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Senate

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

PRAYER

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

Let us pray.

O God, our help in ages past, our hope for years to come, direct and control our lives. Control our tongues that our words may bring life and not death, clarity and not confusion. Control our hearts that we may hear the cries of the hurting. Control our minds that our thoughts may be illuminated by Your presence. Control our actions, that our deeds may match our creeds.

Today, give each Senator an awareness of Your sovereignty. Remind him or her that the hearts of world leaders are in Your hands, and Your purposes will prevail. Enable us all to walk through this world with our garments unstained by evil. Give us courage, endurance, and serenity to face life with a steadfast hope in You.

Remember those who are now braced for Hurricane Rita. We pray in Your matchless Name. Amen.

PLEDGE OF ALLEGIANCE

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

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

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business for up to 60 minutes, with the first half of the time under the control of the majority leader or his designee and the second half of the time under the control of the Democratic leader or his designee.

RECOGNITION OF THE ACTING MAJORITY LEADER

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

SCHEDULE

Mr. MCCONNELL. Mr. President, under our order from last night, we will start today's session with a 1-hour period of morning business. At approximately 10:30 this morning, we will return to the Agriculture appropriations bill. We have an agreement in place that first-degree amendments be filed at the desk no later than 4 p.m. today. I hope that there will not be many more amendments filed. We would like to finish this bill this evening, and we will stay in session later into the evening with votes in order to accomplish that, if necessary.

We have several meetings occurring this afternoon, including an all-Senators meeting from 4 to 5 today. Because of these meetings, it is important that we get started early this morning and process as many amendments as possible. Therefore, Senators should be aware that we will be scheduling votes as quickly as we can this morning, in order to make as much progress as possible, and of course we will alert Members as soon as the first vote is ordered.

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

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

The legislative clerk proceeded to call the roll.

Mr. ALLARD. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

NOMINATION OF JOHN ROBERTS

Mr. ALLARD. Mr. President, I rise today in support of President Bush's nomination of Judge John Roberts to serve as Chief Justice of the United States.

It would be difficult to identify a jurist better qualified for our Nation's highest Court than Judge John Roberts. He is a distinguished jurist who enjoys broad bipartisan support.

There is good reason for this broad bipartisan support. Judge Roberts' sharp intellect and legal ability are beyond question. In addition, his humility, fairness, and open-minded approach to the practice of law have won him admirers from across the political spectrum.

During his career as a practicing attorney, Judge Roberts argued a variety of positions in a number of high-profile cases and has represented criminal defendants, environmental interests, and the State of Hawaii in a dispute over legislation meant to favor native Hawaiians as a group.

During the 2001 landmark Microsoft antitrust case before the District of Columbia court, he argued on behalf of the Clinton Justice Department and a group of primarily Democratic State attorneys general that several of Microsoft's business practices violated the Sherman Antitrust Act.

In the landmark 2002 environmental case, Tahoe-Sierra Preservation Council v. Tahoe Regional Planning Agency, he successfully argued before the Supreme Court in favor of limits on property development and in support of protection of the Pristine Lake Tahoe Basin area.

Judge Roberts has been described as ''one of the top appellate lawyers of his generation'' by the Legal Times, and one of the top 10 civil litigators by the National Law Journal in 1999.

Colorado's own Rocky Mountain News offered its unequivocal endorsement of Judge Roberts. The Rocky Mountain News stated that ''Roberts is

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

not only well-spoken, he's tactful, amicable and focused'' and ''projects a temperament that should serve a Chief Justice well.''

I ask unanimous consent to have the full September 17 article printed in the RECORD.

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

[From the Rocky Mountain News, Sept. 17, 2005]

ROBERTS RISES TO THE OCCASION

When Chief Justice John Roberts finished his testimony Thursday before the Senate Judiciary Committee—oops! we're getting ahead of ourselves. When the next chief justice finished his testimony, some senators complained they knew little more about him than when the hearings started because he'd dodged so many questions.

Weren't they listening? Most of us know a lot more about Roberts today than we did a week ago—even though he did, yes, dodge questions about issues that will come before the court. Every one of the current justices once dodged such questions, too.

We learned, for example, that Roberts is quick on his feet and able to respond with aplomb to questions that in some cases were asinine. Wisconsin Sen. Herb Kohl actually wanted Roberts to explain what role he'd play ''in making right the wrongs revealed by Katrina.'' Roberts politely reminded him that courts are ''passive institutions'' that ''decide the cases that are presented.''

We learned that Roberts is not only well-spoken, he's tactful, amicable and focused—that he projects a temperament that should serve a chief justice well.

No, we still don't know how he'll rule on cases related to abortion or the regulatory powers of government under the commerce clause, to cite issues that exercised senators. But learning his views on such matters was never realistically in the cards.

Our favorite part of his testimony was when he was pressed to explore his analogy between being a judge and a baseball umpire. He said he believed balls and strikes were objective facts even if an umpire isn't always correct in calling them.

''I do think there are right answers,'' he explained. ''I know that it's fashionable in some places to suggest that there are no right answers and that judges are motivated by a constellation of different considerations . . . That's not the view of the law that I subscribe to.

''I think when you folks legislate, you do have something in mid . . . and you expect judges not to put in their own preferences, not to substitute their judgment for you, but to implement your view of what you are accomplishing in that statute. I think, when the framers framed the Constitution, it was the same thing. . . . And I think there is meaning there and I think there is meaning in your legislation. And the job of a good judge is to do as good a job as possible to get the right answer.''

That's not a complete judicial philosophy, of course, but it's the start of a good one. And despite the scattered complaints, we suspect a majority of senators recognize it, too.

Mr. ALLARD. Mr. President, another Colorado newspaper, the Pueblo Chieftain, offered its praise for Judge Roberts stating that ''Judge Roberts looks like the kind of justice who would apply the Constitution as it is written,'' adding ''that's as it should be.''

I ask unanimous consent to have the full September 8 editorial printed in the RECORD.

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

[From the Pueblo Chieftain]

ALTERED CALCULUS

The death of Chief Justice William Rehnquist over the weekend has altered the calculus of Supreme Court nominations.

President Bush, who had named Circuit Court Judge John Roberts to fill the seat of retiring Associate Justice Sandra Day O'Connor, withdrew that nomination and renominated him to succeed Justice Rehnquist. It was a logical decision.

The American Bar Association already has given Judge Roberts, 50, its highest rating. He is well-regarded in legal circles. He's been under a microscope by senators and the media and found to be top-notch. Colorado's own Democratic Sen. Ken Salazar gives Judge Roberts high marks.

So the Beltway oddsmakers are calling Judge Roberts' confirmation in the Senate a sure bet. That brings into question, then, the president's choice to replace Justice O'Connor, who says she will remain on the bench until here replacement is confirmed.

During both of his presidential campaigns, Mr. Bush made as one of his key planks restoring the balance on the court away from the liberal, activist mode which became de rigueur when President Eisenhower named Earl Warren (''the biggest damn fool mistake I've ever made'') as chief justice.

Credit Justice Rehniquist for slowly tipping the balance back during his tenure. But that balance is precarious.

President Bush will face an unrelenting deluge from liberals saying he should nominate someone from the ''mainstream,'' meaning left of center. These groups would like to derail any Supreme Court nominee who has a conservative bone in his or her body, because it has been only through the liberal courts, not the legislative process, where they have been able to influence public policy.

Funny, though, but recent elections have shown that the mainstream is not over there in the Beltway/Hollywood liberals' bailiwick.

And elections mean something. President Clinton named Ruth Bader Ginsburg to the high court, and most Republicans in the Senate voted to confirm her. If President Bush names someone in the judicial philosophical mold of an Antonin Scalia and Clarence Thomas, he would be fulfilling a campaign pledge and helping return the court to its rightful role, not as a de facto legislature but as arbiter of the law and the Constitution.

Judge Roberts looks like the kind of justice who would apply the Constitution as it is written. And we urge President Bush to nominate another justice with the same inclination.

That's as it should be.

Mr. ALLARD. Mr. President, I believe Judge Roberts will be an advocate and practitioner of judicial restraint, a Justice who focuses on a narrow interpretation of the Constitution as the Framers intended. In his own words:

My obligation is to the Constitution. That's the oath.

I believe he is temperamentally and intellectually inclined to stick to the facts and the law in cases that will come before him on the High Court, and that he will refrain from attempting to legislate from the bench. In his own words, Judge Roberts says:

The role of the judge is limited . . . [j]udges are to decide the cases before them. They're not to legislate, they're not to execute the laws.

I also believe Judge Roberts' personal views will not determine the outcome of cases before him. In his own words, the ''American justice system is epitomized by the fact that judges . . . wear . . . black robes. And that is meant to symbolize the fact that they're not individuals promoting their own particular views, but they are supposed to be doing their best to interpret the law, to interpret the Constitution, according to the rules of law—not their own preferences, not their own personal beliefs.''

Judge Roberts recognizes the importance of property rights and the role of the legislature in drawing the line in cases of eminent domain. Commenting on the Court's recent decision in Kelo, Judge Roberts explained:

What the Court was saying is there is this power, and then it's up to the legislature to determine whether it wants that to be available—whether it wants it to be available in limited circumstances, or whether it wants to go back to an understanding as reflected in the dissent, that this is not an appropriate public use.

President Bush has sent forward the name of an excellent nominee. His qualifications to serve as Chief Justice of the United States are even more apparent after his remarkable testimony before the Senate Judiciary Committee. Judge Roberts testified for approximately 22 hours, 10 hours longer than William Rehnquist when he became Chief Justice, 5 hours longer than Ruth Bader Ginsburg, and 4 hours longer than Stephen Breyer.

During the course of his testimony, Judge Roberts demonstrated an impressive command of the law and understanding of a myriad of legal issues. He provided thoughtful and thorough answers to over 500 challenging questions asked by Senators of both parties.

Personally, I admire his commitment to maintaining his judicial independence and ability to rule fairly by choosing not to prejudge cases that are likely to come before him. It is indicative of his undying and lifelong commitment to equal protection under the law.

I strongly urge my colleagues to give him a final vote in support of his nomination.

Thank you, Mr. President.

I suggest the absence of a quorum.

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

The legislative clerk proceed to call the roll.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

ORDER OF PROCEDURE

Mrs. MURRAY. Mr. President, I understand there is some time remaining

on the Republican side. I ask unanimous consent to hold that remaining time, for me to begin with the Democratic side, and use such time as I shall need.

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

AN INDEPENDENT FDA

Mrs. MURRAY. Mr. President, I rise today to address a matter of extreme importance, women's health, public safety, and the independence and credibility of one of our Nation's most revered Federal agencies, the FDA.

I am very concerned. American women are concerned, and consumers all across this country should be concerned that the FDA is letting politics trump science in the way it approves medicine for American consumers.

I have always supported a strong and independent Food and Drug Administration. It is the only way in which the FDA can truly operate effectively and with the confidence of American consumers and health care providers.

Americans must have faith when they walk into the local grocery store or local pharmacy that the products they purchase are safe, that they are effective, and that their approval has been based on sound science, not on political pressure or pandering to interest groups. By allowing politics to play a role in the decisionmaking, the FDA is now opening a Pandora's box that could have profound consequences in determining the safety and efficacy of the drug approval process.

Unfortunately, recent decisions and delays at the FDA have now called into question the agency's independence and allegiance to science-based decisions, and plan B is exhibit A. But don't take my word for it. Listen to Dr. Susan Wood, the former director of the FDA's Office of Women's Health. In resigning in protest, Dr. Wood wrote:

> I have spent the last 15 years working to ensure that science informs good health policy decisions. I can no longer serve a staff when scientific and clinical evidence fully evaluated and recommended by the professional staff here has been overruled.

In later comments to the Associated Press she said:

> There's fairly widespread concern about FDA's credibility among agency veterans as a result of the Plan B process.

Those are the words of a health care professional who worked for years within the FDA to improve women's health. Her resignation is a huge loss to the agency, to those in Congress who have championed women's health and, most importantly, her resignation is a loss to the millions of American women who rely on the FDA to make choices based on sound science.

Let me take a step back and explain what plan B is and why the FDA's actions are such a threat to the public's health. Plan B is a form of contraception. Plan B contains a specific concentrated dose of ordinary birth control pills that prevent pregnancy. Emergency contraception cannot interrupt or disrupt an established pregnancy. In fact, plan B has the potential to reduce the incidence of abortions, something I think every one of us can agree on. It is an important goal.

Raising the awareness and use of emergency contraceptives such as plan B is an important component to reducing the rate of abortion in the United States. An analysis conducted by the Alan Guttmacher Institute estimates that 51,000 abortions were prevented by emergency contraceptive use in 2000 and that increased use of emergency contraceptives accounted for up to 43 percent of the total decline in abortion rates between 1994 and 2000. Plan B has already been approved by the FDA for prescription use and it is available over the counter in seven States, including my home State of Washington. However, it is not available nationwide.

When it comes to emergency contraceptives, every hour counts. The effectiveness of plan B declines by 50 percent every 12 hours. The longer a woman must wait to see a doctor, get a prescription, and then find a pharmacy that will fill the prescription, the less effective plan B becomes. Even privately insured women with regular access to a health care provider have to overcome significant barriers to obtain a prescription for emergency contraceptives, including finding a pharmacy that stocks plan B within a short timeframe. For many uninsured women and teens, the barriers are often insurmountable.

Back in December of 2003, almost 2 years ago, the FDA's own scientific advisory board overwhelmingly recommended approval of plan B over-the-counter application by a vote of 23 to 4. However, the FDA has not adhered to its own guidelines for drug approval and continues to drag its heels.

In fact, Alastair Wood, who is a member of the advisory panel, told USA Today:

> What's disturbing is that the science was overwhelmingly here, and the FDA is supposed to make decisions on science.

At a HELP Committee hearing in April of this year, I pressed the President's nominee to head the FDA, Dr. Lester Crawford, to answer questions about this long-pending application for nationwide over-the-counter approval of plan B. When Dr. Crawford informed me that he couldn't answer my questions in a public forum, I invited him to my office to discuss the process in a private meeting. My colleagues Senator KENNEDY and Senator CLINTON joined me for a very frustrating meeting in which Dr. Crawford failed to provide any timeline or specific reasons for the FDA's highly unusual foot dragging on the plan B application. It was very clear to me after this disappointing meeting that politics had trumped science, and the public health mission of the FDA had been compromised.

For this reason, Senator CLINTON and I joined to place a hold on Dr. Crawford's nomination to head the FDA on June 15, 2005. We placed that hold saying we want a determination on the application. We did not advocate for a particular outcome. All we asked was that the FDA abide by its own rules and regulations. That is a very important point. Senator CLINTON and I did not demand approval. We simply called on the FDA to follow its own procedures. In the end, apparently, even that was asking too much.

The administration and the chairman of the HELP Committee understandably wanted Dr. Crawford confirmed. We began what I consider to be a very productive conversation about restoring integrity to the FDA's process and getting Dr. Crawford confirmed. I thank the chairman for his responsiveness and good-faith efforts. Our discussions culminated in a July 13 letter to the HELP Committee and cochair, to Senator ENZI and to Senator KENNEDY, from Health and Human Services Secretary Michael Leavitt.

This chart shows the letter from Secretary Leavitt:

> I have spoken to the FDA, and based on the feedback I have received, the FDA will act on this application by September 1, 2005.

Based on this letter, based on his personal assurance, Senator CLINTON and I then dropped our hold on Dr. Crawford and subsequently his nomination passed the Senate.

