitation for the current fiscal year.

SEC. 613. Unless otherwise provided, funds may be used for uniforms without regard to the general purchase price limitation for the current fiscal year.

SEC. 614. None of the funds made available by this Act shall be used to pay the salaries and expenses of personnel to adopt guidelines or regulations requiring airport sponsors to provide to the Transportation Security Administration without cost building construction, maintenance, utilities and expenses, or space in airport sponsor-owned buildings for services relating to aviation security: Provided, That the prohibition of funds in this section does not apply to negotiations between the agency and airport sponsors to achieve agreement on ''below-market'' rates for these items or to grant assurances that require airport sponsors to provide land without cost to the Transportation Security Administration for necessary security checkpoints.

SEC. 615. (a) None of the funds provided by this or previous appropriations Acts may be obligated for testing (other than simulations), deployment, or implementation of the Computer Assisted Passenger Prescreening System (CAPPS II) that the Transportation Security Administration (TSA) plans to utilize to screen aviation passengers, until the General Accounting Office has reported to the Committees on Appropriations of the Senate and the House of Representatives that—

(1) a system of due process exists whereby aviation passengers determined to pose a threat and either delayed or prohibited from boarding their scheduled flights by the TSA may appeal such decision and correct erroneous information contained in CAPPS II;

(2) the underlying error rate of the government and private data bases that will be used both to establish identity and assign a risk level to a passenger will not produce a large number of false positives that will result in a significant number of passengers being treated mistakenly or security resources being diverted;

(3) the TSA has stress-tested and demonstrated the efficacy and accuracy of all search tools in CAPPS II and has demonstrated that CAPPS II can make an accurate predictive assessment of those passengers who may constitute a threat to aviation;

(4) the Secretary of Homeland Security has established an internal oversight board to monitor the manner in which CAPPS II is being developed and prepared;

(5) the TSA has built in sufficient operational safeguards to reduce the opportunities for abuse;

(6) substantial security measures are in place to protect CAPPS II from unauthorized access by hackers or other intruders;

(7) the TSA has adopted policies establishing effective oversight of the use and operation of the system; and

(8) there are no specific privacy concerns with the technological architecture of the system.

(b) The General Accounting Office shall submit the report required under paragraph (a) of this section no later than 60 days after the Secretary of Homeland Security has published in the Federal Register the Department's privacy notice for CAPPS II or no later than 60 days after enactment of this Act, whichever is later.

SEC. 616. Not later than March 1, 2004, the Secretary of Homeland Security shall submit to Congress a report that—

(1) details the progress made in developing countermeasures for commercial aircraft against shoulder-fired missile systems, including cost and time schedules for developing and deploying such countermeasures; and

(2) in classified form and in conjunction with airports in category X and category one, an assessment of the vulnerability of such airports from the threat of shoulder-fired missile systems and the interim measures being taken to address the threat.

SEC. 617. Not later than March 1, 2004, the Secretary of Homeland Security shall issue a classified report to Congress on the security costs incurred by State and local government law enforcement personnel in each State in complying with requests and requirements of the United States Secret Service to provide protective services and transportation for foreign and domestic officials.

SEC. 618. None of the funds appropriated or otherwise made available by this Act may be obligated or expended for the procurement of any articles, materials, or supplies in contravention of the Buy American Act (41 U.S.C. 10a et seq.).

SEC. 619. Not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit a report in unclassified form to Congress on the Homeland Security Advisory System, which shall include—

(1) an assessment of how the system is fulfilling its missions to—

(A) provide a national framework for Federal, State, and local governments, private industry and the public to gauge threat levels;

(B) establish the integration of factors for assignment of threat conditions;

(C) unify the system of public announcements, allowing government officials and citizens to communicate the nature and degree of terrorist threats; and

(D) provide a tool for combating terrorism by deterring terrorist activity, notifying law enforcement and State and local government officials of threats, informing the public about government preparations, and providing such officials and the public with information necessary to respond to the threat;

(2) the average daily cost of elevating the Homeland Security Advisory System by 1 threat level;

(3) an evaluation by the Inspector General of the Department of Homeland Security of the responses to each of the suggested protective measures to be taken at each threat level; and

(4) a review of efforts taken by the Department of Homeland Security to refine the Homeland Security Advisory System, and the progress of tailoring the system so that threat alerts are issued on a regional basis rather than nationally.

SEC. 620. (a) Congress finds that—

(1) emergency responders are the first line of defense in protecting our Nation against terrorist attacks;

(2) the Department of Homeland Security uses population as a factor when allocating grant funding to States and local governments for emergency responders;

(3) population plays an important role in both formula and discretionary grants, which are administered by the Department of Homeland Security;

(4) the number of people in a city or State often differs from estimates by the Census Bureau;

(5) large groups of tourists regularly visit many American cities and States, but are not included in the resident population of these cities and States; and

(6) the monetary needs of emergency responders are directly related to the amount of people they are responsible to protect.

(b) It is the sense of the Senate that the Secretary of Homeland Security should take into account tourist population as a factor when determining resource needs and potential vulnerabilities for the purpose of allocating funds for discretionary and formula grants.

SEC. 621. Not later than 30 days after the date of enactment of this Act, the Under Secretary for Emergency Preparedness and Response shall—

(1) review the damage survey reports and project worksheets relating to the damages and costs incurred by the University of North Dakota as a result of the April 1997 flooding in North Dakota, which is classified by Emergency Preparedness and Response as DR–1174–ND; and

(2) submit a report on the efforts of the Directorate of Emergency Preparedness and Response to resolve any outstanding claims by the University of North Dakota relating to the reports described in paragraph (1) to the Committees on Appropriations of the Senate and House of Representatives.

SEC. 622. Not later than 60 days after the date of the enactment of this Act, the Secretary of Homeland Security, in consultation with the Secretary of State and the Attorney General, shall report to the Committees on Appropriations of the Senate and the House of Representatives on the feasibility of providing access to State and local law enforcement agencies to the database of the Department of State on potential terrorists known as the ''Tipoff'' database, including the process by which classified information shall be secured from unauthorized disclosure.

SEC. 623. Not later than 60 days after the date of enactment of this Act, the Secretary of Homeland Security, in collaboration with the Director of the Office of Management and Budget, shall submit a report to the Committee on Appropriations of the Senate, the Committee on Appropriations of the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and the Select Committee on Homeland Security of the House of Representatives on the status of the Department's efforts to—

(1) complete an inventory of the Department's entire information technology infrastructure;

(2) devise and deploy a secure comprehensive enterprise architecture that—

(A) promotes interoperability of homeland security information systems, including communications systems, for agencies within and outside the Department;

(B) avoids unnecessary duplication; and

(C) aids rapid and appropriate information exchange, retrieval, and collaboration at all levels of government;

(3) consolidate multiple overlapping and inconsistent terrorist watch lists, reconcile different policies and procedures governing whether and how terrorist watch list data are shared with other agencies and organizations, and resolve fundamental differences in the design of the systems that house the watch lists so as to achieve consistency and expeditious access to accurate, complete, and current information;

(4) ensure that the Department's enterprise architecture and the information systems leveraged, developed, managed, and acquired under such enterprise architecture are capable of rapid deployment, limit data access only to authorized users in a highly secure environment, and are capable of continuous system upgrades to benefit from advances in technology while preserving the integrity of stored data; and

(5) align common information technology investments within the Department and between

the Department and other Federal, State, and local agencies responsible for homeland security to minimize inconsistent and duplicate acquisitions and expenditures.

SEC. 624. No funds in this Act shall be available for any contract entered into after the date of enactment of this Act by the Department of Homeland Security with—

(1) an inverted domestic corporation (as defined in section 835 of the Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 395)),

(2) any corporation which completed a plan (or series of transactions) described in such section before, on, or after the date of enactment of the Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 395), or

(3) any subsidiary of a corporation described in paragraph (1) or (2).

SEC. 625. It is the sense of the Senate that the Department of Homeland Security's Undersecretary for Science and Technology should take all appropriate steps to ensure the active participation of historically black colleges and universities, tribal colleges, Hispanic-serving institutions, and Alaskan Native serving institutions in Department sponsored university research.

SEC. 626. (a) Not later than 120 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Appropriations of the Senate and the House of Representatives a plan for enhancements of the operations of the Information Analysis and Infrastructure Protection Directorate in order to—

(1) meet the personnel requirements of the Directorate;

(2) improve communications between the Directorate and the intelligence community; and

(3) improve coordination between the Directorate and State and local counterterrorism and law enforcement officials.

(b) In addition to the matters specified in subsection (a), the plan shall include a description of the current assets and capabilities of the Information Analysis and Infrastructure Protection Directorate, a strategy for the Directorate for the coordination and dissemination of intelligence and other information, and a schedule for the implementation of the plan required under subsection (a).

SEC. 627. Not later than 90 days after the date of enactment of this Act, the Comptroller General shall conduct a review and report to Congress on all of the data-mining programs relating to law enforcement and terrorism currently under development and in use in the Department of Homeland Security.

SEC. 628. When establishing priorities for firefighting vehicles in the Firefighter Assistance Grants program, the Secretary shall take into consideration the unique geographical needs of individual fire departments.

SEC. 629. Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall conduct a study and submit a report with recommendations to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate regarding the status of the air traffic control communications voids and gaps in tethered aerostat coverage around the United States, such as those existing in the central Gulf of Mexico.

This Act may be cited as the ''Department of Homeland Security Appropriations Act, 2004''.

DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2004

AMENDMENT NO. 1364, AS MODIFIED

Mr. HATCH. Madam President, I ask unanimous consent that notwithstanding passage of H.R. 2555, amendment No. 1364, which was previously agreed to, be modified with the changes that are at the desk.

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

The amendment, as modified, is as follows:

On page 62 of the bill, line 12, after ''investigations'' insert the following:

''*Provided*, That the Under Secretary for Emergency Preparedness and Response may provide advanced funding to authorize non-profit entities performing duties under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5131 et seq.) who respond to a disaster declared by the President, if the non-profit entity petitions the Under Secretary for such advanced funding and demonstrates that they would be unable to respond to the disaster absent such funding.''

EXECUTIVE SESSION

NOMINATION OF PRISCILLA RICHMAN OWEN TO BE U.S. CIRCUIT JUDGE FOR THE FIFTH CIRCUIT

Mr. HATCH. Madam President, I ask unanimous consent that the Senate now proceed to executive session for the consideration of Calendar No. 86.

The PRESIDING OFFICER. Without objection, the clerk will report.

The assistant legislative clerk read the nomination of Priscilla Richman Owen, of Texas, to be U.S. Circuit Judge for the Fifth Circuit.

CLOTURE MOTION

Mr. HATCH. Madam President, I send a cloture motion to the desk.

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

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undesigned 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 Executive Calendar No. 86, the nomination of Priscilla R. Owen of Texas to be United States Circuit Judge for the Fifth Circuit.

Bill Frist, Orrin Hatch, John Cornyn, Michael B. Enzi, Jim Talent, Judd Gregg, Jeff Sessions, Ben Nighthorse Campbell, Craig Thomas, Chuck Grassley, Chuck Hagel, Thad Cochran, Richard Shelby, Wayne Allard, Elizabeth Dole, Conrad Burns, Larry Craig.

Mr. HATCH. Madam President, I ask unanimous consent that the live quorum as provided for under rule XXII be waived.

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

Mr. HATCH. For the information of all Senators, this will be the third cloture motion with respect to this nomination. This cloture vote will occur Tuesday, so we will notify Senators when the exact vote time is locked in.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. HATCH. Madam President, I ask unanimous consent that on Monday, the debate on Calendar No. 296 begin at 5:20 p.m.; provided further that immediately after the vote on that nomination, Executive Calendar No. 304 be confirmed, the motion to reconsider be laid upon the table, the President then be immediately notified of the Senate's action, and the Senate then resume legislative session.

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

Mr. HATCH. Madam President, for the information of all Senators, this will now mean that the first vote during Monday's session will begin at 5:30 p.m.

LEGISLATIVE SESSION

Mr. HATCH. Madam President, I ask unanimous consent that the Senate resume legislative session.

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

THE CALENDAR

Mr. HATCH. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Nos. 229, 230, and 231, en bloc.

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

Mr. HATCH. Madam President, I ask unanimous consent that the resolutions be agreed to, en bloc; that the preambles be agreed to, en bloc; that the motions to reconsider be laid upon the table, en bloc; and that any statements relating to these measures be printed in the RECORD.