Now, unfortunately for the American people and especially for the integrity of the FDA, Secretary Leavitt and the FDA broke their promise. The FDA had a chance to restore the confidence of American consumers in promoting safe and effective treatments, but it failed in its mission.

A delay is not a decision. For over 6 months, Senator CLINTON and I asked for a simple answer, yes or no. It is a breach of faith to have had this administration give us their word that a decision would be made and have that promise violated. Now the FDA is claiming there are ''unanswered'' questions about plan B's effect on girls under 17. The fact is the pending application does not apply to that group. Today, girls under 17 may only receive this drug with a prescription. That would remain the case if the FDA were to approve plan B's application. The FDA's argument is highly suspect because the Government already regulates products with age restrictions. They do it with tobacco, nicotine gum, and alcohol.

The administration gave us their word, and then they pulled the rug out at the last minute. This continued delay goes against everything the FDA's own advisory panel found nearly 2 years ago, that plan B is safe, it is effective, and it should be available over the counter. There is no credible scientific reason to continue to deny increased access to this safe health care option. In fact, in his statement of further delay, Dr. Crawford acknowledged that the application has scientific merit, but he still refused to approve it.

I can only infer that the FDA and Dr. Crawford, as its head, are continuing to put politics ahead of science. I am not the only one. According to the Washington Post editorial page, August 30:

In recent months, critics have accused the FDA—which is required by law to make decisions exclusively on scientific and legal grounds—of falling victim to outside political agendas.

They have claimed that the Plan B decisions have reflected not sound science and legitimate caution but rather the influence of ''moral'' antiabortion lobbies . . .

By abruptly rejecting an application that had been tailored to meet the FDA's requirements, Mr. Crawford appears to confirm the critics' worst fears.

Whatever the legal arguments taking place, this unexpected delay at this stage of the approval process makes the FDA—long admired around the world for its neutrality and professionalism—look like an easily manipulated political tool.

Here is what Newsday said:

Drugs and politics do not mix.

The current case in point is Plan B, the morning after emergency contraceptive, and the politics of abortion.

Taken together, they are threatening the Food and Drug Administration's credibility as an agency that dispassionately evaluates the safety and effectiveness of drugs.

The FDA said Friday it will delay for 60 days a decision on whether to allow Plan B to be sold to those 16 and older without a prescription.

Officials attributed the foot-dragging to a concern that younger teens would get the drugs and wouldn't use it responsibly.

That rings hollow.

When the FDA rejected an application for over-the-counter sales without age restriction 2 years ago it overruled that staff and an advisory panel, and discounted the experience of six states and 33 countries where such pills are sold without prescription.

The most recent application responsibly included the age restriction.

Here is how the Virginian Pilot put it:

Plan B contraceptives can prevent tens of thousands of abortions and unwanted pregnancies. Restriction on availability to minors is consistent with other national reproductive policies and therefore valid.

A country that can put a man on the moon can surely figure out how to distinguish between younger and older women in selling a pill. If, that is, policymakers care half as much about science in one case as in the other.

And perhaps most succinctly, I quote from the Baltimore Sun:

Dr. Crawford has been forced to adopt many improbable positions in order to keep his job. But now he is at risk of turning the world's most respected drug reviewing agency into a laughingstock.

Nobody wins if that happens.

No amount of semantics or politicking can change the fact that the HHS Secretary and the FDA performed a bait and switch with the Senate and, more importantly, to the American people. Today, the Bush administration has its FDA Commissioner, but the American public still does not have an answer on plan B. Unfortunately, the FDA, which has long been known as the gold standard in drug approval, is now at risk of becoming known for a double standard.

The health and well-being of the American people should not blow with the political winds. Caring for our residents is an American issue, and part of that goal is ensuring that our residents have access to safe, effective medicines in a timely fashion. As a new member of the Senate HELP Committee back in 1997 I faced the daunting task of working to help reform the FDA. I, along with my colleagues, was dedicated to making the Food and Drug Modernization Act work.

The intent of this landmark legislation was to introduce a new culture at the FDA, one which would expedite the drug approval process by eliminating unnecessary bureaucratic delays while ensuring product safety.

This new partnership was intended to open the lines of communication and ensure that manufacturers had a clear understanding of what would be required in our drug approval process. The FDA has broken those lines of communication and has now called into question the future of drug approval within the agency.

I believe strongly in a strong and independent FDA, but I believe this agency has made a mockery of Congress and of its own procedures and its own protocols. They have abused the trust of Congress and of the American people in the way they have played around with plan B. It is far past time to return credibility to the FDA. The FDA needs to return to the gold standard, not continue to create a double standard that puts politics ahead of the health and safety of the American public.

This is not the last word on this issue. The problem with politics subverting the FDA's adherence to science and its integrity is so profound and so urgent that I intend to use every tool available to me as a Senator to make sure this discussion about our priorities and our future is not lost.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I ask unanimous consent that I may speak for up to 20 minutes.

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

Mr. LEAHY. I thank the distinguished Presiding Officer.

NOMINATION OF JOHN ROBERTS

Mr. LEAHY. Mr. President, this week, as we celebrate our Constitution's 218th anniversary, we are nearing the exercise of one of the Senate's most solemn constitutional requirements and responsibilities. Few decisions the Senate faces are as consequential and enduring as when the Senate decides whether to confirm, by giving its consent, the nomination of a justice—of course, even more so when the nomination is for Chief Justice of the United States.

The Supreme Court is different from the lower courts. The Supreme Court is the only Federal court required by the Constitution itself. Actually, the Chief Justice is the only member of the Court expressly named in the Constitution. All other courts are bound by the decisions of the Supreme Court. Its decisions are final. They are unappealable. Only the Supreme Court can modify or overrule its precedents. Its power is enormous. The role of the Chief Justice is to lead not only that all-powerful Court but the entire third branch of Government. We have had 43 Presidents in this country, but we have had only 16 Chief Justices—all appointed for life.

The distinguished senior Senator from West Virginia, Mr. BYRD, whose passionate advocacy established our Constitution Day commemoration, describes the Constitution very accurately as the soul of our Nation. The Senate's advice and consent responsibilities are at the core of this body's vital role in our Republic.

This week, we commemorate our Constitution in a time of great challenges, and we are reminded again how resilient our Constitution is in empowering our Nation to meet each era's challenges. The carefully calibrated checks and balances within our Constitution are essential to that. No branch of Government is intended to be the rubberstamp of another branch.

Each day, Americans are fighting and dying in Iraq. Hundreds of thousands of Americans have been displaced by disasters here at home. Four years after 9/11, with public confidence shattered, we have to embark on a review of why we are still not prepared to respond to a terrorist attack or foreseen natural disasters.

The cost of energy—gas and home heating fuels—continues to climb to all-time highs, adding to the cost of other goods. The administration is suspending environmental and worker protections. Poverty and the disparities of opportunity between races and classes continue their insidious rise each year. After having seen recent years of budget surpluses, now the country's budget deficits are at previously unheard of levels—between $300 billion and $400 billion a year. Our national debt is at $8 trillion—8,000 billion dollars—that is a profligate amount. It can only be paid off by our children and our grandchildren.

So Americans need to know their constitutional rights will be protected, that their Government is on their side, and that the courts will be a place of refuge, stability, independence, and justice.

The nomination of Judge John Roberts to be Chief Justice of the United States presents a close question and one that each Senator must carefully weigh and decide. This is a question that holds serious consequences for all Americans today and for generations to come. I have approached this nomination with an open mind, as I do all judicial nominations. There is no entitlement to confirmation for lifetime

appointments on any court for any nomination by any President, Democratic or Republican.

I have served in the Senate for slightly over three decades, and on the Judiciary Committee for most of that time. I take my constitutional responsibility with respect to advice and consent seriously. I am 1 vote out of 100, but I recognize those 100 of us privileged to serve in the Senate are entrusted with protecting the rights of 280 million of our fellow citizens. We stand in their shoes. We and the President are the ones with a vote in the choice of the Chief Justice of the United States.

With this vote, I do not intend to lend my support to an effort by this President to move the Supreme Court and the law dramatically to the right. Above all, balance and moderation on the Court are crucial. I want all Americans to know the Supreme Court will protect their rights and respect the authority of Congress to act in their interests. I want a Supreme Court that acts in its finest tradition as a source of justice. The Supreme Court must be an institution where the Bill of Rights and human dignity are honored.

I have voted for the vast majority of President Ford's, President Carter's, President Reagan's, President George H.W. Bush's, President Clinton's, and President George W. Bush's judicial nominees. I have drawn the line only at those nominees who were among the most ideologically extreme who came to us in the mode of activists. That is what they were intended to be. That is the way they were described. That is the way they came to us. In those cases, the President opted not to seek moderate candidates. I think some of these extreme choices were sent here to politicize the process and did so to a greater extent than I had previously seen in my 31 years in the Senate.

I have not reflexively opposed Republican nominees or conservative judicial nominees nominated by Republican Presidents. In fact, I recommended a Republican to President Clinton to fill Vermont's seat on the Second Circuit, Judge Fred Parker. I recommended another Republican, Judge Peter Hall, to President Bush to fill that seat after Judge Parker's death.

I voted for President Reagan's nominations of Justice Sandra Day O'Connor and Justice Anthony Kennedy, and for President Bush's nomination of Justice Souter.

Unfortunately, this President has said he approached this matter as if fulfilling a campaign pledge to appoint someone in the mold of Justice Thomas and Justice Scalia. I voted against confirmation of Justice Thomas. I voted for Justice Scalia, and I now question that vote, as many of those who voted for him do today. If I thought Judge Roberts would easily reject precedent in the manner of Justice Thomas or would use his position on the Supreme Court as a bulwark for activism in the manner of Justice Scalia, then I would not hesitate to vote no. If I were convinced he would undercut fundamental rights of privacy or equal protection, this would not even be a close question.

I want to vote for a Chief Justice of the United States who I am confident has a judicial philosophy that appreciates the vital role of the judiciary in protecting the rights and liberties of all Americans. Chief Justice Marshall understood the essential function of the judiciary as a check on Presidential power. Under his leadership, the Constitution's guarantee of an independent judiciary and the bedrock principle of judicial review became realities. But Chief Justice Roger Taney, who everybody said was a brilliant lawyer, led the Court in a different and destructive direction. He authored the Dred Scott decision which propelled the States toward Civil War by relying only on technical reasoning and an unjust holding that denied all African Americans the status of citizens.

Contrast that with Chief Justice Earl Warren. He led the Supreme Court and the Nation in a crowning achievement when he forged the unanimous decision in Brown v. Board of Education and breathed life into the equal protection guarantee of the 14th amendment and put a stop to segregation in this country, which will always be a blot on our national conscience.

The President has asked that this nomination be handled with fairness and dignity. No matter how we vote, the Judiciary Committee has met those standards. Our committee held a hearing on the merits. I worked with the chairman to expedite the committee's consideration of the nomination of John Roberts to the Supreme Court out of respect to Justice O'Connor and the work of the Court.

Fewer than 36 hours after the announcement of the passing of Chief Justice Rehnquist and during the horrific aftermath in the week following Hurricane Katrina, the President withdrew that nomination to be Associate Justice. Thereafter, we were sent this alternative nomination for Judge John Roberts to become the Chief Justice of the United States. Again, I cooperated with Chairman SPECTER in an accelerated consideration of this nomination.

I wish we had had as much cooperation coming from the administration. Although we started off well with some early efforts at consultation after Justice O'Connor's retirement announcement in early July, that consultation never blossomed into meaningful discussions. It was truncated after a bipartisan meeting with Senate leaders at the White House. The President did not share his thinking with us or his plans, although that would be the nature of true consultation. His naming of Judge Roberts as his choice to replace Justice O'Connor came as a surprise, not as something that came resulted from meaningful consultation.

He then preemptively announced that he decided to withdraw that nomination and, instead, nominated Judge Roberts to succeed Chief Justice Rehnquist. He did so at 8 a.m. on the Monday morning following the announcement on the previous Saturday night of the Chief's passing. There could and should have been consultation with the Senate on the nomination of somebody to succeed Chief Justice Rehnquist and to serve as the 17th Chief Justice of the United States. For that position as Chief Justice there was no consultation. In fact, I learned about the President's decision shortly before his televised announcement Monday morning.

I think the administration committed another disservice to this nomination and, especially to this nominee, by withholding information that has traditionally been shared with the Senate. The administration treated Senators' requests for information with little respect. Instead, for the first time in my memory, they grafted exceptions from the Freedom of Information Act to limit their response to legitimate requests from Senators for information.

In fact, they stonewalled entirely the narrowly tailored request for work papers from 16 of the cases John Roberts handled when he was the principal deputy to Kenneth Starr at the Solicitor General's office during the President's father's administration. The precedent from Chief Justice Rehnquist's hearing and others, of course, goes the other way.

Previous Presidents have paid the appropriate respect and acknowledgment to the Senate and to the constitutional process by working with the committee to provide such materials. Accordingly, it is understandable if a Senator were to vote against the President's nomination on this basis alone.

I must also say that some of my friends on the other side of the aisle disserved the confirmation process by urging the nominee not to answer questions or reveal his judicial philosophy during the course of the hearing. One notable exception was the chairman of the committee. I appreciate Senator SPECTER's commitment to the role of the Senate and his taking our duty to advise and consent as seriously as it deserves to be taken. Regrettably, many of the answers of the nominee seemed to take to heart the bad advice that he had heard from the other side.

Finally, I believe the nominee disserved himself by following the script that he developed while serving in the Reagan administration. He and this administration rejected the spirit of Attorney General Jackson's opinion that with respect to Senate consideration of nominations, no person shall be submitted ''whose entire history will not stand light.'' The nominee took a narrow judicial ethics rule correctly limiting what a judge or judicial nominee should say about a particular case—I agree with him on that—and turned it into a broad excuse from comments on any issue that might arise at any time, in any case. He apparently rejected the Supreme Court's

holding in 2002, in Republican Party of Minnesota v. White, in which Justice Scalia held that a State canon limiting judicial candidates from announcing their views on legal and political issues was unconstitutional.

By contrast, however, the public witnesses who appeared last Thursday were extraordinarily helpful in underscoring what is at stake for all Americans with this decision. No one who heard Congressman John Lewis, Wade Henderson, and Judge Nathaniel Jones can doubt the fundamental importance of our refusal to retreat from our Nation's commitment to civil rights. This Nation can never retreat from that commitment to civil rights or we fail as a nation.

The testimony of Coach Roderick Jackson and Beverly Jones reminded us how courageous Americans are still opening doors and going to our courts to right wrongs. The testimony of Anne Marie Talman of MALDEF reflected what is at stake when alien children are denied education and benefits that should be available to every child in America.

We had a dignified and fair process. Again, I commend Chairman SPECTER and those members of the committee on both sides of the aisle who did not prejudge the matter and who did not seek to politicize the process.

The hearings did provide the committee with some information. I was encouraged by Judge Roberts' answer to my question about providing the fifth vote needed to stay an execution when four other justices vote to review a capital case. That has not always been the practice of late. He was right to recognize the illogic—if not the injustice—of having the necessary votes to review the case but lacking the necessary vote to allow that review to take place, especially a review that takes place when someone's life is in the balance.

I hope the nominee will take up our suggestion to allow greater access to the Supreme Court's proceedings by authorizing their being televised. I will work with him and Chairman SPECTER and Senator GRASSLEY to increase transparency in the work of the increasingly important FISA court. This is the foreign intelligence surveillance court that acts in secret, with very little oversight—certainly precious little oversight in the past few years—from the Senate. Only recently have we begun to ask the questions we should have been asking.