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

NATIONAL GOOD NEIGHBOR DAY

The resolution (S. Res. 124) designating September 28, 2003, as ''National Good Neighbor Day'' was considered and agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

Whereas while our society has developed highly effective means of speedy communication around the world, it has failed to ensure communication among individuals who live side by side;

Whereas the endurance of human values and consideration for others is of prime importance if civilization is to survive; and

Whereas being a good neighbor to those around us is the first step toward human understanding: Now, therefore, be it

Resolved, That the Senate—

(1) designates September 28, 2003, as ''National Good Neighbor Day''; and

(2) requests that the President issue a proclamation calling upon the people of the United States and interested groups and organizations to observe National Good Neighbor Day with appropriate ceremonies and activities.

100TH ANNIVERSARY OF THE FOUNDING OF THE HARLEY-DAVIDSON MOTOR COMPANY

The resolution (S. Res. 167) recognizing the 100th anniversary of the

founding of the Harley-Davidson Motor company, which has been a significant part of the social, economic, and cultural heritage of the United States and many other nations and a leading force for product and manufacturing innovation throughout the 20th century, was considered and agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

Whereas in 1903, boyhood friends, hobby designers, and tinkerers William S. Harley, then 21 years old, and Arthur Davidson, then 20 years old, completed the design and manufacture of their first motorcycle, with help from Arthur Davidson's brothers, Walter Davidson and William A. Davidson;

Whereas, also in 1903, Harley and the Davidson brothers completed 2 additional motorcycles in a makeshift ''factory'' shed in the Davidson family's backyard at the corner of 38th Street and Highland Boulevard in Milwaukee, Wisconsin;

Whereas the design features and construction quality of the early Harley-Davidson motorcycles proved significantly more innovative and durable than most other motorcycles of the era, giving Harley-Davidson a distinct competitive advantage;

Whereas in 1905, Walter Davidson won the first of many motorcycle competition events, giving rise to a strong tradition of victory in motorcycle racing that continues today;

Whereas in 1906, Harley-Davidson Motor Company constructed its first building, financed by the Davidsons' uncle James McClay, on the site of the Company's current world headquarters one block north of the Davidson home site, and manufactured 50 motorcycles that year;

Whereas in 1907, Harley-Davidson Motor Company was incorporated and its 18 employees purchased shares;

Whereas in 1908, the first motorcycle for police duty was delivered to the Detroit Police Department, beginning Harley-Davidson's long and close relationship with law enforcement agencies;

Whereas in 1909, to enhance power and performance, Harley-Davidson added a second cylinder to its motorcycle, giving birth to its hallmark 45-degree V-Twin configuration and the legendary Harley-Davidson sound;

Whereas during the years 1907 through 1913, manufacturing space at least doubled every year, reaching nearly 300,000 square feet by 1914;

Whereas Arthur Davidson, during Harley-Davidson's formative years, set up a worldwide dealer network that would serve as the focal point of the company's ''close to the customer'' philosophy;

Whereas Harley-Davidson early in its history began marketing motorcycles as a sport and leisure pursuit, thus laying the groundwork for long-term prosperity;

Whereas in 1916, Harley-Davidson launched ''The Enthusiast'' magazine, which today is the longest running continuously published motorcycle magazine in the world;

Whereas also in 1916, Harley-Davidson motorcycles saw their first military duty in skirmishes in border disputes along the United States border with Mexico;

Whereas in World War I, Harley-Davidson supplied 17,000 motorcycles for dispatch and scouting use by the Allied armed forces, and whereas the first Allied soldier to enter Germany after the signing of the Armistice was riding a Harley-Davidson motorcycle;

Whereas by 1920, Harley-Davidson was the world's largest motorcycle manufacturer, both in terms of floor space and production, with continual engineering and design innovation;

Whereas during the Great Depression of the 1930s, the company survived when all but 1 other domestic motorcycle manufacturer failed, on the strength of its product quality, the loyalty of its employees, dealers, and customers, steady police and commercial business, and a growing international presence;

Whereas in 1936, Harley-Davidson demonstrated foresight, resolve, and faith in the future by introducing the company's first overhead valve engine, the ''Knucklehead'' as it would come to be known, on its Model EL motorcycle, thus establishing the widely recognized classic Harley Davidson look and the company's reputation for styling;

Whereas Harley-Davidson workers in 1937 elected to be represented by the United Auto Workers of America, thus launching a proud tradition of working with Harley-Davidson to further build the company through advocacy and the development of effective programs and policies;

Whereas William H. Davidson, son of the late founder William A. Davidson, became president of Harley-Davidson in 1942 and would lead the company until 1971;

Whereas Harley-Davidson built more than 90,000 motorcycles for United States and Allied armed forces use during World War II, earning 4 Army-Navy ''E'' Awards for excellence in wartime production;

Whereas Harley-Davidson, during the 1950s and 1960s, recharged its sales and popularity with new models, including the Sportster and the Electra Glide, new engines, and other technological advances;

Whereas the Company developed the concept of the ''factory custom'' motorcycle with the 1971 introduction of the Super Glide and the 1977 Low Rider, under the design leadership of William ''Willie G'' Davidson, vice president of Styling and grandson of company founder William A. Davidson;

Whereas since 1980, as a national corporate sponsor of the Muscular Dystrophy Association, Harley-Davidson has raised more than $40,000,000 through company, dealer, customer, and supplier contributions, to fund research and health services;

Whereas in 1981, a group of 13 Harley-Davidson executives, led by chairman and CEO Vaughn Beals purchased Harley-Davidson from its then corporate parent AMF Incorporated;

Whereas by 1986, Harley-Davidson, against incredible odds, restored the company's reputation for quality and innovation and returned the company to vitality, thus ensuring a highly successful initial public stock offering;

Whereas throughout the 1980s and 1990s, Harley-Davidson became a national role model for positive labor-management relations, product innovation, manufacturing quality and efficiency, and phenomenal growth;

Whereas President Ronald Reagan, President William J. Clinton, and President George W. Bush all have visited Harley-Davidson manufacturing facilities and extolled the example set by Harley Davidson through its practices;

Whereas the Harley Owners Group, with more than 800,000 members and 1,200 chapters worldwide, is celebrating its 20th anniversary year in 2003 as a driving force in the company's heralded ''close to the customer'' operating philosophy; and

Whereas Harley-Davidson Motor Company is today the world's leading seller of large displacement (651 cc plus) motorcycles, with annual revenues in excess of $4,000,000,000, annual motorcycle shipments in excess of 290,000 units, strong international sales, and 17 consecutive years of annual revenue and earnings growth since becoming a publicly held company: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the achievements of Harley-Davidson Motor Company, widely regarded as a tremendous American business success story and one of the top performing companies in America, as its employees, retirees, suppliers, dealers, customers, motorcycle enthusiasts, and friends worldwide commemorate and celebrate its 100th anniversary milestone;

(2) recognizes the great impact that Harley-Davidson has had on the business, social, and cultural landscape and lives of Americans and citizens of all nations, as a quintessential icon of Americana; and

(3) congratulates the Harley-Davidson Motor Company for this achievement and trusts that Harley-Davidson will have an even greater impact in the 21st century and beyond as a leading force for innovative business practices and products that will continue to provide enjoyment, transportation, and delight for generations to come.