I also urge him to consider ways to decentralize the power accumulated to the Chief Justice so that the Judicial Conference, the circuit courts, and others can do more. I encourage him to reform the recusal procedures and conflict-of-interest protections at all levels of the judiciary but in particular with regard to the Supreme Court itself. Perhaps what many have said were his own missteps in connection with his interviewing for this nomination during its consideration of the Hamdan case will inspire him to greater efforts in this important regard.

As a young man, Judge Roberts clerked for Judge Henry Friendly of the U.S. Court of Appeals for the Second Circuit. That is my circuit, a circuit I have been proud to argue before. The Second Circuit has been home to a number of leading judicial lights; certainly, Henry Friendly was among them. I hope he is going to be faithful to Judge Friendly's fairness and thoughtfulness, something all of us in that circuit respected.

I made no secret of my concerns about this nomination. In advance of the hearing, I met twice with Judge Roberts, and for nearly 3 hours in all I raised my concerns. I provided him additional opportunities to respond during the hearing. This is not a case of ''gotcha.'' This is a case of finding out how he thinks and who he is.

I told him I was concerned that he would not act as an effective check on the abuse of presidential power. Judge Roberts' work in the Reagan and Bush Justice Departments, as well as his former period in the Reagan White House, seems to have led him to a philosophy of significant deference to presidential authority. It is exhibited in his recent decisions in the Hamdan, Acree, and Chao cases, among others. Maybe this deference was a principal basis on which the President chose him. None of us know.

But I did learn other things. I learned, throughout the process, that Judge Roberts and I share admiration for Justice Robert Jackson. Justice Jackson's protection of fundamental rights, including unpopular speech under the first amendment—of course, popular speech never needs protection; it is the unpopular speech that needs protection—and his willingness to serve as a check on presidential authority are among the finest actions by any Justice in our history.

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

Mr. LEAHY. Mr. President, I ask unanimous consent for 10 additional minutes.

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

Mr. LEAHY. When Judge Roberts testified about his respect for Justice Jackson, I hoped it was a signal he was sending. I actually posed that question to him and asked him if he was sending us a signal.

I accept his assurance that he will act as an independent check on the President in the mold of Justice Jackson and that when he joins the Supreme Court, he will no longer heavily defer to presidential authority. It is one of the crucial roles of the Court, and I take him at his word that he will do so.

This is a fundamental question. We know that we are in a period in which the executive has a complicit and, some would say, compliant Republican Congress that refuses to serve as a check or balance. Without the courts to fulfill that constitutional role, excess will continue, and the balance will be tilted.

The other dimension of the fundamental balance of constitutional powers involves appropriate deference to congressional action taken by the people's elected representatives. The manner and techniques Judge Roberts has used while in the executive, private practice, and while briefly on the DC Circuit, show him to require an unrealistic exactitude in drafting laws that no collective body could ever meet, especially one of 535 people. I wish he had served in Congress or worked for a time in Congress so he would have a deeper understanding of the legislative process. I hope that his experience during the hearing and the many questions from Senators of both sides of the aisle have helped to increase his appreciation for congressional authority and its importance.

I believe the current activism of the Supreme Court must be curtailed. I hope that will not be a part of Chief Justice Rehnquist's legacy that John Roberts seeks to continue. Congress acts to protect the interests of Americans through the commerce clause, spending powers and the 14th amendment. That has to be respected. I am encouraged by his assurances that he will respect congressional authority.

My reading of his dissent from the denial of rehearing en banc of the Rancho Viejo v. Norton case, in which he made the ''hapless toad'' reference, is that he urged rehearing to ''afford the opportunity to consider alternative grounds for sustaining application of the Act.'' Indeed, his steadfast reliance on the Supreme Court's recent Raich decision as significant precedent contravening further implications from Lopez and Morrison was intended to reassure us that he would not join the assault on congressional authority under the commerce clause. I heard him, and I rely on him to be true to the impression he created.

As a lawyer, John Roberts has been significantly involved in the development of Supreme Court authority limiting the authority of Congress under its constitutional spending powers. He argued before the Supreme Court in the 1980s, 1990s, and in this decade in a series of cases—South Dakota v. Dole, Wilder v. Virginia Hospital Association, Suter v. Artist M., and Gonzaga University v. Doe—in which he talked about narrowing Congress's spending powers and limiting the ability of individuals to sue to compel the protections Congress required under Federal law.

His briefs in Gonzaga adopted the extreme view that spending power enactment was a contract between the State and Federal Governments and that the intended beneficiaries of those programs had no rights to sue to enforce the commitments, even when states were violating the law and the Federal government was not effectively enforcing it. I questioned him extensively on

that. At the hearing, he took pains to assure me and Senator FEINSTEIN, among others, that as Chief Justice, he would not continue to urge additional restrictions and would respect congressional authority. To do otherwise would greatly undermine Congress's ability to serve the interests of all Americans and protect the environment, assure equal justice, provide health care and other basic benefits. I think he knows that now.

From the initial questioning by Chairman SPECTER, throughout the testimony of the nominee, many Senators asked about the fundamental reproductive rights of women. He testified that he now recognizes Roe v. Wade and Planned Parenthood v. Casey as established precedents of the Supreme Court and entitled to respect.

He testified that he interprets the liberty protected by the due process clause of the 14th amendment as the constitutional bedrock of the right of privacy, both substantive and procedural. Here, too, within the overly strict confines of his own self-imposed constraints on his answers, he consciously created the impression that he would not be a judicial activist on this essential point. He left me with the understanding that he would not seek to overrule or undercut the right of a woman to choose. I trust that he is a person of honor and integrity, that he will act accordingly.

As Chief Justice, John Roberts would not be only an appointee of a Republican administration or a legal advocate for a narrow interest. As Chief Justice, he has to be able to check the abuse of presidential power. As Chief Justice, he must support congressional efforts to serve the interests of all Americans. As Chief Justice, he has to work to ensure that the Federal courts, and the Supreme Court in particular, are halls of justice where Americans such as Beverly Jones and Roderick Jackson and Christine Franklin can see and find redress for grievances, meaningful remedies for the violation of their rights, and protection of their fundamental interests.

Justice White wrote in the Franklin case:

> From the earliest years of the Republic, the Court has recognized the power of the Judiciary to award appropriate remedies to redress injuries actionable in court.

As Chief Justice, John Roberts has to ensure that the Supreme Court and all Federal courts never ''abdicate our historic judicial authority to award appropriate relief in cases brought in our court system.''

Supreme Court Justices decide what cases to decide. They consciously shape the direction of the law by choosing which cases to hear as well as how they are to be decided. We know he believes in the rule of law. I was impressed when he talked about why he went to law school—because he believes in the rule of law. That was the same reason that I went to Georgetown Law School. But court decisions—and especially Supreme Court decisions—are not mechanical applications of neutral principles. If they were, all judges would always reach the same results for the same reasons. But they don't. Legal decisions are not mechanical. They are matters of judgment and often matters of justice.

As Chief Justice, John Roberts is responsible for the way in which the judicial branch administers justice for all Americans. He must know, in his core, in his heart, in his whole being, the words engraved in the Vermont marble on the Supreme Court building are not just ''under law'' but ''equal justice under law.'' It is not just the rule of law that he must serve but the cause of justice under our great charter.

I heard days of testimony and held hours of meeting with Judge Roberts. I would have liked more information, of course. I always want more.

Is a ''no'' vote the easier, more popular one? Of course. For me it would be. But in my judgment, in my experience, but especially my conscience, I find it is better on this nomination to vote yes than no. Ultimately, my Vermont roots have always told me to go with my conscience, and they do so today.

Judge Roberts is a man of integrity. I can only take him at his word that he does not have an ideological agenda. For me, a vote to confirm requires faith that the words he spoke to us have meaning. I can only take him at his word that he will steer the Court to serve as an appropriate check of potential abuses of Presidential power.

I respect those who have come to different conclusions, and I readily acknowledge the unknowable at this moment, that perhaps they are right and I am wrong. Only time will tell. All of us will vote this month, but only later will we know if Judge Roberts proves to be the kind of Chief Justice he says he will be, if he truly will be his own man. I hope and trust that he will be.

I will vote for his confirmation. I will give my consent as a Senator.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CORNYN. 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. CORNYN. Mr. President, I ask unanimous consent that I be allowed 15 minutes to speak as in morning business.

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

NOMINATION OF JOHN ROBERTS

Mr. CORNYN. Mr. President, while the Senator is leaving the floor, I wish to say to the ranking member of the Judiciary Committee how much I appreciate his decision. I know how seriously he has weighed his decision whether to vote to confirm John Roberts as Chief Justice of the United States. I believe we are at our best in this body when we set aside our differences that come from our partisan affiliation. The fact that some of us are Republicans and some are Democrats is a fact of life, and we have to work within our political system to try to solve America's problems the best we can. But I do believe we are at our best when we rely upon the principles and the values that bind us together rather than those that distinguish us and separate us as Senators.

I must confess that yesterday I was more than a little bit disappointed when the distinguished Democratic leader announced that he would vote no on this nomination. Clearly, it is within his right and prerogative, as it is within any Senator's right and prerogative to vote as they see fit. But I guess what struck me was the fact that at the same time he announced he would vote no, he called Judge Roberts an ''excellent lawyer'' and ''a thoughtful, mainstream judge'' who may make ''a fine Supreme Court Justice.''

These were words quoted in today's editorial in the Washington Post entitled, ''Words That Will Haunt.'' I guess what concerns me is you can be an excellent lawyer, you can be a thoughtful mainstream judge who may make a fine Supreme Court Justice, and yet because of the outside groups that demand allegiance to their positions that do not represent the mainstream of America, do not represent rational thought but, rather, the triumph over partisanship and special interest groups over the public interest, what worries me so much is that they seem to have such undue influence on the decisionmaking process of some Members when it comes to judicial confirmations.

Indeed, I believe it was because of the interest groups that we had several years of near meltdown when it came to the unprecedented use of the filibuster to block a simple up-or-down vote on the President's nominees, something that had never happened before that time in the 200 years of the history of the Senate, and particularly when it came to judicial confirmation votes.

I do want to address some of the concerns the distinguished ranking member, Senator LEAHY, raised because I do have a different view. Unfortunately, the formula that seems to be creating the theme here of consultation, questions, and documents is one that was foreshadowed in earlier news stories that said this was the strategy the outside groups were going to use in an attempt to defeat this nomination.

By that I mean—first on consultation—I know Senator LEAHY said he did not think consultation was adequate, but there was unprecedented consultation by the White House with Senators about the nomination, something that had never before occurred.

The President listened to ideas of Senators on both sides of the aisle about the type of person and individual he should nominate to the Supreme Court.

Ultimately, though, the Constitution provides the authority to choose to the President and the President alone. The Constitution does not contemplate the Senate being cochoosers of the nominee but, rather, the President making that choice and then the Senate providing advice and consent during this judicial confirmation process, ultimately leading up to an up-or-down vote on the Senate floor.

I am a little disappointed that in spite of this attempt to reach out more than halfway to the Senate, and particularly the minority in the Senate on consultation, the President's good efforts have been rejected as inadequate. But I don't see how any reasonable outside observer could reach that conclusion.

Second, the issue of questions. What kind of questions should a nominee answer? The standard for this was set in the early 1990s by Ruth Bader Ginsburg who was nominated by President Clinton and confirmed to the U.S. Supreme Court. While she was willing to talk about things she had written in the past, it was clear that she was going to draw a very important line in terms of sending signals or prejudging cases or issues that were likely to come back before the Court. It was using that same standard observed by not only Judge Ginsburg but Judge Breyer, who was confirmed after her—also a Clinton nominee—Thurgood Marshall, Sandra Day O'Connor, or William Rehnquist in his confirmation proceeding.

It is clear, as Judge Roberts said, that there is an ethical line that judges cannot cross, one of which is set by the American Bar Association Model Code on Judicial Ethics. It says clearly, in confirmation proceedings—I asked Judge Roberts during the Senate Judiciary Committee hearings—that applies to judicial confirmation hearings. So it would have been unethical to cross the line. And now some Senators insist Judge Roberts should have crossed the line when it came to answering certain types of questions that would ask him to prejudge certain issues and cases.

But there is also a constitutional standard because the independence of the judiciary is a core value of our form of government and of the American people. Who could feel that a judge was truly independent and fair who has already stated in a confirmation hearing how he would rule on an issue that later comes before the Supreme Court? Everyone recognizes that is not fair, that is not an independent judiciary. So I believe the judge drew an appropriate line from that standpoint as well.

Finally, there is the third prong of this three-prong attack laid out by the special interest groups long before Judge Roberts was even nominated and has to do with the documents issue. This has to do with documents prepared by the Solicitor General's Office as it prepared to represent the United States in the Supreme Court.

I asked Judge Roberts whether that sort of ability to have candid and confidential communications among the lawyers who are representing the United States was part of a recognized privilege that all lawyers and clients share, whether it is the Government or whether it is individuals, and he said it was.

In fact, a number of Senators on our Judiciary Committee were quite upset last year when it appears confidential documents written by their committee lawyer to those Senators were then published in the outside world, claiming their rights had been violated. If the Senators are entitled to have confidential communication from our own lawyers and our own staff without having it published in the outside world, then surely the President of the United States enjoys that same right and privilege.

This nominee has withstood in admirable form more than 20 hours of questions from members of the Senate Judiciary Committee. There were 32 witnesses who testified after he did, including the American Bar Association which has given him an A plus, so to speak, that considered him unanimously to be well qualified for this position. In the end, though, this nominee is probably better known to the Senate and the Senate Judiciary Committee than any nominee in recent history, having only 2 years ago been confirmed by unanimous consent to the District of Columbia Court of Appeals, what some have called the second highest court in the land.

I ask my colleagues who are bound and determined to vote against this nominee who, by most accounts, is one of the most impressive nominees and outstanding nominees who has ever been nominated to the Supreme Court, is there any nominee of this President for whom they could vote? I fear the answer to that is no, that for some of our colleagues, there is no nominee by this President to the U.S. Supreme Court for whom they could ever vote.

That should sadden and disappoint all of us because what it means is that the bitter partisan divisions that separate us in this body far too often and distract us from the important work we have been sent here by our constituents to do have triumphed over the constitutional obligation to provide advice and consent and to conduct our ourselves with civility and dignity and to resist the pressures of interest groups who cry out for the political scalp of not just this President but all of his nominees and discourage good men and women from being willing to answer the call to public service. If they know they are getting ready to be put through a sausage grinder, if they know everything they did and said would be examined and distorted even and in the end that the merit of their nomination would play second fiddle to bitter partisan politics, I fear there are good men and women who would like to answer the call to public service who will simply say no.

I am looking forward on Thursday to the Senate Judiciary Committee voting Judge Roberts out of the committee and his nomination coming to the floor. I hope our colleagues will study his background, the record created before the Judiciary Committee, and come to their own decision, without regard to politics, without regard to partisanship, and judge it solely on the merits. But particularly it is my earnest hope and plea they resist the cry of the outside special interest groups who care nothing about good government but only about their narrow special interests and are using these nominations, more than anything, to raise money by scaring people and by distorting the qualifications and credentials of good men and women such as John Roberts.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah is recognized.

ORDER OF PROCEDURE

Mr. BENNETT. Mr. President, I understand that under the order, we now go to the Agriculture appropriations bill. I have a few housekeeping details I would like to take care of on behalf of the leader, and then I ask unanimous consent that the senior Senator from Massachusetts be granted half an hour in which he may speak in morning business, with the understanding that we will then go back to the Agriculture appropriations bill without any other requests for morning business being honored.

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

Mr. BENNETT. I thank the Chair.

RECOGNIZING THE LIFE AND ACCOMPLISHMENTS OF SIMON WIESENTHAL

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 245 submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The journal clerk read as follows:

A resolution (S. Res. 245) recognizing the life and accomplishments of Simon Wiesenthal.

There being no objection, the Senate proceeded to consider the resolution.

Mrs. FEINSTEIN. Mr. President, I rise today to pay tribute to a man who dedicated himself to preserving the memory of the millions who perished in the Holocaust and to promoting human rights and preventing genocide.

Simon Wiesenthal lived through unimaginable tragedy and horror as a prisoner in Nazi concentration camps

during World War II. He survived the Holocaust and spent the next 60 years of his life tracking down the war criminals who had perpetrated terrible atrocities.

During the course of World War II, Simon Wiesenthal spent 4 years in a series of 12 concentration camps. He was a prisoner in the Mauthausen camp when it was liberated by the U.S. Army on May 5, 1945.

COL Richard Seibel who led the troops in liberating the camp described the horror that they found in a report to his superiors:

> Mauthausen did exist. Man's inhumanity to man did exist. The world must not be allowed to forget the depths to which mankind can sink, lest it should happen again.

Mr. Wiesenthal and his wife Cyla had been separated by the war but were reunited shortly after it ended. Between the 2 of them, 89 family members were killed.

They decided to start a family of their own and in 1946 had a daughter, Paulinka, who went on to have children and grandchildren of her own.

Also following the war, Mr. Wiesenthal went to work for the War Crimes Office run by the Americans. This was just the start to a lifelong mission to bring Nazi war criminals to justice.

He opened his own Historical Documentation Center to collect information on war criminals that was used to search them out and prosecute them for their heinous crimes. The evidence collected at the documentation center was used in prosecutions at the International Military Tribunal in Nuremberg in 1945 and 1946.

Credited with hunting down 1,100 major and minor Nazi war criminals since the end of World War II, Mr. Wiesenthal is most renowned for his role in the capture of Adolf Eichmann. Eichmann engineered Adolf Hitler's ''Final Solution of the Jewish Problem'' that led to the extermination of 6 million Jews as well as millions of non-Jews.

Eichmann was captured by Israeli agents in Argentina in 1960. Observed at trial in 1961, Mr. Wiesenthal later described his impression of Eichmann:

> In my mind I had built up the image of a demonic superman. Instead I saw a frail, nondescript, shabby fellow in a glass cell between two Israeli policement; they looked more colorful and interesting than he did. There was nothing demonic about him; he looked like a bookkeeper who was afraid to ask for a raise.

I am privileged to say that I did personally know Simon Wiesenthal. I received him in my home to raise money for the Wiesenthal Center in Los Angeles. I also met with him in Vienna where I saw his small, cramped office and voluminous files.

He was one of the most amazing people; he stayed the course, never gave up, and was the greatest Nazi hunter of our time.

Dedicated in 1977 to all of the 11 million people of different nationalities, races, and creeds who died in the Holocaust, the Simon Wiesenthal Center in Los Angeles promotes tolerance and understanding through community involvement, educational outreach and social action, and confronts important issues such as racism, anti-Semitism, terrorism, and genocide.

The center's founder and dean, Rabbi Marvin Hier said the following about Simon Wiesenthal's legacy:

> I think he'll be remembered as the conscience of the Holocaust. In a way he became the permanent representative of the victims of the Holocaust, determined to bring the perpetrators of the greatest crime to justice.

We have lost a leading voice for raising awareness and understanding of the Holocaust. It is imperative that his legacy and dedication to the millions who were killed because of their religion, race or nationality be remembered. We must do all that we can to ensure that human atrocities like this never happen again.

Let me conclude with Mr. Wiesenthal's own words:

> When history looks back, I want people to know that the Nazis weren't able to kill millions of people and get away with it. . . . If we pardon this genocide, it will be repeated, and not only on Jews. If we don't learn this lesson, then millions died for nothing.

Mr. KOHL. Mr. President, today the world has lost one of the great crusaders for justice, Simon Wiesenthal. After suffering through many Nazi death camps, he emerged from the war with a mission to bring the architects of the Holocaust and their collaborators to account for their crimes. Later in life his work was valuable for establishing the facts of the Holocaust and keeping the memory of the suffering of the victims of the Holocaust alive. Simon Wiesenthal was a valuable voice of conscience when many around the world wanted to ignore these horrible crimes and forget this awful period of the 20th century.

A successful Ukrainian architect before the war, when the Nazis invaded the Soviet Union, he was rounded up with his family and narrowly escaped death. He would spend the rest of the war in a variety of death and work camps. After the war he was eager to work with the Americans to bring Nazis and their collaborators to justice for their war crimes during the Holocaust. When the Allies seemed to tire of bringing former members of the Third Reich to justice, Simon Wiesenthal continued his work on his own, painstakingly researching and identifying members of the Gestapo and SS.

He may be most famously known as the man who found Adolf Eichmann, the organizer of Hitler's campaign to eradicate the Jews. Bringing Eichmann to justice was no doubt the most high profile of his successes, and he was able to use that spotlight to help him find and ferret out more criminals. In all he was involved in over 1,100 cases involving Nazi war criminals.

Mr. Wiesenthal did more than just round up the perpetrators of the most notorious mass killing in history. He also used his name recognition to fight against rising anti-Semitism in Europe and around the world. He sounded the alarm over rising neo-Nazi movements, and fought against their malicious influence. His work documenting the Holocaust and the testimony of survivors was ground breaking and has formed am important part of what we know about that tragic period and the people who survived it.

Mr. Wiesenthal has been seen as an important voice of justice, forcing the world to face a difficult reality about the evil in humans. His work laid bare the worst that man is capable of, but it also showed the importance of justice and the power of the human spirit.

Mr. LEVIN. Mr. President, today we mourn the passing of a great man whose name has become synonymous with the pursuit of justice, Simon Wiesenthal. Mr. Wiesenthal dedicated his life to finding and prosecuting Nazi war criminals, and he was extraordinarily successful at doing so. He was a passionate, courageous man waging an often lonely yet critical fight.

Born 96 years ago in what is now the Ukraine, Mr. Wiesenthal barely survived the unimaginable horrors of the Holocaust, emerging from a concentration camp at the end of the war weighing less than 100 pounds. Though the Nazis had not succeeded in taking his life, he had lost 89 members of his family.

Simon Wiesenthal took this incomprehensible grief and turned it into action, embarking on a lifelong quest to find Nazi war criminals and secure justice for their victims. He had already begun this work in the concentration camps, committing to memory details of his captors. After the war, he worked first for the U.S. Army's War Crimes Office and then opened the Jewish Historical Documentation Center in Linz, Austria in 1947, to continue that work on his own. The Center later moved to Vienna, where Mr. Wiesenthal worked every day in a small office building, surrounded by files, meticulously documenting and tracking the guilty. He worked in that office until last year, when his health would no longer permit it.

In his most prominent success, information from Wiesenthal led Israeli agents to capture Adolf Eichmann, the architect of Hitler's extermination campaign, in Argentina in 1960. Wisenthal's other high-profile arrests include Anne Frank's captor, Karl Silberbauer, and the commandant of the Treblinka and Sobibor camps, Franz Stangl. The vast majority of his work, though, was pursuing lesser-known and unknown Nazis and demanding accountability for their roles. In all, he is credited with bringing more than 1,100 Nazi war criminals to justice.

Those prosecutions not only brought punishment to the guilty but also affirmed to the world that justice, even when delayed, must always be done.

As we honor and thank Mr. Wiesenthal for the results of his work, we owe him a special debt for the way he went about that work. Despite his personal tragedy and despite the staggering scale of the atrocities, Mr. Wiesenthal sought, as he said, ''justice, not revenge.'' He broke the cycle of hate and elevated us all. Indeed, one of his strongest hopes was that his work would help us to rise above our history. As he said:

The history of man is the history of crimes, and history can repeat. So information is a defense. Through this we can build, we must build, a defense against repetition.

The 11 million victims of the Holocaust had no finer, more dedicated, more capable advocate than Simon Wiesenthal. The living had no finer example of a hero. Our only solace in his passing is that the 11 million Simon Wiesenthal spoke for can finally say to him today: ''Thank you for remembering us.''

Mr. SALAZAR. Mr. President, I rise today to honor Simon Wiesenthal, a remarkable man, a Holocaust survivor, who dedicated his life to the pursuit of justice and worked to prevent anti-Semitism and prejudice of all kinds.

After surviving imprisonment at five German concentration camps and escaping death several times, Mr. Wiesenthal continued to remember the 6 million people who lost their lives during the Holocaust by working to bring over 1,100 war criminals to justice. He pursued justice, not revenge. He demanded public trials, not secret executions.

He made sure society would remember those crimes against humanity so that future purveyors of ethnic cleansing would know that they could never escape retribution.

Mr. Wiesenthal earned the respect of those throughout the world, having many honors and awards bestowed upon him. He received decorations from the Austrian and French resistance movements, the Dutch Freedom Medal, the Luxembourg Freedom Medal, the United Nations League for the Help of Refugees Award, the French Legion of Honor and the U.S. Congressional Gold Medal which was presented to him by President James Carter in 1980.

Mr. Wiesenthal never questioned giving up his prewar trade of architecture. In a New York Times article in 1964, Mr. Wiesenthal described attending Sabbath services with a fellow camp survivor who had become a wealthy jeweler.

The man asked why Wiesenthal had not resumed architecture—his prewar trade—for it would have made him rich.

''You're a religious man,'' Wiesenthal told his friend. ''You believe in God and life after death. I also believe.''

''When we come to the other world and meet the millions of Jews who died in the camps and they ask us, 'What have you done?' there will be many answers. You will say, 'I became a jeweler.' Another will say, 'I smuggled coffee and American cigarettes.' Another will say, 'I built houses.'

''But I will say, 'I didn't forget you.'''

Thank you Mr. Wiesenthal for leaving an indelible mark on society. We owe you a debt of gratitude, and we will never forget you.

Mr. BENNETT. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD, without any intervening action or debate.

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

The resolution (S. Res. 245) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 245

Whereas Simon Wiesenthal was born on December 31, 1908, to Jewish merchants in Buczacz, in what is now the Lvov Oblast section of the Ukraine;

Whereas after he was denied admission to the Polytechnic Institute in Lvov because of quota restrictions on Jewish students, Simon Wiesenthal received his degree in engineering from the Technical University of Prague in 1932;

Whereas Simon Wiesenthal worked in an architectural office until he was forced to close his business and become a mechanic in a bedspring factory, following the Russian army's occupation of Lvov and purge of Jewish professionals;

Whereas following the Germany occupation of Ukraine in 1941, Simon Wiesenthal was initially detained in the Janwska concentration camp near Lvov, after which he and his wife were assigned to the forced labor camp serving the Ostbahn Works, which was the repair shop for Lvov's Eastern Railroad;

Whereas in August of 1942, Simon Wiesenthal's mother was sent to the Belzec death camp as part of Nazi Germany's ''Final Solution'', and by the end of the next month 89 of his relatives had been killed;

Whereas with the help of the Polish Underground Simon Wiesenthal was able to help his wife escape the Ostbahn camp in 1942, and in 1943 was himself able to escape just before German guards began executing inmates, but he was recaptured the following year and sent to the Janwska camp;

Whereas following the collapse of the German eastern front, the SS guards at Janwska took Simon Wiesenthal and the remaining camp survivors and joined the westward retreat from approaching Russian forces;

Whereas Simon Wiesenthal was 1 of the few survivors of the retreat to Mauthausen, Austria and was on the brink of death, weighing only 99 pounds, when Mauthausen was liberated by American forces on May 5, 1945;

Whereas after surviving 12 Nazi prison camps, including 5 death camps, Wiesenthal chose not to return to his previous occupation, and instead dedicated himself to finding Nazi war criminals and bringing them to justice;

Whereas following the liberation of Mauthausen, Simon Wiesenthal began collecting evidence of Nazi activity for the War Crimes Section of the United States Army, and after the war continued these efforts for the Army's Office of Strategic Services and Counter-Intelligence Corps;

Whereas Simon Wiesenthal would also go on to head the Jewish Central Committee of the United States Zone of Austria, a relief and welfare organization;

Whereas Simon Wiesenthal and his wife were reunited in 1945, and had a daughter the next year;

Whereas the evidence supplied by Wiesenthal was utilized in the United States Zone war crime trials;

Whereas, after concluding his work with the United States Army in 1947, Simon Wiesenthal and others opened and operated the Jewish Historical Documentation Center in Linz, Austria, for the purpose of assembling evidence for future Nazi trials, before closing the office and providing its files to the Yad Vashem Archives in Israel in 1954;

Whereas despite his heavy involvement in relief work and occupational education for Soviet refugees, Simon Wiesenthal tenaciously continued his pursuit of Adolf Eichmann, who had served as the head of the Gestapo's Jewish Department and supervised the implementation of the ''Final Solution'';

Whereas in 1953, Simon Wiesenthal acquired evidence that Adolf Eichmann was living in Argentina and passed this information to the Government of Israel;

Whereas this information, coupled with information about Eichmann's whereabouts in Argentina provided to Israel by Germany in 1959, led to Eichmann's capture by Israeli agents, trial and conviction in Israel, and execution on May 31, 1961;

Whereas following Eichmann's capture, Wiesenthal opened a new Jewish Documentation Center in Vienna, Austria, for the purpose of collecting and analyzing information to aid in the location and apprehension of war criminals;

Whereas Karl Silberbauer, the Gestapo officer who arrested Anne Frank, Franz Stangl, the commandant of the Treblinka and Sobibor concentration camps in Poland, and Hermine Braunsteiner, who had supervised the killings of several hundred children at Majdanek, are among the approximately 1,100 war criminals found and brought to justice as a result of Simon Wiesenthal's investigative, analytical, and undercover operations;

Whereas Simon Wiesenthal bravely forged ahead with his mission of promoting tolerance and justice in the face of danger and resistance, including numerous threats and the bombing of his home in 1982;

Whereas the Simon Wiesenthal Center was established in 1977, to focus on the prosecution of Nazi war criminals, commemorate the events of the Holocaust, teach tolerance education, and promote Middle East affairs;

Whereas the Simon Wiesenthal Center monitors and combats the growth of neo-Nazi activity in Europe and keeps watch over concentration camp sites to ensure that the memory of the Holocaust and the sanctity of those sites are preserved;

Whereas the Simon Wiesenthal Center played a pivotal role in convincing foreign governments to pass laws enabling the prosecution of Nazi war criminals;

Whereas throughout his lifetime, Simon Wiesenthal has had many honors and awards bestowed upon him, including decorations from the Austrian and French resistance movements, the Dutch Freedom Medal, the Luxembourg Freedom Medal, the United Nations League for the Help of Refugees Award, the French Legion of Honor, and the United States Congressional Gold Medal, which was presented to him by President James Carter in 1980;

Whereas President Ronald W. Reagan once remarked, ''For what Simon Wiesenthal represents are the animating principles of Western civilization since the day Moses came down from Sinai: the idea of justice, the idea of laws, the idea of the free will.'';

Whereas President George H. W. Bush has stated that Simon Wiesenthal, ''is our living embodiment of remembrance. The two pledges of Simon Wiesenthal's life inspire us all — 'Never forget' and 'Never again'.'';

Whereas President William Clinton has remarked of Simon Wiesenthal, ''To those who know his story, one of miraculous survival and of relentless pursuit of justice, the answer is apparent. From the unimaginable horrors of the Holocaust, only a few voices survived, to bear witness, to hold the guilty accountable, to honor the memory of those who were killed. Only if we heed these brave voices can we build a bulwark of humanity against the hatred and indifference that is still all too prevalent in this world of ours.''; and

Whereas, at the end of a life dedicated to the pursuit of justice and advocacy for victims of the Holocaust, Simon Wiesenthal passed away on September 20, 2005, at the age of 96: Now, therefore, be it

Resolved, That the Senate—

(1) expresses its most sincere condolences to the family and friends of Simon Wiesenthal;

(2) recognizes the life and accomplishments of Simon Wiesenthal, who, after surviving the Holocaust, spent more than 50 years helping to bring Nazi war criminals to justice and was a vigorous opponent of anti-Semitism, neo-Nazism, and racism; and

(3) recognizes and commends Simon Wiesenthal's legacy of promoting tolerance, his tireless efforts to bring about justice, and the continuing pursuit of these ideals.