NATIONAL PURPLE HEART RECOGNITION DAY

A concurrent resolution (S. Con. Res. 40) designating August 7, 2003, as ''National Purple Heart Recognition Day'' was considered and agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

Whereas the Order of the Purple Heart for Military Merit, commonly known as the Purple Heart, is the oldest military decoration in the world in present use;

Whereas the Purple Heart is awarded in the name of the President of the United States to members of the Armed Forces who are wounded in conflict with an enemy force, or while held by an enemy force as a prisoner of war, and posthumously to the next of kin of members of the Armed Forces who are killed in conflict with an enemy force, or who die of a wound received in conflict with an enemy force;

Whereas the Purple Heart was established on August 7, 1782, during the Revolutionary War, when General George Washington issued an order establishing the Honorary Badge of Distinction, otherwise known as the Badge of Military Merit, or the Decoration of the Purple Heart;

Whereas the award of the Purple Heart ceased with the end of the Revolutionary War, but was revived out of respect for the memory and military achievements of George Washington in 1932, the 200th anniversary of his birth; and

Whereas the designation of August 7, 2003, as ''National Purple Heart Recognition Day'' is a fitting tribute to General Washington, and to the over 1,535,000 recipients of the Purple Heart Medal, approximately 550,000 of whom are still living: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) designates August 7, 2003, as ''National Purple Heart Recognition Day'';

(2) encourages all Americans to learn about the history of the Order of the Purple Heart for Military Merit and to honor its recipients; and

(3) 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 the Order of the Purple Heart for Military Merit.

NATIONAL CHILDREN'S MEMORIAL DAY

Mr. HATCH. Madam President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 196 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 196) designating December 14, 2003, as ''National Children's Memorial Day.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. HATCH. Madam President, I ask unanimous consent that the resolution and preamble be agreed to, en bloc; that the motion to reconsider be laid upon the table; and that any statements relating to this measure be printed in the RECORD, with the above occurring with no intervening action or debate.

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

The resolution (S. Res. 196) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

Whereas approximately 80,000 infants, children, teenagers, and young adults of families living throughout the United States die each year from a myriad of causes;

Whereas the death of an infant, child, teenager, or young adult of a family is considered to be one of the greatest tragedies that a parent or family will ever endure during a lifetime; and

Whereas a supportive environment, empathy, and understanding are considered critical factors in the healing process of a family that is coping with and recovering from the loss of a loved one: Now, therefore, be it

Resolved,

SECTION 1. DESIGNATION OF NATIONAL CHILDREN'S MEMORIAL DAY.

The Senate—

(1) designates December 14, 2003, as ''National Children's Memorial Day''; and

(2) requests that the President issue a proclamation calling upon the people of the United States to observe ''National Children's Memorial Day'' with appropriate ceremonies and activities in remembrance of the many infants, children, teenagers, and young adults of families in the United States who have died.

NATIONAL PROSTATE CANCER AWARENESS MONTH

Mr. HATCH. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 201, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 201) designating the month of September 2003 as ''National Prostate Cancer Awareness Month''.

There being no objection, the Senate proceeded to consider the resolution.

Mr. HATCH. Madam President, I ask unanimous consent that the resolution be agreed to; that the preamble be agreed to; that the motion to reconsider be laid upon the table; and that any statement relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 201) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

Whereas countless families in the United States have a family member living with prostate cancer;

Whereas in the United States, 1 man in 6 will be diagnosed with prostate cancer in his lifetime;

Whereas between 1993 and 2003, prostate cancer has been the most commonly diagnosed nonskin cancer and the second most common cancer killer of men in the United States;

Whereas the American Cancer Society estimates that in the United States, 220,900 men will be diagnosed with prostate cancer and 28,900 men will die of prostate cancer in 2003;

Whereas 30 percent of new cases of prostate cancer occur in men under the age of 65;

Whereas in the United States, as the population ages, the occurrence of prostate cancer will also increase;

Whereas African Americans suffer from a prostate cancer incidence rate that is up to 60-percent higher than White males and are more than twice as likely as White males to die of the disease;

Whereas in the United States, a man with 1 family member diagnosed with prostate cancer has double the risk of developing prostate cancer, a man with 2 such family members has 5 times the risk, and a man with 3 such family members has a 97-percent risk of developing the disease;

Whereas screening by both digital rectal examination (DRE) and prostate specific antigen blood test (PSA) can diagnose the disease in earlier and more treatable stages, thus reducing prostate cancer mortality;

Whereas developing research promises further improvements in prostate cancer prevention, early detection, and treatment; and

Whereas educating the people of the United States, including health care providers, about prostate cancer and early detection strategies is crucial to saving the lives of men and preserving and protecting families: Now, therefore, be it

Resolved, That the Senate—

(1) designates the month of September 2003 as ''National Prostate Cancer Awareness Month'';

(2) declares that the Federal Government has a responsibility—

(A) to raise awareness about the importance of screening methods and the treatment of prostate cancer;

(B) to increase research funding that is commensurate with the burden of the disease so that the causes of, and improved screening, treatments, and a cure for, prostate cancer may be discovered; and

(C) to continue to consider ways for improving access to, and the quality of, health care services for detecting and treating prostate cancer; and

(3) requests the President to issue a proclamation calling upon the people of the United States, interested groups, and affected persons to promote awareness of prostate cancer, to take an active role in the fight to end the devastating effects of prostate cancer on individuals, their families, and the economy, and to observe the month of September 2003 with appropriate ceremonies and activities.

HONORING THE SERVICE OF KOREAN WAR VETERANS

Mr. HATCH. Madam President, I ask unanimous consent that the Senate proceed to the consideration of S. Con. Res. 62, submitted earlier today by Senators DASCHLE and HAGEL honoring the service of Korean war veterans; that the concurrent resolution be agreed to; that the preamble be agreed to; that the motions to reconsider be laid upon the table; and that any statements relating to the concurrent resolution be printed in the RECORD.