IRAN NONPROLIFERATION ACT OF 2000

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be discharged from further consideration of S. 1713, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1713) to make amendments to the Nonproliferation Act of 2000 related to International Space Station payments.

There being no objection, the Senate proceeded to consider the bill.

Mr. LUGAR. Mr. President, on September 15 I introduced a bill to amend the Iran Nonproliferation Act of 2000, Public Law 106–178. The bill, S. 1713, provides authority for the administration to continue to cooperate with the Russian Federation on the International Space Station.

Current law prohibits certain payments from being made to Russia. When Congress enacted the Iran Nonproliferation Act, INPA, it did so to provide the President with a means to address proliferation of ballistic missile-related and other dangerous dual-use technology to Iran. Congress passed and the President signed legislation designed to give the executive branch additional tools with which to address Russian proliferation and the proliferation of other countries that are transferring dangerous weapons technology to Iran. The legislation was also meant to enhance significantly the ability of Congress to monitor proliferation to Iran and oversee executive efforts to combat it.

With regard to Russia, at the time of its enactment, the rationale for INPA restrictions on payments to Russia for cooperation on the International Space Station was that the Russian Aviation and Space Agency, RASA, could use any legal or operational authority it may have had over certain organizations and entities that might be proliferating to Iran to stop such activities.

I continue to believe that Russia must prevent proliferation to Iran of weapons of mass destruction, their means of delivery and the technical know-how to make them.

The bill I introduced last week does not condone the proliferation activities of Russian entities nor those of others proliferating to Iran. It does allow the United States to meet its obligations under the Agreement Concerning Cooperation on the Civil International Space Station. While it creates an exception for certain U.S. payments to Russia in support of the space station, it also mandates that Congress be kept aware of the specific Russian entities to which the United States makes payments, and that the President determine that such payments are not prejudicial to our nonproliferation policies with respect to cruise and ballistic missile proliferation to Iran or other state sponsors of terrorism.

Since the introduction of S. 1713, a question has arisen as to which agreements might be negotiated under its authority that could, in fact, obligate the United States to make payments beyond the date specified in section 3 of that bill. It is my intention that no payments may be made after January 1, 2012. Also, I understand that NASA intends to accelerate its crew exploration vehicle, CEV, program so as to avoid any complications that might arise as a result of continued U.S. utilization of Russian-provided technology during the period between the shuttle's retirement and the CEV becoming operational.

I want to thank all my colleagues for their cooperative consideration of this bill. I urge the Senate to pass S. 1713.

Mr. BENNETT. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the measure be printed in the RECORD.

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

The bill (S. 1713) was read the third time and passed, as follows:

S. 1713

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 ''Iran Nonproliferation Amendments Act of 2005''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The Director of Central Intelligence's most recent Unclassified Report to Congress on the Acquisition of Technology Relating to Weapons of Mass Destruction and Advanced Conventional Munitions, 1 July Through 31 December 2003, states ''Russian entities during the reporting period continued to supply a variety of ballistic missile-related goods and technical know-how to countries such as Iran, India, and China. Iran's earlier success in gaining technology and materials from Russian entities helped accelerate Iranian development of the Shahab-3 MRBM, and continuing Russian entity assistance has supported Iranian efforts to develop new missiles and increase Tehran's self-sufficiency in missile production.''

(2) Vice Admiral Lowell E. Jacoby, the Director of the Defense Intelligence Agency, stated in testimony before the Select Committee on Intelligence of the Senate on February 16, 2005, that ''Tehran probably will have the ability to produce nuclear weapons early in the next decade''.

(3) Iran has—

(A) failed to act in accordance with the Agreement Between Iran and the International Atomic Energy Agency for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons, done at Vienna June 19, 1973 (commonly referred to as the ''Safeguards Agreement'');

(B) acted in a manner inconsistent with the Protocol Additional to the Agreement Between Iran and the International Atomic Energy Agency for the Application of Safeguards, signed at Vienna December 18, 2003 (commonly referred to as the ''Additional Protocol'');

(C) acted in a manner inconsistent with its obligations under the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968, and entered into force March 5, 1970 (commonly referred to as the ''Nuclear Non-Proliferation Treaty''); and

(D) resumed uranium enrichment activities, thus ending the confidence building measures it adopted in its November 2003 agreement with the foreign ministers of the United Kingdom, France, and Germany.

(4) The executive branch has on multiple occasions used the authority provided under section 3 of the Iran Nonproliferation Act of 2000 (Public Law 106–178; 50 U.S.C. 1701 note) to impose sanctions on entities that have engaged in activities in violation of restrictions in the Act relating to—

(A) the export of equipment and technology controlled under multilateral export control lists, including under the Australia Group, Chemical Weapons Convention, Missile Technology Control Regime, Nuclear Suppliers Group, and the Wassenaar Arrangement or otherwise having the potential to make a material contribution to the development of weapons of mass destruction or cruise or ballistic missile systems to Iran; and

(B) the export of other items to Iran with the potential of making a material contribution to Iran's weapons of mass destruction programs or on United States national control lists for reasons related to the proliferation of weapons of mass destruction or missiles.

(5) The executive branch has never made a determination pursuant to section 6(b) of the Iran Nonproliferation Act of 2000 that—

(A) it is the policy of the Government of the Russian Federation to oppose the proliferation to Iran of weapons of mass destruction and missile systems capable of delivering such weapons;

(B) the Government of the Russian Federation (including the law enforcement, export promotion, export control, and intelligence agencies of such government) has demonstrated and continues to demonstrate a

sustained commitment to seek out and prevent the transfer to Iran of goods, services, and technology that could make a material contribution to the development of nuclear, biological, or chemical weapons, or of ballistic or cruise missile systems; and

(C) no entity under the jurisdiction or control of the Government of the Russian Federation, has, during the 1-year period prior to the date of the determination pursuant to section 6(b) of such Act, made transfers to Iran reportable under section 2(a) of the Act.

(6) On June 29, 2005, President George W. Bush issued Executive Order 13382 blocking property of weapons of mass destruction proliferators and their supporters, and used the authority of such order against 4 Iranian entities, Aerospace Industries Organization, Shahid Hemmat Industrial Group, Shahid Bakeri Industrial Group, and the Atomic Energy Organization of Iran, that have engaged, or attempted to engage, in activities or transactions that have materially contributed to, or pose a risk of materially contributing to, the proliferation of weapons of mass destruction or their means of delivery (including missiles capable of delivering such weapons), including efforts to manufacture, acquire, possess, develop, transport, transfer, or use such items.

SEC. 3. AMENDMENTS TO IRAN NONPROLIFERATION ACT OF 2000 RELATED TO INTERNATIONAL SPACE STATION PAYMENTS.

(a) TREATMENT OF CERTAIN PAYMENTS.—Section 7(1)(B) of the Iran Nonproliferation Act of 2000 (Public Law 106–178; 50 U.S.C. 1701 note) is amended by inserting after ''such date'' the following: '', except that such term does not mean payments in cash or in kind made or to be made by the United States Government, to meet the obligations of the United States under the Agreement Concerning Cooperation on the Civil International Space Station, with annex, signed at Washington January 29, 1998, and entered into force March 27, 2001, or any protocol, agreement, memorandum of understanding, or contract related thereto, to January 1, 2012''.

(b) REPORTING REQUIREMENTS.—Section 6 of such Act is amended by adding at the end the following new subsection:

''(i) REPORT ON CERTAIN PAYMENTS RELATED TO INTERNATIONAL SPACE STATION.—

''(1) IN GENERAL.—The President shall, together with each report submitted under section 2(a), submit to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a report that identifies each Russian entity or person to whom the United States Government has, since the date of the enactment of the Iran Nonproliferation Amendments Act of 2005, made a payment in cash or in kind to meet the obligations of the United States under the Agreement Concerning Cooperation on the Civil International Space Station, with annex, signed at Washington January 29, 1998, and entered into force March 27, 2001, or any protocol, agreement, memorandum of understanding, or contract related thereto.

''(2) CONTENT.—Each report submitted under paragraph (1) shall include—

''(A) the specific purpose of each payment made to each entity or person identified in the report; and

''(B) with respect to each such payment, the assessment of the President that the payment was not prejudicial to the achievement of the objectives of the United States Government to prevent the proliferation of ballistic or cruise missile systems in Iran and other countries that have repeatedly provided support for acts of international terrorism, as determined by the Secretary of State under section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a)), section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), or section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)).''.

Mr. BENNETT. I thank the Chair. I now yield the floor so that the Senator from Massachusetts can make his statement.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I thank the chairman of the committee and the Senator from Utah for his courtesies. I know he is eager to get on with the legislation, and I am particularly grateful to him for the courtesy that he has extended this morning.

NOMINATION OF JOHN ROBERTS

Mr. KENNEDY. Mr. President, our Founders proclaimed the bedrock principle that we are all created equal. But everyone knows that when we started, the reality was far different. For more than two centuries, we have struggled, sometimes spilling precious blood, to fulfill that unique American promise. The goals, the principles, and the sacrifices of millions of Americans breathed an ever-fuller life into our constitutional ideals.

The Constitution itself has been the inspiration for this march of progress. The open-ended principles that our Founders had the wisdom to bequeath us have acquired ever-deepening meaning over the years—a remarkably steady movement toward greater protection for individual rights and liberties, and an increasing assurance that governments at all levels have the authority to defend ordinary Americans from overreaching by those who would discriminate against them or exploit them.

We have made much progress. But our work is not finished, and we still look to our elected representatives and our independent courts to uphold those founding principles in each new generation, to continue the great march of progress, to never turn back and never give up our hard-won gains.

This was the basic issue in our hearings on the nomination of John Roberts to become our next Chief Justice. Would he bring to that high office the values and ideals that would enable our struggle for equality and opportunity for all to continue, or would he stand in the way?

The only records made available to us were those of John Roberts as an aggressive activist in the Reagan administration, eager to limit basic values that we have achieved at great cost and sacrifice over the years, especially in basic areas such as voting rights, women's rights, civil rights, and disability rights. He is an outstanding lawyer who says he could represent clients on any side of a question. As Congressman JOHN LEWIS eloquently stated in our hearings, 25 years ago, John Roberts was on the wrong side of the Nation's struggle to achieve genuine equality of opportunity for all Americans. Now, we need to know which side he is on today. We need to know that as Chief Justice of the United States, his sole client would be all the American people.

John Roberts is a highly intelligent nominee. He has argued 39 cases before the Supreme Court and won more than half of them. He is adept at turning questions on their head while giving seemingly appropriate answers. These skills served him well as a Supreme Court advocate. These same skills, however, did not contribute to a reasonable confirmation process. At the end of the 4 days of hearings, we still know very little more than we knew when we started.

In answer to another question about his views, he stated again:

> I will confront issues in this area as I would confront issues in any area, . . . and that would be to fully and fairly consider the arguments presented and decide them according to the rule of law.

In yet another instance, he proclaimed:

> The responsibility of the judicial branch is to decide particular cases that are presented to them in this area according to the rule of law.

And again:

> I became a lawyer or at least developed as a lawyer because I believe in the rule of law.

The rule of law—everyone in the Senate agrees with that. In fact, we have each taken an oath of office to protect and defend the Constitution, and we take that oath seriously. But it reveals little about how we will vote on the important questions of the day, and what values and ideals we bring to our decisions.

Judge Roberts said that a judge should be like an umpire, calling the balls and strikes but not making the rules.

But we all know that with any umpire, the call may depend on your point of view. An instant replay from another angle can show a very different result. Umpires follow the rules of the game. But in critical cases, it may depend on where they are standing when they make the call.

The same holds true of judges.

As Justice Oliver Wendell Holmes famously stated:

> The life of the law has not been logic; it has been experience.

As Justice Stephen Breyer offered in his confirmation hearing:

> I always think law requires both a heart and a head. If you do not have a heart, it becomes a sterile set of rules, removed from human problems, and it will not help. If you do not have a head, there is the risk that in trying to decide a particular person's problem in a case that may look fine for that person, you cause trouble for a lot of other people, making their lives yet worse.

The rule of law is not some mathematical formula for meting out justice. It is our values and ideals that give it real meaning in the case of the Constitution, not our personal values and ideals but our values and ideals, derived from the meaning of the constitutional text.

We all believe in the rule of law. But that is just the beginning of the conversation when it comes to the meaning of the Constitution. The Constitution of Justice Scalia and Justice Thomas is a very different document from the Constitution of Justice Stevens and Justice Souter. Everyone follows the same text. That is the rule of law. But the meaning of the text is often imprecise. You must examine the intent of the Framers, the history, and the current reality. And this examination will lead to very different outcomes depending on each Justice's constitutional world view. Is it a full and generous view of our rights and liberties and of government power to protect the people, or a narrow and cramped view of those rights and liberties and the government's power to protect ordinary Americans?

Based on the record available, there is clear and convincing evidence that Judge Roberts' view of the rule of law would narrow the protection of basic voting rights. The values and perspectives displayed over and over again in his record cast large doubts on his view of the validity of laws that remove barriers to equal opportunity for women, minorities, and the disabled. His record raises serious questions about the power of Congress to pass laws to protect citizens in matters that they care about.

In fact, there is nothing in the record to indicate otherwise. For all the hoopla and all the razzle-dazzle, the record is no different in its bedrock substance than it was the day the hearings started.

When Senator KOHL and others asked Judge Roberts whether he would disavow any of the positions he took over the years, he refused to do so. On the first day of the hearing, Senator KOHL asked, ''Which of those positions were you supportive of, or are you still supportive of, and which would you disavow?'' in order to try to determine what his views are today. Judge Roberts never provided a clear response.

In the area of voting rights, he has a long and detailed record of strong opposition to section 2 of the Voting Rights Act, which is widely acknowledged by scholars and civil rights experts to be one of the most powerful and effective civil rights laws ever enacted. It outlaws voting practices that deny or dilute the right to vote based on race, national origin, or language minority status—and is largely uncontroversial today. Before it was passed, there had not been a single African American elected since Reconstruction from seven of the Southern States with the greatest of African-American populations.

But in 1981 and 1982, Judge Roberts was one of a small group of attorneys in the Justice Department urging the administration to oppose a strong section 2, which allowed discrimination to be proved by demonstrating its results, not just its intent. Although Judge Roberts sought to characterize his opposition to this critical amendment as simply following the policy of the Reagan administration, the dozens of memos he wrote on this subject show that he personally believed the administration was right to oppose the ''effects test.''

In fact, he pressed to keep others from changing their minds about opposing the law. When the Assistant Attorney General for the Civil Rights Division Brad Reynolds raised concerns about sending the Senate a letter on this issue, John Roberts urged the Attorney General to send it, stating that ''my own view is that something must be done to educate the Senators on the seriousness of this problem. . . .'' Of course, the problem he saw was the amendment, not the discrimination it was designed to end.

He also urged the Attorney General to assert his leadership against the amendment to section 2. He wrote that the Attorney General should ''head off any retrenchment efforts'' by the White House staff who were inclined to support the amendment. He consistently urged the administration to require voters to bear the heavy burden of proving discriminatory intent in order to overturn practices that locked them out of the electoral process.

Judge Roberts clearly knew that his position would make it harder for voters to overturn restrictive voting laws. As he wrote at the time, ''violations of section 2 should not be made too easy to prove. . . .'' That was his quote, remember, when he wrote this there were no African Americans elected to Congress from the States with the largest Black populations, and only 18 in Congress overall. And there were only 6 Latinos in Congress. There is no indication in any of his writings on the Voting Rights Act that he was the least bit troubled by this obvious discrimination.

The year after section 2 was signed into law, Judge Roberts wrote in a memo to the White House counsel that ''we were burned'' by the Voting Rights Act legislation, even though it was signed by President Ronald Reagan.

Given his clear record of hostility to this key voting rights protection, the public has a right to know if he still holds these views. But Judge Roberts gave us hardly a clue.

When I asked him if he holds these views today, he refused to answer. He repeatedly tried to characterize his views as the views of the administration. He declined to say whether he agreed with them—then or now. That answer strains credibility, when the memos themselves declare: ''my own view is that something must be done. . . .''

In fairness, he did concede that he no longer believes that section 2 is, to use his words from the 1980s, ''constitutionally suspect.'' But the fact that it took almost 20 minutes for him to provide this obvious answer to a straightforward yes-or-no question is not reassuring.

Both Senator FEINGOLD and I tried to find out whether he came to agree with the strengthened Voting Rights Act after President Reagan signed it into law.

Even when Senator FEINGOLD asked whether Judge Roberts would acknowledge today that he had been wrong to oppose the effects test, he refused to give a yes-or-no answer.

Senator FEINGOLD asked:

> What I'm trying to figure out is, given the fact that you've followed this issue for such a long time, I would think you would have a view at this point about . . . whether the department was right in seeking to keep the intent test or whether time has shown that the effects test is really the more appropriate test.

Judge Roberts responded:

> I'm certainly not an expert in the area and haven't followed and have no way of evaluating the relative effectiveness of the law as amended or the law as it was prior to 1982.

So we still don't know whether he supports the basic law against voting practices that result in denying voting rights because of race, national origin, or language minority status.

You don't need to be a voting rights expert to say we are better off today in an America where persons of color can be elected to Congress from any State in the country, as opposed to the America of 1982, in which no African American had been elected to Congress since Reconstruction from Mississippi, Florida, Alabama, North Carolina, South Carolina, Virginia, or Louisiana, because restrictive election systems effectively denied African Americans and other minorities the equal chance to elect representatives of their choice. In these States, African Americans were a third or more of the population, but they were effectively blocked from electing any candidate of their choice decade after decade throughout the 20th century.

Yet Judge Roberts repeatedly refused to give even this simple reassurance about the act. Is that what he means by the rule of law?

Another very important area in which Judge Roberts refused to disavow his long history of opposition to civil rights is the prevention of discrimination by recipients of Federal funds. These laws were adopted because, Congress believed, as President Kennedy said in 1963, that ''[s]imple justice requires that public funds, to which all taxpayers . . . contribute, not be spent in any fashion which encourages, entrenches, subsidizes, or results in . . . discrimination.'' As an assistant to Attorney General William French Smith, John Roberts argued that these important laws should be narrowed.

In fact, his position was even more extreme than the Reagan administration's. In 1981, he supported a recommendation to exempt institutions from civil rights laws if the only Federal financial assistance they received was in the form of loans to their students. Under this view, the enormous subsidies the Federal Government

gives to colleges and universities in the form of Federal financial aid would not have been enough to require them to obey the laws against discrimination. Can you imagine that? Those were just the type of things that President Kennedy was addressing. These are the universities, the colleges that are getting all this help and assistance from grants and loans which are essential to the running of it. He said oh, no, we are going to have to look at the other requirements. Because they get all these loans, it is still done meaning they have to conform to the nondiscrimination, title XI, the women, on hiring on race or the disabled. Let me continue.

At many private institutions, financial assistance to students was the only form of Federal aid, so Judge Roberts' suggestion would have left those institutions largely free to discriminate against women, the disabled, and minorities in both education and hiring.

In fact, Judge Roberts's position was so extreme that it was rejected by the Reagan administration and later by the Supreme Court. But in his testimony, Judge Roberts ignored this aspect of his record. He refused even to acknowledge that his past positions had gone beyond the administration's. Instead, he stated repeatedly that he was just doing his job.

He said:

> I was articulating and defending the administration's position. . . . The position that the administration advanced was the one I just described. The universities were covered due to Federal financial assistance to their students. It extended to the admissions office.

That is an accurate statement of the administration's position but the view Judge Roberts advanced in his December 8, 1981, memo was quite different.

I also asked whether he still agreed with the statement he made in 1985, that ''[t]riggering coverage of an institution on the basis of its accepting students who receive Federal aid is not too onerous if only the admissions office is covered. If the entire institution is to be covered, however, it should be on the basis of something more solid than Federal aid to the students.''

Again and again, Judge Roberts refused to say whether he still agrees with those words. He said only, ''Well, Senator, the administration policy was as I articulated it. And it was my job to articulate the administration policy.''

That is no answer at all. I never asked about the policy of the Reagan administration. I asked only whether today, he still believed, or would disavow, his earlier position. Given his repeated refusal to answer, I can only conclude that he still holds those views today, given his failure to respond.

In other words, his position was the following: It really doesn't make a difference, if a university is getting financial aid through grants or through loans, that they can go ahead and discriminate if they are not going to discriminate in the admissions office. So if they do not discriminate in the admissions office, then they can discriminate in the other areas of the university.

That happened to be the holding in the Grove City case. The question was: Was that what the Congress meant when it said we were not going to provide funds and permit any entities to discriminate? The overwhelming majority in the House and the Senate said: That is what we intended. If they are going to get this aid and assistance through college loans and grants, they can't discriminate against women in sports, against hiring of black professors or against the disabled, overwhelmingly.

Not Judge Roberts, no, no. He wanted it program specific.

Say they had 15 in the admissions office, and if they didn't discriminate based on race, disability or against women, it doesn't make any difference what the rest of the university did.

That position was absolutely, completely rejected by the administration and overwhelmingly in a bipartisan way. We asked Judge Roberts now what his position still was on this issue, and we could not get an answer.

In addition, in response to questions from Senator BIDEN, Judge Roberts refused to say he no longer agrees with his former position that laws against discrimination should be narrowly interpreted to apply only in the parts of the institution that directly receive Federal funds. Under this view, a college that received Federal financial assistance through its admissions office could not discriminate in admissions, but it could discriminate in every other aspect of its operations—in hiring teachers, in instructing students, and in athletics. When Senator BIDEN reminded Judge Roberts that he had written in 1982 that he ''strongly agreed'' with this view, Judge Roberts never said he no longer holds that position. Instead he testified under oath, ''So if the view was strongly held, it was because I thought that was a correct reading of the law.'' Is that his view of the rule of law?

Another very important area in which Judge Roberts failed to give any reassurance was his position protecting women and girls against discrimination in educational programs under title IX. In the case of Franklin v. Gwinnett County, in 1991, Judge Roberts argued that title IX did not allow a high school girl who had been sexually abused by her teacher to recover damages. Judge Roberts' argument would have left the victim with no remedy at all.

Senator LEAHY asked him, ''Do you now personally agree with and accept as binding law the reasoning of Justice White's opinion in Franklin v. Gwinnett?'' Judge Roberts replied that, ''It certainly was a precedent of the court that I would apply under principles of stare decisis.''

That answer sounds reassuring, until you realize that Judge Roberts never answered whether he personally agreed with this unanimous decision of the Court.

Senator LEAHY offered Judge Roberts several chances to disavow his position in the Franklin case. He asked, ''Do you now accept that Justice White's position [in Franklin v. Gwinnett County] was right and the government's position was wrong?'' Judge Roberts replied again, ''I certainly accept the decision of the court—the 9 to 0 decision, as you say—as a binding precedent of the court. Again, I have no cause or agenda to revisit it or any quarrel with it.''

That also sounded reassuring, until I recalled that Justice Thomas repeatedly used the same words—''I have no quarrel with it''—to evade answers during his nomination hearing. Justice Thomas testified, for instance that he had ''no quarrel'' with the test established by the Supreme Court in the Lemon v. Kurzman case for analyzing claims under the first amendment's prohibition on the establishment of religion. But just 2 years later, Justice Thomas joined a dissent ridiculing the test and saying it should not be applied, and Justice Thomas has consistently opposed the Lemon test ever since.

I wonder why it was so difficult for Judge Roberts simply to say, ''Yes, in hindsight, I personally believe that Franklin v. Gwinnett was correctly decided, and that victims of intentional sex discrimination in educational programs do have a right to relief under title IX.'' Why was that so difficult an answer for Judge Roberts to give? Could it be that it was contrary to his view of the rule of law?

Judge Roberts's record is also one of consistent and long-standing opposition to affirmative action. In the 1980s, he urged the Reagan administration to oppose affirmative action. In the 1990s, in the administration of the first President Bush, he urged the Supreme Court to overturn a Federal affirmative action program. In private practice in the late 1990s and as recently as 2001, he litigated cases challenging affirmative action. That includes his repeated challenges to the Department of Transportation's disadvantaged business enterprise program, which has been upheld by every court that has reviewed it, and endorsed overwhelmingly by bipartisan majorities in the House and Senate.

On affirmative action, his view of the rule of law seems to be that established court precedents have little meaning, even though they have been found again and again to advance our progress on civil rights.

In 1981, he advocated abolishing race- and gender-conscious remedies for discrimination, although he admitted this position was in ''tension'' with the Supreme Court's opinion in United Steelworkers of America v. Weber, upholding affirmative action in employment—a case that had been decided only 2 years earlier. He wrote that the

administration did not see that opinion—Supreme Court opinion—as a ''guiding principle.''

In the same memos dealing with the Weber decision, Judge Roberts even suggested that the opinion might be overturned because of changes in the Court's composition.

Given his long and consistent opposition to affirmative action, Senators were entitled to seek some reassurance from the nominee that he would not use the power of the Chief Justice to continue his past efforts to end affirmative action.

I asked Judge Roberts:

Do you agree then with Justice O'Connor, writing for the majority, who gave great weight to the real-world impact of affirmative action policies in universities?

He stated:

I can certainly say that I do think that that is the appropriate approach, without commenting on the outcome or the judgment in a particular case. But you do need to look at the real-world impact in this area, and I think in other areas as well.

So he thinks that we should consider real world impact, but he never stated whether he agreed with Justice O'Connor that the University of Michigan case was correctly decided. On that issue, we don't know any more than we did before the hearing.

Senator FEINSTEIN also asked Judge Roberts his views on affirmative action, but he avoided her question as well. She asked, Do you personally subscribe, not to quotas, but to measured efforts that can withstand strict scrutiny?'' Judge Roberts replied, ''A measured effort that can withstand strict scrutiny is . . . a very positive approach.'' Well, that sounds as though he agrees, but then he also said, ''And I think people will disagree about exactly what the details should be.''

When Senator FEINSTEIN stated she specifically wanted to know his view of Grutter v. Bollinger, the University of Michigan case upholding affirmative action, Judge Roberts gave a long—answer that was no answer at all. ''In the Michigan case, obviously, you have I always forget whether it's the law school—but I think the law school program was upheld and the university program was struck down because of the differences in the program. But efforts to ensure the full participation in all aspects of our society by people, without regard to their race, ethnicity, gender, religious beliefs, all those are efforts that I think are appropriate.''

But of course, Senator FEINSTEIN had not asked about efforts to ensure participation without regard to race. She asked his view on a particular affirmative action program at the University of Michigan Law School that took race into account. We still do not know whether he agrees with that important Supreme Court decision. His refusal to tell us is very troubling.

I ask unanimous consent for 5 additional minutes.

Mr. BENNETT. Mr. President, I shall not object, but the junior Senator from Massachusetts is looking for time and we are anxious to get on to the bill. I will not object to the request for an additional 5 minutes, but I hope the Senator could, in fact, finish in that 5-minute time.

Mr. KENNEDY. I will try and do it in a shorter time.

I am also troubled by Judge Roberts' refusal to distance himself from his past criticism of the very important Supreme Court decision Plyler v. Doe that held that the basic principle of equal protection requires all school-age children to have the same access to public education, including the children of undocumented immigrants. In a very real sense, the Plyler decision is as important to the children of undocumented workers as the Brown decision is to African-American children. Yet Judge Roberts strongly criticized the decision. On the day the case was decided, he coauthored a memo criticizing the Solicitor General's office for failing to file a brief, arguing that these children could be denied public education.

Senator DURBIN asked Judge Roberts:

Did you agree with the decision . . . then? Or do you agree with the decision now?

Judge Roberts avoided the question, saying:

I haven't looked at the decision in the Plyler v. Doe in 23 years.

Senator DURBIN asked:

Is this settled law, as far as you are concerned, about our commitment in education . . . ?

Judge Roberts avoided this, saying he had not looked at the case recently, and that when he wrote the memo he was doing his job.

So we are left with nothing to reassure us he has changed his mind from his harsh criticism of that opinion in the past. His many statements of support for the rule of law yield no clue about his true convictions on this important question today.

Finally, a number of my colleagues on the committee asked Judge Roberts about issues related to women's rights, women's right to privacy. On these important matters, too, he never gave answers that shed light on his current views.

No one is entitled to become Chief Justice of the United States. The confirmation of nominees to our courts, by and with the advice of the Senate, should not require a leap of faith. Nominees must earn their confirmation by providing full knowledge of the values and convictions they will bring to the decisions that may profoundly affect our progress as a nation toward the ideal of equality.

Judge Roberts has not done so. His repeated allegiance to the rule of law reveals little about the values he would bring to the job of Chief Justice of the United States. The record we have puts at serious risk the progress we have made toward our common American vision of equality of opportunity for all of our citizens.

Supporting or opposing nominees in the Supreme Court should not be a partisan issue. In my 43 years in the Senate, I have supported more nominees for the Supreme Court by Republican Presidents than by Democratic Presidents, but there is clear and convincing evidence that Judge Roberts is the wrong choice for Chief Justice.

I oppose the nomination. I urge my colleagues to do the same.

Mr. BENNETT. Mr. President, the order now is that we go to the Agriculture appropriations bill. I ask unanimous consent the junior Senator from Massachusetts be allowed to speak for 15 minutes as in morning business.

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

The Senator from Massachusetts.