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

The concurrent resolution (S. Con. Res. 62) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

Whereas Sunday, July 27, 2003, marks the 50th anniversary of the armistice ending the Korean War;

Whereas nearly 1,800,000 members of the United States Armed Forces answered their Nation's call to duty and served in Korea during the Korean War;

Whereas, during the 3-year period of the Korean War, more than 36,500 Americans died and more than 100,000 were wounded in some of the bloodiest, most horrific fighting in the history of warfare;

Whereas the bloodshed and sacrifice of these soldiers made possible the development of a democratic, prosperous, and peaceful Republic of Korea;

Whereas our troops in Korea were at the forefront of a long and difficult struggle against Communism and oppression that ultimately brought freedom to millions of people around the world;

Whereas the Korean War accelerated the final desegregation of the United States Armed Forces and stands as a milestone along the road to racial equality; and

Whereas it has taken decades for the people of this Nation to understand and appreciate the significance of the Korean War and the lasting accomplishments of those who fought in the war, leaving these veterans without the recognition and respect they so rightfully deserve: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) declares its appreciation for the significant and enduring accomplishments of our Nation's Korean War veterans;

(2) remains committed to the ideals of freedom, peace, and democracy on the Korean Peninsula; and

(3) affirms its commitment to preserving the memory of those who made the ultimate sacrifice in the Korean War, and to educating future generations about the achievements of our Nation's Korean War heroes.

ORDERS FOR MONDAY, JULY 28, 2003

Mr. HATCH. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 11 a.m., Monday, July 28. I further ask unanimous consent that following the prayer and pledge, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of S. 14, the Energy bill.

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

PROGRAM

Mr. HATCH. Madam President, for the information of all Senators, on Monday, the Senate will resume consideration of S. 14, the Energy bill. The chairman and ranking member were able to work through a number of amendments today, and they will continue to consider amendments during Monday's session. On behalf of the leader, I encourage Members who want to offer amendments to do so as early as possible next week. Those Members should contact the bill managers for an orderly consideration of those amendments.

Under a previous agreement, at 5:20 p.m. on Monday, the Senate will proceed to executive session to consider the nomination of Earl Yeakel, to be U.S. District Judge for the Western District of Texas. The Senate will vote on the Yeakel nomination at 5:30 p.m., and that will be the first rollcall vote of the day. Members should anticipate additional votes in relation to Energy bill amendments or any other items that can be cleared for action. In addition, the Senate will consider the trade agreements with Chile and Singapore. If all debate has been completed on those bills, the votes would also occur during Monday's session of the Senate.

Next week is the final week prior to the August recess. Senators can, therefore, expect busy sessions with rollcall votes throughout each day, and Members should schedule themselves accordingly.

ORDER FOR RECESS

Mr. HATCH. Madam President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate recess under the previous order following the remarks of the distinguished Senator from West Virginia, Mr. BYRD, for up to 20 minutes, and the distinguished Senator from Alabama, Mr. SESSIONS, for up to 10 minutes.

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

The Senator from West Virginia.

Mr. BYRD. Madam President, I thank the distinguished Senator from Utah, Mr. HATCH, for his courtesy in arranging for me to speak briefly before the Senate goes out for the weekend.

THE ''REAL BEVERLY HILLBILLIES'' IS REAL GARBAGE

Mr. BYRD. Mr. President, for more than a century now, national commentators of one type or another have stereotyped, mocked, and ridiculed the people of Appalachia.

They continued to do so even as the region and its people were savaged by Northeast industrialists, and as economic forces beyond their control resulted in massive gaps of poverty in the region. When I say ''their control,'' I refer to its being beyond the control of the people of Appalachia. The stereotyping of the Appalachian people as dim-witted, barefooted hillbillies who thrive on incest and moonshine allowed the Nation to laugh at and turn its back on the plight of a people who were being robbed of their land and its resources. It prompted the Nation to perceive and to dismiss Appalachians as the instigators rather the victims of their plight.

Television has certainly been a part of this Appalachian bashing. ''Green Acres'' featured farming mountain folks conversing with a talking pig. The ''Dukes of Hazzard'' featured stereotypical mountain folk jumping into and out of cars, without bothering to open doors, and a car horn that played Dixie.

Even ''The Waltons,''—remember the Waltons?—a series with numerous morally uplifting episodes and storylines that promoted hard work, love of family, honesty, patriotism, and spirituality, can be faulted for its beautifully romanticized version of poverty. It portrayed poverty as a way of life that nurtures, rather than inhibits, that builds character rather than denies opportunity.

I have seen poverty. I am one of poverty's children. I have known poverty, and poverty has known me. I can tell you that poverty is beautiful only if you are not poor.

In this day and age of political correctness, Appalachians may be the last remaining ethnic group that it is still socially acceptable to scorn, demean, stereotype, and joke about. If Jay Leno told such cruel, bigoted, and slanderous ethnic humor about any number of minority groups that he does Appalachians, he would have more than the ratings of David Letterman about which to be concerned.

Incredibly, the Columbia Broadcasting System, CBS, is planning to air a new program, ''The Real Beverly Hillbillies.'' For this program, the brainchild of the CEO Leslie Moonves, CBS plans to pluck a poor, rural family from the hills of Appalachia and plop them down in a mansion in Beverly Hills so the Nation can laugh at them as they try to adjust to big city life. I have read that CBS is already conducting so-called ''hick-hunts'' in which they are searching for the perfect stereotype Appalachian family to amuse a national audience.

The insensitivity and mean spiritedness of this plan has already aroused protests and criticisms from many segments of American society including Appalachian social action groups, labor unions, and various State and national legislators.

The United Mine Workers of America, the Steel Workers Union, and Communication Workers have all protested the network's intent to ridicule good people and make fun of their lifestyles. Forty-three Members of the House of Representatives objected to the proposed program, saying it would be ''an insult to the millions of people living in Appalachia.''

While I am outraged, I am even more curious about just what kind of brain power went into proposing this show. I cannot help but chuckle when I picture these highly paid, supposedly educated television corporate executives sitting around in a plush, ornate boardroom and thinking of such a stupid program. I am sure most of these fellows earn at least a six-figure income. Some of them probably went to Ivy League schools. And this is what they come up with?

It is not even original. It is a plagiarization of an old program, only going a step further and using real people rather than actors.