Mr. KERRY. Mr. President, we all know there are few things the Senate does which are as important as confirming a Supreme Court Justice, let alone the Chief Justice of the United States. We know that making the decision to support or oppose the nomination is both serious and complicated. We do not need to belabor those points.

What we do need to talk about is what kind of process ought to occur, must occur, before a Senator can vote for or against a judicial nominee. What kind of information should be provided? What kind of discourse should we engage in?

I met with Judge Roberts last week. I must say I enjoyed our conversation enormously. He is earnest, friendly, incredibly intelligent, and on a personal level I liked him. He has dedicated his life to the law, has given back to the legal community, and is certainly beyond question a superb lawyer. It may turn out he will be an outstanding Chief Justice. But I can't say with confidence that I know on a sufficient number of critical constitutional issues how he would rule or what his legal approach would be. I have read memos he wrote during the Reagan administration. I have reviewed the limited materials available from his time in the Solicitor General's office, where he worked under Ken Starr, and then in private practice at Hogan and Hartson. I have read the cases he participated in on the DC Circuit. I have listened to as much of the Judiciary Committee hearings as I could and I have reviewed transcripts where I couldn't.

After all of that, I still find something essential is missing, something critical to our democratic process, something to ensure that we have an appropriate understanding of both our courts and our judges and their role in America. That understanding requires a genuine exchange of information and a real development of ideas, similar, in fact, to that which occurs in every argument at the Supreme Court itself or in the appellate courts.

In appellate arguments, judges and Justices question lawyers, probing the depth of their legal arguments, testing their particular legal argument against

the court's, or determining how it fits into their interpretation of the Constitution. They determine how interpretive principles apply and how they can reconcile apparently conflicting arguments. They make a judgment about the consequences of a potential outcome. The result in the end is a better understanding of the record before the court and, hopefully, a principled approach to deciding the case.

Judge Roberts' Judiciary Committee hearings, notwithstanding the efforts of the Chair and many other of the Senators partaking in it, continue an increasingly sterile confirmation process: little genuine legal engagement between the questioners and the questioned, no real exchange of information, and too little substantive discussion. The confirmation exercise has now become little more than an empty shell. People are left guessing, hoping they understand the nominee's positions.

The administration's steadfast refusal to disclose documents Judge Roberts worked on while serving as a Deputy Solicitor General in the first Bush administration has only compounded this problem. They claim disclosure of the documents will violate attorney-client privilege. I find that argument absurd. What client are they trying to protect? The Solicitor General represents the people of the United States of America. He is charged with arguing cases on behalf of all Americans. We were Judge Roberts' client when he worked in the Solicitor General's office. We have a right to know what he thought about the arguments he made on behalf of the American people.

When John Roberts served as a Deputy Solicitor General under Ken Starr, he was intimately involved in critical decisions that office made, such as whether to intervene in a pending case; what legal arguments to advance in support of their position; whether to push for Supreme Court review; what the consequences of those arguments or that action would be; how those arguments fit into their theory of constitutional interpretation, whether those arguments reflect the views of the American people—all of these decisions are critical to an individual's thinking, to their approach to the law, to their understanding of public trust and public responsibility, to their understanding of the Constitution itself. All of these decisions helped to shape how Federal law was applied and how our Constitution was interpreted during that period of time.

The fact is, there are bureaucrats, none of whom take an oath, as we do, to uphold the Constitution, who are aware of the contents of those particular memoranda. Yet we, the Senators, who are constitutionally obligated to give consent to this nominee, still do not know what positions Judge Roberts took, the arguments he made, or the thinking behind those arguments.

For example, the Solicitor General's office decided to intervene in Bray v. Alexandria Women's Health Clinic. That case was brought against abortion clinic protesters during the height of clinic violence and bombings. The plaintiffs argued that protesters were violating a Federal antidiscrimination law by blocking access to clinics and inciting violence. The Government intervened and argued that the Federal antidiscrimination law did not apply and, therefore, could not be used to stop the protesters.

Judge Roberts briefed and argued the case for the Government. I believe the arguments advanced by the Government and the consequences of those arguments are troubling, but what we do not know is even more important: What role did Judge Roberts play in making them? What did he think about that approach? Did he consider the consequences on life, limb, and individual? Did he argue for a more narrow or broad interpretation of the law?

At the same time, the Solicitor General's office intervened in a district court case in Wichita, KS, which raised the same issues that the Supreme Court in Bray was facing. The Government tried to get the district court to lift an injunction put in place to protect the safety of the clinic workers and patients. They argued that the plaintiffs could not win and, therefore, the injunction was improper. The district court denied the Government's request and chastised it for unnecessarily endangering people's lives. Those are the real consequences. We ought to know what kind of thinking, what were the legal approaches to the protection of those individuals' lives.

The question still remains, what role did Judge Roberts have in making that decision? What was the legal reasoning that prompted it? Did he consider the real-life dangers that would result from that legal argument?

The Solicitor General's office is never obligated to intervene in private litigation. There are thousands of cases pending every day like these questions. Why did the Government choose to intervene in those particular cases? And, even more importantly, what role did Judge Roberts have in making that decision?

The administration's refusal to disclose those documents, in my judgment, creates a serious roadblock in the Senate's ability to properly evaluate Judge Roberts. But Judge Roberts' refusal to genuinely engage in the confirmation hearings, answer legitimate questions, or at least shed light on them creates a bigger one.

I understand a Supreme Court nominee cannot answer questions about a case in controversy, cannot answer questions about a case that may well come before him, and I understand that he can't promise to resolve a future case in a particular way. I am not asking him to do that. I don't expect that to be the standard of the hearings.

But that does not mean you can't discuss the principles of decided cases and whether you agree with them. What legal principles do you bring to the job? It doesn't mean you should refuse to disclose an approach to constitutional analysis. It doesn't mean you should do nothing more than recite the status of current Supreme Court case law.

This is not the first time the Supreme Court nominees have refused to engage in that kind of meaningful discourse. Justice Souter refused to answer fundamental questions about his judicial philosophy. For that reason I voted against him at that time. I am happy to say I have been surprised, and pleasantly, that my concerns did not come to pass. Justice Thomas also refused to answer fundamental questions about judicial philosophy. As I said at the time, Justice Thomas found a lot of ways to say ''I don't know'' or ''I disagree'' or ''I cannot agree'' or ''I can't say whether I agree.'' I voted against Justice Thomas because again I didn't know what the end product was going to be. I believe I was correct in making that decision.

At the end of the day I find myself in the same position I was with both of these Justices. Notwithstanding Judge Roberts' impressive legal résumé, I can't say with confidence that I know what specific constitutional approach he believes in or what kind of Chief Justice he will be. Will he protect the civil rights and civil liberties we fought for so long and hard, which he acknowledged in the course of the hearings? Will he support the power of Congress to enact critical environmental legislation? Will he be an effective check on executive branch actions? In my judgment, before you vote for Chief Justice, particularly one who may lead a court for potentially 30 years or more, we ought to know the answers to those fundamental questions. In the case of Judge Roberts, we don't.

For example, I don't know how Judge Roberts will approach cases challenging the power of Congress to enact vital national legislation. I understand that terms such as the ''Commerce Clause,'' ''Section 5 of the 14th Amendment,'' and ''Spending Clause'' don't mean a lot to everybody in the country on a daily basis. But however technical and legalistic the discussion of those terms may be, they are critical to us in our judgments as Senators about how our Government functions. A Justice with a limited view of congressional power will undermine Congress's ability to respond to national problems.

For example, under the commerce clause, Congress can only regulate things that affect interstate commerce. When Congress enacted the Violence Against Women Act in 1996, it made numerous very specific findings about how that violence affected interstate commerce. The Court found those findings insufficient and struck down that piece of legislation.

When asked by Senator SPECTER whether he agreed with the Court in this case, Judge Roberts refused to answer. When asked whether he would

have found similar congressional findings insufficient, Judge Roberts refused to answer. I believe those answers ought to have been forthcoming, particularly when they address how Judge Roberts would interpret Congress's fundamental constitutional powers.

Judge Roberts has shed some light himself on his view of the commerce clause because he wrote about it in a dissenting opinion on the DC Circuit. In Rancho Viejo v. Norton, the so-called ''hapless toad case,'' Roberts suggested that the Endangered Species Act, as applied to the California toads at issue, might be unconstitutional because they had an insufficient connection to interstate commerce.

He also suggested there might be other ways of looking at the case to preserve the act's constitutionality. When asked about it during the hearings, and again personally in my own meeting with him, Judge Roberts did not endorse one view or the other. He gave no sense of how he might interpret Congress's power and its limitations.

While his refusal to completely condemn the Endangered Species Act was obviously somewhat reassuring, at the end of the day, I am left without any real understanding of how he would approach a commerce clause question. I have no idea whether he will undermine Congress's ability to pass needed legislation. I have no idea how he will approach challenges to existing Federal environmental laws, such as the Endangered Species Act. Which of the possible approaches he laid out in Rancho Viejo does he believe is the most correct? This certainly creates a risk I personally am unwilling to accept when voting to confirm the next Chief Justice of the United States.

Another area of great concern to me is obviously the area of privacy, an area where Judge Roberts skillfully answered a lot of questions without giving a hint as to his own position. For example, while Roberts admitted that the Court has recognized that privacy is protected under the Constitution as part of the liberty in the due process clause, he refused to give any indication of what he thought about the Court's most recent decisions.

The furthest he went was to say he had no quarrel with the decisions in Griswold and Eisenstadt, yet this kind of endorsement is not reassuring. In his confirmation hearings, Justice Thomas agreed that the Court had found a constitutional right to privacy. Like Judge Roberts, he also stated he had no quarrel with the Court's holding in Eisenstadt. Yet when he got to the Supreme Court, he disavowed the very rights he had said the Constitution protected.

In fact, more recently in Lawrence v. Texas, Justice Thomas stated he could not ''find [neither in the Bill of Rights nor any other part of the Constitution a] general right of privacy.'' The bottom line is I do not know how Judge Roberts will approach those questions with respect to the fundamental right of privacy.

In addition to what I do not know, what I do know about Judge Roberts also raises issues. I know in the early 1980s, while he worked in the Department of Justice and White House Counsel's Office, Judge Roberts took an active role in advocating on behalf of administration policies that would have greatly undermined our civil rights and liberties.

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

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

Mr. KERRY. Mr. President, may I ask for an additional few minutes? Thank you.

For example, Judge Roberts argued against using the ''effects test'' to determine whether section 2 of the Voting Rights Act was violated. Instead, he believed that an ''intent'' test—requiring proof of a discriminatory motive—should be required, regardless of the fact that many victims of discrimination would be absolutely unable to prove a real discriminatory intent and, therefore, would be unable to enjoy the protections afforded by the act. In some cases, the effect of Judge Roberts' intent test meant that disenfranchised individuals had to prove the motive of long dead officials who had crafted the legislation. Obviously, that is impossible. So he would have set up an unacceptable standard, one that would come between citizens and their constitutionally protected right to fair representation in our democracy.

Judge Roberts also argued that the obligations imposed on educational institutions by title IX should apply only to the specific program that received Federal funding rather than to the whole institution. Again, by limiting the application of an important antidiscrimination law, there is an effect, which is to deny people their constitutional right.

In the area of affirmative action, Judge Roberts argued in favor of limiting race-conscious remedies to instances where individuals were proven to be the victims of identifiable acts of impermissible discrimination.

I realize Judge Roberts took the positions I just described some time ago. I know he told the Judiciary Committee he was simply advocating the views of the administration at the time. But I think those of us who have worked in and around Government for a period of time find it hard to believe that a staffer at Justice or in the White House never wrote a memo that represented some of his views rather than just administration positions, particularly when the theme of those memos is consistent across the board—strict adherence to narrow principles of law despite their real-world impact, and particularly when some of the memos released from this time include acknowledgements by Judge Roberts that his own position failed to prevail in the internal deliberations.

That was certainly true when he argued, unsuccessfully, within the administration that Congress could strip the Federal courts of jurisdiction over abortion and desegregation cases.

I will conclude, Mr. President. I do not want to abuse the Senator's permissiveness here. Let me close with this particular argument.

Judge Roberts' more recent decision to join to Judge Randolph's opinion in Hamdan v. Rumsfeld is important with respect to the security consequences regarding the military and our soldiers. That opinion gave the President unfettered and unreviewable authority to place captured individuals outside the protections of the Geneva Convention. Six retired senior military officials with extensive experience in legal policy, the laws of war, and armed conflict, have filed a friend-of-the-court brief in the Supreme Court, arguing that Hamdan must be overturned immediately because it directly endangers American soldiers. These are the real effects of these rigid applications of law.

I understand that Judge Roberts felt he could not discuss the case while it was pending before the Supreme Court, but even when asked about his views of the scope of executive power unrelated to the Hamdan case, he was evasive. He did little more than describe the Court's current framework for analyzing assertions of executive power.

As a result, I do not know whether he believes that the state of war is a blank check for the President or whether he would closely scrutinize the legality of executive branch actions at all times. Given the fact that the Hamdan decision placed our troops at risk, I am forced to conclude that some of his future decisions might threaten the security of troops abroad and our security at home.

Now, some may argue that Democrats ought to vote for Judge Roberts because he is the best nominee we could expect from the administration. I cannot agree to confirm the next Chief Justice of the United States simply because the next nominee to the Court may be less protective of our fundamental rights or liberties or less dangerous to national security. Frankly, I am not sure how I would make that determination given the limited record before me.

Some may argue that Democrats should vote for Judge Roberts because of his resume. He obviously is qualified in terms of his legal education and litigation experience. But I do not think that should be the test. A Supreme Court Justice needs more qualifications than an impressive legal resume. They need compassion and sensitivity. They need a clarity with respect to their approach to the Constitution. They need an understanding of the consequences of their decisions and how they further democratic traditions.

As a Senator, I am duty bound to consider each nominee as an individual and how he or she will fit into the current Court—the current closely divided

Supreme Court. I have a duty to protect the fundamental rights I believe our Constitution guarantees. I have a duty to preserve the incredible progress that has been made toward the realization of those rights for Americans. I have a duty to safeguard our national security, and to prevent the executive from using war as a blank check to violate both national and international law.

John Roberts will be confirmed. I hope and look forward to decisions that will allay all of my concerns. He may author or join opinions protecting the rights which we hold so dear, and in so doing he may prove all of my concerns to be groundless. I hope so. But the questions I have raised, the absence of critical documents, the lack of clarity surrounding fundamental issues on how he would interpret the Constitution, requires me to fulfill my constitutional duty by opposing his nomination to be the next Chief Justice.

I thank the Chair again, and I thank the Senator for his courtesy.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 2744, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2744) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes.

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

NOMINATION OF JOHN ROBERTS TO BE CHIEF JUSTICE

Mr. BENNETT. Madam President, we are on the Agriculture bill, but the morning has been taken up with discussion of Judge Roberts. I think that is appropriate given the decision of the ranking member of the Judiciary Committee, Senator LEAHY, to support Judge Roberts and to announce that here this morning. That was perhaps unexpected by some of the commentators and, therefore, deserved a little time.

I will take the opportunity, having listened to the junior Senator from Massachusetts, to respond to some of the things he said, not with the understanding that it is going to change anything anywhere but for the satisfaction of getting a few things off my chest.

The Senator complained bitterly, as he and others have done with respect to other nominees, that the memos given to the Solicitor General are not being made public. He did not tell us that every Solicitor General—regardless of party, regardless of administration—who is currently living has agreed with Judge Roberts, with Miguel Estrada, with others who worked in the Office of the Solicitor General, that those memos should, in fact, not be made public.