Highly paid, highly educated television executives sitting around in an ornate boardroom and thinking of low-grade garbage such as this. If this were my staff, I can tell you that I would be looking for some new staffers.

But these CBS executives think it will be funny for city folk to sit back and watch country bumpkins try to blend into the culture of the ''beautiful people'' of Rodeo Drive. Their anticipation is that Americans will tune in and watch and just howl and howl as they watch a poor family from Appalachia adjust to the glitz and glamour of Beverly Hills, to modern appliances, Gucci shoes, and Rolex watches. Boy, I can hardly hold back my laughter, being one of those people from Appalachia, being one of those country bumpkins.

One CBS executive remarked: ''Imagine the episode where they have to interview maids.'' Boy, I am sure that episode will be a real knee slapper.

I have to ask, Is this the best they can do? Is this the best television has to offer? Unfortunately, it is.

Just when you think the television standards can get no lower, they do. Just when you start thinking these bottom feeders have cleansed the bottom and might try to move up the food chain, they find more garbage at the bottom to keep them there.

This is an Appalachian speaking to an Appalachian who sits in the chair today and presides over this great body with such dignity and aplomb.

Television has become more than the ''vast wasteland'' FCC chairman Newton Minnow labeled it 42 years ago, it has become a waste.

This is the industry that brings us ''Buffy the Vampire Slayer,'' ''Fear Factor,'' and ''Jerry Springer.''

Fox Network has featured those unforgettable, morally uplifting hits, ''Temptation Island,'' ''Joe Millionaire,'' and now the latest, ''Mr. Personality,'' which features the show's hostess, the talented Monica Lewinsky.

(Disturbance in the Visitors' Galleries.)

The PRESIDING OFFICER (Mr. WARNER.) If the distinguished leader would indulge the Presiding Officer to give the usual admonishment to those privileged to sit in the gallery of the Senate, they are not to enter into vocal expressions or disaffections.

Mr. BYRD. I congratulate the Chair on upholding the rules of the Senate.

Let them laugh. I am laughing, too.

If these executives are looking for new ideas for television reality shows, may I suggest a few. We could take highly paid, well-groomed television network executives and relocate them to the sticks, where they'd have to try to find a job with health care and pension benefits and enough pay to support a family, and adjust to everyday life in rural America. Now that would be funny! And, as the president of the UMWA, Cecil Roberts, has suggested, we could put them to work digging coal from a 30-inch seam in a non-union coal mine. That too would be funny!

I could suggest a program where Americans could watch television anchormen trying to get to work on time each day while driving on hilly, winding two-lane roads behind huge coal trucks going 5 miles an hour up steep hills. We would watch their frustration build and build and could take bets on when they would blow their tempers. We could watch them get their $2,500 made-to-measure suits dirty as they are forced to change tires flattened by huge potholes created by those coal trucks. We could watch them pull their cars into garages and get the estimates for repairs to the damage those potholes have done. Then we could laugh hysterically as they present ''fleecing of America'' awards to Senators who try to get those highways improved.

Or we could watch nightly news programs featuring episodes of journalists embedded with a Marine battalion comprised of the sons and daughters of Bush administration officials as they are being shot at in Iraq and Afghanistan.

That, of course, would not be funny, but it would make an important point that war is a lot more glamorous and macho when it is someone else's kid you are sending into combat.

Television could be such a positive tool in our society and culture. It could be doing so much good. It could be a powerful instrument to bring out the best in us, rather than appeal to our meanest and darker sides. It could be a creative instrument in elevating the standards and values of the American people rather than lowering them. I strongly urge the executives at CBS to reconsider their plans for the ''Real Beverly Hillbillies'' in favor a program that is enlightening, educational, and beneficial.

I yield the floor.

Mr. President, I should not take advantage of my two friends because I have been included in the order. I was given 20 minutes. I yield the floor.

Mr. SESSIONS. If the Senator from West Virginia would like to make additional remarks, I would suggest that Senator MCCAIN had quick remarks he would like to make and I will be glad to have him go ahead of me.

I yield the floor.

Mr. BYRD. I thank the Senator.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. I thank the Chair.

(The remarks of Mr. MCCAIN pertaining to the introduction of S. 1461 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. BYRD. Mr. President, I thank the distinguished Senator from Alabama and I thank also the distinguished Senator from Arizona.

DISASTER RELIEF

Mr. BYRD. Mr. President, in April of this year, Senator COCHRAN, as chairman of the Appropriations Subcommittee on Homeland Security, and I, as ranking member, recognized a looming shortfall in the Federal Emergency Management Agency, FEMA, disaster relief accounts. We urged the President to release monies that he was holding up and also that he request funds to shore up the looming shortfall. Following severe floods in 19 West Virginia counties, I wrote to the administration again, this time pointing out that the Disaster Relief account would likely be empty by the end of July. At the time that I wrote that letter, the disaster relief fund has a balance of $181 million. The balance now, four weeks later, is a mere $89 million, and is expected to be completely exhausted by August 8th.

On July 7th, the President finally sent up an emergency supplemental request. After months of delay, the administration requested the additional funds to assist recovery efforts in West Virginia and over 300 other areas in every State of the Nation that have been hit hard by severe rains, floods, and tornadoes. These funds will help citizens to get back on their feet. The communication from the White House requested fiscal year 2003 emergency supplemental appropriations in the amount of $1.9 billion for the Department of Homeland Security, Agriculture, Interior, and the National Aeronautics and Space Administration, NASA.

The principal item in this request was $1.55 billion requested for the Department of Homeland Security for FEMA to provide support for ''ongoing disaster efforts and to ensure the capacity to respond to future disasters and emergencies.'' In a communication from Homeland Security Secretary Tom Ridge, dated July 24, 2003, the Department now estimates that it will exhaust existing funds by August 8th and that it has no authority to provide assistance in the absence of appropriations.

The supplemental request also included an amount of $253 million for fighting wildfires. As some of my colleagues may recall, 42 major fires, which have consumed over 400,000 acres, are raging in 12 western States. Officials at the Forest Service have told the Appropriations Committee that their fire suppression budget is already $420 million short of what they anticipate needing between now and the end of the fiscal year. Also included in the Administration's request is $50 million for unanticipated costs associated with the recovery and investigation of the Space Shuttle Columbia accident.

In order to expedite the processing of this supplemental, the distinguished chairman of the Appropriations Committee, Senator TED STEVENS, and I, as ranking member, worked together to assure the earliest availability of this emergency supplemental request by incorporating it into the fiscal year 2004 Legislative Branch appropriations bill. On July 9th, only 2 days after receiving the President's supplemental request, the Appropriations Committee ordered reported the Legislative Branch appropriations bill, which included the full amount for disaster relief, emergency firefighting, and emergency NASA needs sought by the President in his July 7th communication, as well as $100 million for a shortfall in AmeriCorps, a program which we were told the administration supports. The AmeriCorps amendment was voted on separately on the Senate floor and the funding was sustained by an overwhelming 71 to 21 vote. Susequently, the Legislative Branch appropriations bill, including the supplemental, was approved on July 11th by the full Senate by a vote of 85 to 7, and conferees were appointed.

So what is the situation? The administration was slow in sending up the emergency supplemental budget request. The Senate Appropriations Committee, under the leadership of Senator TED STEVENS, responded quickly, acting within 2 days of receiving the request. And, within 2 additional days, on July 11th, the measure was approved by the full Senate. We have been waiting for the other body ever since. It has been 2 weeks since we acted on this bill in the Senate. We are advised that the other body plans to depart for the August recess tonight.

What are we to do to cover the costs of recovering from disasters and fire emergencies for the remainder of the current fiscal year? FEMA has already stopped making payments to States for $400 million of infrastructure repairs in the 300 communities with outstanding natural disasters. Communities have already been forced to put projects for repairing damage from past disasters on hold.

In addition, if the Disaster Relief Fund is depleted by the end of July, which is just around the corner, that leaves 2 full months with no means of providing assistance to communities that may be hit hard by hurricanes, tornadoes, and other disasters or emergencies occurring in August and September. The Forest Service budget request of $253 million for fighting 42 major fires in 12 western States is needed now.

Furthermore, twenty thousand AmeriCorps volunteers will lose their positions if supplemental funding is not approved. AmeriCorps volunteers work in our schools teaching our children reading and math. They provide

care to our senior citizens, they help clean up our parks, they teach the Nation's children and adults to read, and they provide other valuable volunteer services to our communities. If we fail to provide the necessary funds for AmeriCorps, we will unnecessarily be punishing the volunteers, the communities that they serve and the children, elderly and the poor who benefit from the skills and energy of the volunteers.

Some 2 weeks ago, the Senate responded positively and in a timely manner to address these emergency requests. Now, the House is about to pass a stripped-down supplemental appropriations bill in the amount of $983 million just for FEMA disaster relief, thus ignoring the Senate's supplemental legislation enacted 2 weeks ago for wildfire fighting, NASA emergency funds, and AmercCorps funding.

I am distressed by the situation in which we find ourselves. It is not the fault of the Chairman of the Appropriations Committee, Mr. STEVENS. He has been trying to find a solution to this problem. The Senate has done its part to solve this problem. Citizens who find themselves victimized by natural disasters and wildfires, and those individuals and communities who would have benefited from the AmeriCorps program, do not appreciate the game-playing now taking place in the Congress.

Mr. President, I yield the floor. I again thank the distinguished Senator from Alabama.

HISTORY OF JUDICIAL NOMINATIONS

Mr. SESSIONS. Mr. President, I think it is important, in light of Senator HATCH's remarks and some of the criticisms we have heard of his leadership in the Judiciary Committee a few days ago, that we recall a little history here on how we have handled judicial nominations in the past and why we are having problems today.

The criticism of Judiciary Committee Chairman ORRIN HATCH is simply unfair. He has stood foursquare for fairness, for constitutionality in the process, and for good public policy as we go about confirmations. That has been his record. When he chaired or was ranking member of the Judiciary Committee during the 8 years of President Clinton's administration, 377 Clinton nominees were confirmed to the bench. Only one nominee was voted down. No nominee was voted down in his committee. No nominee was filibustered in his committee.

When President Clinton left office, there were 41 judicial nominees who had not yet been confirmed by this Senate. That is a very good record compared to the situation when former President Bush left office. The Democrats controlled the Senate at that time, and 61 of former President Bush's judicial nominees were left unconfirmed. Those numbers are indisputable.

I know the distinguished Presiding Officer, Senator WARNER from Virginia, remembers the complaints in the Republican Conference that Senator HATCH had been too generous to President Clinton's nominees. Several Republican colleagues fussed at Senator HATCH, and Members were saying, ''you are moving too many,'' or, ''we need to block them,'' or, ''let's consider a filibuster,'' or, ''let's change the blue slip rules on circuit nominees,'' which would give individual Senators more power than they historically had to block Clinton nominees.

There was a conference set aside for the very purpose of resolving these issues. It was quite a battle. We discussed it for some time. Senator HATCH spoke passionately about the process, about what he thought the policy should be, about what he thought the law was, and about what he thought the Constitution required. We finally voted, and we voted not to filibuster and not to enhance the blue slip rule, thereby continuing the historic policies of this Senate. It was a very seriously contested matter. Senator HATCH argued passionately for his view, and at the time no one was sure how the vote would come out. But his arguments won the day.

It is worth considering some other history about the confirmation process.

In the entire history of the American Republic, it is indisputable that we have never had a filibuster of a circuit or a district judge. This tactic was used for the first time 2 years ago by the Democrats. They held a retreat not long after the 2000 election. The New York Times reported that a group of liberal professors met with the Democratic Senators, and they called on the Democrats to change the ground rules about confirmations, to ratchet up the partisanship. They had been complaining for 8 years that President Clinton's nominees weren't getting treated fairly. Overwhelmingly, I suggest, they were in error in those complaints. But in any case, instead of saying ''we are going to act better now that we are in charge''—they were in charge of the Senate for a little less than 2 years—the Democrats decided to change the ground rules and make it even more difficult for President Bush's nominees to be confirmed.

So let me tell you what they did. President Bush announced his first group of judicial nominations in May 2001. He nominated 11 superbly qualified lawyers. As a gesture of good faith, he included 2 Democrats among these 11 nominees. One, an African-American, had previously been nominated by President Clinton. These were men and women of extraordinary accomplishment, with high ratings by the American Bar Association, and with tremendous backgrounds.

For almost 2 years, only the two Democrats were moved promptly. Virtually all of the remaining nine of the eleven original nominees remained unconfirmed by 2002. They were not even voted out of committee. They were blocked in committee.

The Democrats appeared to change the burden of proof—now, the judicial nominee seemed to bear the burden of proving that he or she was worthy of the judicial service. The chairman of the Courts Subcommittee then said that this would change the basic ground rules for confirmation.

The Democrats also insisted on changes in the blue slip policy. The blue slip policy allows home State Senators certain powers to object to the confirmation of Presidential nominees. The Democrats wanted to enhance that blue slip policy in order to block President Bush's nominees. They complained about it when President Clinton was in office and said it was wrong to use it as Republicans were properly doing. But when President Bush sent up nominees, they wanted to enhance the power of an individual Senator to block the President's nominees.

And then, of course, the Democrats started filibustering. They have already filibustered Priscilla Owen and Miguel Estrada. Both of those extraordinarily qualified nominees languish on the floor today. Both were given a unanimous well-qualified rating by the American Bar Association—a man and a woman of extraordinary achievement, great legal experience, superb legal ability, and unquestioned integrity. Yet the Democrats chose to filibuster each—the first filibusters in the history of this country for a circuit judge nominee.

Now, we have begun to see slowdowns in committee. The Democrats effectively have begun to try to filibuster in committee. They misinterpreted Rule IV of the Judiciary Committee rules, saying the chairman could not call a matter up for a vote unless at least one member of the Democratic minority agreed.

That rule was put in to make sure that a chairman had to bring a matter up for a vote, whether the chairman wanted to do so or not, when there were ten overall votes in favor, including at least 1 member of the other party. This rule is a limit on the power of the chairman. It did not stand for the novel proposition that, if the Democrats stuck together, no Republican nominee could be brought up for a vote.

To say that rule IV should be interpreted the way the Democrats on the committee are now complaining would mean the chairman couldn't bring any matter up for a vote without minority support—that a minority in committee could block any nomination moving out of committee. This interpretation is a recipe for disaster: a chairman has to be able to get a matter up for a vote, or the committee cannot do business.

Senator HATCH interpreted the rule as he is empowered to do. The majority of the committee, not to mention two parliamentarians, supported him on that. We should not and are not going to have filibusters in the Judiciary Committee that keep judges from even having a vote in the Judiciary Committee.

I just want to say to my fellow colleagues that it is not correct that Chairman HATCH is acting unfairly. Chairman HATCH has acted with principle in this matter. He brought Clinton nominees to the floor, and he moved them forward, even when some of us objected. Even when Senator HATCH himself may have objected on the merits, those nominees got votes.

Take, for example, the Richard Paez nomination, which I opposed. Several people had holds on that nomination. Some wanted to see if we could work with President Clinton to get some more mainstream nominees for the Ninth Circuit Court of Appeals. We were hoping to negotiate with him on that, as we tried to do with other things. Finally, the Republican Majority Leader, TRENT LOTT, said: It is time for this man to have an up-and-down vote. File for cloture. He filed for cloture, and I supported cloture. ORRIN HATCH supported cloture. TRENT LOTT supported cloture. When Paez was voted on, I am pretty confident that TRENT LOTT voted against him, just as I voted against him. Several dozen votes were cast against him.

I note parenthetically that now-Judge Paez was part of a panel of the Ninth Circuit that overturned the ''three strikes'' law in California. That panel was overruled by the U.S. Supreme Court earlier this year. Judge Paez was also part of the panel that declared the Pledge of Allegiance unconstitutional because it had the words ''under God'' in it.

Notwithstanding indications of such judicial activism during his confirmation hearing and process, Judge Paez was confirmed. He got his up-or-down vote. The Republican leadership moved the nomination forward.

That is all we are asking of the Democratic leader, TOM DASCHLE, with respect to Miguel Estrada and Priscilla Owen. Instead, it looks like we may be heading toward more filibusters. I certainly hope not.

Of the many reasons why we shouldn't have a filibuster, an important one is the Article I of the Constitution. It says the Senate shall advise and consent on treaties by a two-thirds vote, and simply ''shall advise and consent'' on nominations.

Historically, we have understood that provision to mean—and I think there is no doubt the Founders understood that to mean—that a treaty confirmation requires a two-thirds vote, but confirmation of a judicial nomination requires only a simple majority vote. That is why we have never had a filibuster. People on both sides of the aisle have understood it to be wrong. They have understood it to be in violation of the Constitution.

As Senator HATCH has said, the complaint suggesting there was a filibuster on the Fortas nomination is not really correct. They had debate for several days. Apparently, when the votes were counted, it was clear that considering those who were absent, there were enough votes to defeat the nomination, and the nomination was withdrawn.

So there has never really been a filibuster of a judicial nominee in the Senate until now, when our Democratic colleagues have decided to change the ground rules on confirmation. They have said so and done so openly, and seem to be little concerned that the Constitution may be violated in the process.

Mr. President, these nominees are entitled to an up-and-down vote. If a Member does not like them, he or she can vote against them. But it is time to move these nominees. How can they defend voting against nominees of the quality of Priscilla Owen or Miguel Estrada? How can they justify opposing a man of such integrity, ability, patriotism, and courage as Attorney General Bill Pryor, a man of faith and integrity? These are questions that should be answered on the floor. Let us discuss these nominees' records here. And then, let us just vote. That is what the Constitution and Senate tradition demand of us.

I think the American people are getting engaged, and they are telling us ''we are tired of obstructionism,'' ''we are tired of delays,'' and ''we believe these nominees deserve an up-and-down vote.'' I could not agree more.

I yield the floor.

RECESS UNTIL MONDAY, JULY 28, 2003, AT 11 A.M.

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 11 a.m. on Monday.

Thereupon, the Senate, at 3:35 p.m., recessed until Monday, July 28, 2003, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate July 25, 2003:

THE JUDICIARY

JANICE R. BROWN, OF CALIFORNIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT, VICE STEPHEN F. WILLIAMS, RETIRED.

BRETT M. KAVANAUGH, OF MARYLAND, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT, VICE LAURENCE H. SILBERMAN, RETIRED.

NUCLEAR REGULATORY COMMISSION

JOHN JOSEPH GROSSENBACHER, OF ILLINOIS, TO BE A MEMBER OF THE NUCLEAR REGULATORY COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING JUNE 30, 2004, VICE RICHARD A. MESERVE, RESIGNED.

JOHN JOSEPH GROSSENBACHER, OF ILLINOIS, TO BE A MEMBER OF THE NUCLEAR REGULATORY COMMISSION FOR A TERM EXPIRING JUNE 30, 2009. (REAPPOINTMENT)