They are, in fact, covered by the attorney-client privilege. Some say, ''Well, the American people are the client, not the Solicitor General.'' The Solicitor General is the attorney for the American people and has a right to attorney-client privilege within his own staff, as any attorney has for material within that attorney's own office, as if they are representing a private client.

This keeps coming up. It keeps being repeated in the hope that it catches on. We need to always remember that every single Solicitor General who is living—regardless of their party—says that is the bad thing to do. That is the wrong interpretation of the law. The Senator from Massachusetts did not point that out. I think it needs to be pointed out.

He made a reference to the bureaucrats who were involved here who, as he said, have not taken an oath to defend the Constitution as we Senators have. I have been a bureaucrat. I have taken an oath as a bureaucrat to defend the Constitution. Those who serve the United States in these positions are sworn in with the same oath Senators take. It should be made clear those people who took that position and were in that position were, in fact, under oath to defend the Constitution. It demeans them to suggest their actions were any less patriotic or anxious to protect the law than actions of Senators.

I will conclude by quoting from an editorial that appeared in the Los Angeles Times. The Los Angeles Times is not known as a paper supportive of Republican positions. Indeed, it is often thought of as being a companion publication with the New York Times. But the Los Angeles Times says:

It will be a damning indictment of petty partisanship in Washington if an overwhelming majority of the Senate does not vote to confirm John G. Roberts Jr. to be the next chief justice of the United States.

As last week's confirmation hearings made clear, Roberts is an exceptionally qualified nominee, well within the mainstream of American legal thought, who deserves broad bipartisan support. If a majority of Democrats in the Senate vote against Roberts, they will reveal themselves as nothing more than self-defeating obstructionists. . . .

Even if one treats this vote merely as a tactical game, voting against an impressive, relatively moderate nominee hardly strengthens the Democrats' leverage [on the upcoming second nomination].

If Roberts fails to win their support, Bush may justifiably conclude that he needn't even bother trying to find a justice palatable to the center. And if Bush next nominates someone who is genuinely unacceptable to most Americans, it will be harder for Democrats to point that out if they cry wolf over Roberts.

I am not sure that will change anything, but it makes me feel a little better having said it, after listening to the presentations we have heard over the last hour. I congratulate my friend, Senator LEAHY from Vermont, for his courage in standing up to internal pressures and his announcement that he will, following the advice of the Los Angeles Times and others who have examined this, in fact vote to confirm Judge Roberts. This guarantees that we will have a bipartisan vote out of committee, as we should, and that we will have strong bipartisan support here on the floor, as we should.

AMENDMENT NO. 1783

Returning to the Agriculture appropriations bill, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT] proposes an amendment numbered 1783.

Mr. BENNETT. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 173, at the end of the page, insert the following:

''SEC. 7____. (a) Notwithstanding subtitles B and C of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4501 et seq.), during fiscal year 2006, the National Dairy Promotion and Research Board may obligate and expend funds for any activity to improve the environment and public health.

''(b) The Secretary of Agriculture shall review the impact of any expenditures under subsection (a) and include the review in the 2007 report of the Secretary to Congress on the dairy promotion program established under subtitle B of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4501 et seq.).''.

Mr. BENNETT. Madam President, we need a little background on this amendment. It may be controversial. I understand there are some Senators who have opposed it and will be coming to the floor.

It would allow the producers on the National Dairy Promotion and Research Board to vote to fund or not fund the dairy air emission research required under the Environmental Protection Agency's Air Quality Compliance Agreement. This sounds fairly technical. In fact, the money that is available to the board has always been used for particular purposes, and most dairy producers want to make sure that it stays restricted to those purposes. But something has come up that requires research. It has come not from the Department of Agriculture but from the Environmental Protection Agency in a new agreement that affects dairy farmers. And in order to defend themselves against the position taken by the EPA, they need research. They need it now, and they need it badly.

This amendment would allow a one-time use of dairy promotion and research funds to fund the research. Most

dairy farmers are in favor of it. Dairy is the only program that does not have an option for funding its own research. The research will be conducted by Purdue University, according to protocols approved by the EPA. This is not in opposition to EPA procedures. The actual research will be performed by land grant universities in the States identified by the U.S. Dairy Environmental Task Force.

If we assume approval by the board, which would happen if my amendment were adopted, the funds will flow through an oversight organization, again approved by the EPA. The Agriculture Air Research Council, Inc., AARC, will contract with Purdue which will, in turn, contract with the universities in the States where the sites are selected. Dairy funds only will be used to fund the dairy research. AARC's board will include two members from the dairy industry and will monitor and audit the progress of the research and how the funds are spent.

The ultimate goal of all of this research will be to develop air emissions data that can be used in a process model that will allow any dairy farmer in the United States to input his dairy's operation information and find out what his emissions are. The information generated by this research, therefore, will benefit all dairy producers.

The reason is because the EPA has laid down rules with respect to emissions from dairy farmers. Most farmers have no clue as to how many emissions their farm is producing. The EPA has some fairly draconian restrictions to put on dairy farms, if the emissions go above a certain level. So how is a farmer to know whether he is in compliance, if there is no research on how the emissions can be measured? That is the reason we want the research done, and that is the reason farmers will benefit.

I believe Congress never intended the environmental statutes regarding emissions to apply to agriculture. When we talk about emissions, we are talking about smokestacks and automobiles and things that have been created by human beings. Now the EPA has said, no, we must monitor and, where necessary, control the emissions that come from cows. Cows have been generating emissions for a long time, perhaps even before human beings came along. So let's look at it, but let's not have a rule that arbitrarily disadvantages the dairy farmers without giving them an opportunity to know what is going on. That is what is behind this. In order to deal with the EPA regulations, the farmers need to know what is happening with respect to emissions. My amendment would fund a one-time study to give them the information they need. I believe without statutory changes, the courts will continue to rule that the environmental laws do, in fact, apply to dairy farms, and that is an issue for the authorizing committee. It is not something we should deal with on the Agriculture bill. Barring changes to the laws, I believe the collection of these data and the development of an emissions model will provide more certainty to producers.

I ask my colleagues to support this amendment. Those who are opposed have been notified. I understand there are conflicts on both sides of the aisle at this particular moment. I am not sure how many Senators will be able to come down. We are open for business. We are ready for amendments. We are anxious to proceed. I hope my colleagues will accommodate us.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. CRAIG. Madam President, as certainly the Senate knows, we are considering the Senate appropriations bill. There is an amendment that the chairman has brought at the request of the national dairy industry that is of great concern to me. As a result of that, I stand today in opposition to legislation that would seek to divert funds from the National Dairy Promotion Program to be used as a one-time-only source to fund EPA's dairy air quality studies.

While I am wholeheartedly in support of the need for research money to carry out air quality studies, dipping into a program that all producers, large and small, are required to pay into to promote their products does not seem to meet the test of where we want to now reallocate this resource.

The Dairy Production Stabilization Act of 1983 was established to strengthen the dairy industry's position in the marketplace and to maintain and expand domestic and foreign markets and use for fluid milk and dairy products. The act does provide for research dollars to be spent but only on research projects related to the advertisement and promotion of the sale and the consumption of dairy products. So should this act leave the door open as a slush fund available any time a select group needs quick money for a proposed unrelated intent of the law? I would hope not, I would think not, and I am afraid the amendment takes us in that direction.

On September 9, 2005, I and the entire Idaho congressional delegation sent a letter on this issue to Secretary Johanns. I ask unanimous consent that this letter be printed in the RECORD.

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

IDAHO CONGRESSIONAL DELEGATIONS,
September 9, 2005.

Hon. MIKE JOHANNS,
Secretary, U.S. Department of Agriculture, Independence Avenue, SW., Washington, DC.

DEAR SECRETARY JOHANNS: We write to express opposition to a proposal to divert funds from the National Dairy Promotion Program to fund the Environmental Protection Agency's (EPA) dairy air quality studies.

We understand that a proposal has been put forward to provide for a ''one time'' use of National Dairy Promotion Program funds for dairy air quality studies. We support necessary environmental research. However, we share the concern of Idaho dairy producers that this proposal would provide a misdirection of funds that are intended, according to the Dairy Production Stabilization Act of 1983, to be used for dairy promotion and related research and education. In authorizing the program, Congress clearly stated that the assessments were to be used for ''carrying out a coordinated program of promotion designed to strengthen the dairy industry's position in the marketplace and to maintain and expand domestic and foreign markets and uses for fluid milk and dairy products produced in the United States.''

The Act and the Dairy Promotion and Research Order, which implements the program, also defines research to be provided through the fund as ''studies testing the effectiveness of market development and promotion efforts, studies relating to the nutritional value of milk and dairy products, and other related efforts to expand demand for dairy products. ''Therefore, it is clear that the fund is meant to be used for research related to the promotion of dairy products and not for other purposes. If implemented, we are concerned with the precedent the proposal would set toward possible future diversion of these important promotion funds.

The dairy industry, the Administration, Congress, and interested parties must work to find the best ways to fund dairy environmental research that do not jeopardize promotion efforts. Last year, dairy producers in Idaho voted to assess themselves an extra $0.005/cwt. to fund environmental research. This is raising approximately $500,000 per year, enabling the establishment of a broad based research coordination team that includes the State and Regional EPA officials. This effort serves as an example of how the industry is working to enable research, while not compromising promotion.

Thank you for your attention to this matter. We look forward to continuing to work with you to ensure the continued success of U.S. agriculture.

Sincerely,

MIKE CRAPO,
United States Senator.
MIKE SIMPSON,
Member of Congress.
LARRY E. CRAIG,
United States Senator.
C.L. ''BUTCH'' OTTER,
Member of Congress.

Mr. CRAIG. Madam President, Idaho recently became the fourth largest dairy producer in the Nation, and coupled with that new status are our inherent growing pains. Over the past 15 years, Idaho's expansion in the dairy industry has been swift. So has the growth of the State's population. The two have come in conflict with each other over the need for Idaho's dairy industry to be good players in the environmental arena. That is a critical issue, and they have, in most instances, been successful in working out their problems.

Even with the increased pressure of urban encroachment and stringent environmental regulations—and our State has not turned its back on this issue—producers in my State continue to surprise me in their work, in their

innovation, and the progressive thinking as it relates to resolving the environmental problems that I suggested are inherent with large concentrated herd and dairy development that is on going.

Idaho's industry realized a few years ago that it was vital they work collectively to support research to find new technologies and methods to mitigate the impact of the operations on the environment. So in 2004, Idaho dairy producers voted to assess themselves an extra half cent per hundredweight to fund environmental research. In other words, they didn't ask the country to do it, they didn't ask the Nation to do it, they did it themselves. This initiative raised about a half a million dollars per year, enabling the establishment of a broad-based research coordination team that includes Idaho and regional EPA officers.

This effort serves as an example of how the industry ought to be working to solve critical research problems rather than asking us now to dip into a fund that was dedicated to advertisement, promotion, and product development.

I am aware of EPA's work on the livestock ''air consent agreement'' to provide limited immunity from frivolous environmental lawsuits to producers who voluntarily allow EPA to conduct their quality research on their operations. I know that those who support this onetime dollar-dipping have good intentions, and I support all of their intentions fully. I have been working with them for a good number of months on other ways to shape Federal policy on air quality issues. However, asking Congress to allow a one-time-only access to the pool of money never intended for that purpose defies the integrity of the dairy promotion program that has worked so very effectively for now 22 years.

Supporters of this proposal say it would only cost around $5 to $8 million, but if it is that small amount, then if you look at the assessment that Idaho did on themselves, you would suggest that more and more could be raised if other States were to do as Idaho has done. The program assesses all producers to promote the products that these producers all provide to the consumer. The money from the promotion program that some, not all, in the industry now seek would only benefit a specific group of producers—about 1200—for a purpose completely unrelated to the intent of the program. Why should we allow a precedent to be set that robs Peter and the rest of his family to pay Paul? Never mind that this has never been done in the program's history.

Mr. President, again, I would like to express my support for the critical need for Federal investment in air quality and other environmental research programs for the dairy industry, but we should not open the gate to a flood that might never cease from a program that is intended for an entirely different purpose. With that, I will have to oppose the amendment.

Mr. BENNETT. Madam President, I listened to my friend from Idaho with great interest and great sympathy, and if, indeed, we could get all the other dairy producers to follow Idaho's example and put an assessment on themselves in order to come up with this money, I would agree with him this amendment is not necessary. Unfortunately, I believe there is an urgency here. The research needs to be done as quickly as possible, and this seems to be the logical place to which we should go.

I will say to the Senator from Idaho and to my other colleagues the fundamental problem here is not the research. The fundamental problem in my view is the absurdity of the EPA position with respect to the underlying question. That, as I said earlier, is not a matter for the appropriations subcommittee to deal with. It is a matter for the authorizing committee. But I will pledge to my friend from Idaho that to the degree we can have some influence on the EPA's position in conference, I will do everything I can to try to get a little common sense into this regulatory pattern.

With that, Madam President, I call for a voice vote on the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 1783) was agreed to.

Mr. BENNETT. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. BENNETT. Madam President, I suggest the absence of a quorum.

Mr. CRAIG. Madam President, prior to the call of the roll, I wish to thank the chairman of the agriculture appropriations subcommittee for his work on this issue and his cooperation. Certainly, this industry, as it is important to my State, is important to his State. We work very cooperatively together. We have a lot of commonness across State lines as it relates to the dairy industry, and we share a great deal of work and research. I appreciate the urgency of the need as he has expressed it, but I felt it was extremely important that Idaho's position be heard and understood by the rest of the States because this could be done by the industry itself from another resource, not unlike how Idaho has approached it. And I hope that other States would recognize the need to resolve this issue, and I certainly agree with Senator BENNETT that the authorizing committee has a responsibility here and EPA needs to get their act together on this issue.

I yield the floor, noting the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection it is so ordered.

Ms. SNOWE. Mr. President, I ask unanimous consent to proceed in morning business.

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

(The remarks of Ms. SNOWE, and Ms. MILKULSKI pertaining to the submission of S. Res. 246 are located in today's RECORD under ''Submitted Resolutions.'')

Ms. SNOWE. I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I thank the Chair. First of all, I rise to encourage my colleagues to vote for the appropriations bill that is before us. It is the appropriations bill to fund The Department of Agriculture and the Food and Drug Administration. I would like to thank the chairman of the committee, the distinguished Senator from Utah, Mr. BENNETT, as well as the ranking member, for the excellent bill that they have put together, and therefore it warrants our support because it does fund the agricultural needs of our communities, and also funds the Food and Drug Administration.

Mr. President, Maryland is an agricultural State. It might surprise people because usually we are thought of as the home of high-tech research, Johns Hopkins University, the National Institutes of Health, but we are agricultural in soybeans and poultry. Also, we are the proud home of the Food and Drug Administration. We are so proud of the fact that the FDA is in Maryland and that the agency is charged with the mission of food safety and also with the safety of our drugs and our medical devices.

One might ask why is FDA in Agriculture appropriations. Well, because its original mission was food safety. But now it has expanded to the mission of ensuring the safety of our drugs and also of our medical devices.

It is wonderful to have them in the State, these competent people who work very hard putting America first, putting the safety of our people first, and also ensuring that drugs and medical devices move to areas of clinical practice.

But I am telling you I am really worried about what is going on at FDA currently. FDA has always been the gold standard in maintaining drug safety and drug efficacy. Yet today this agency is being politicized and degraded. The current administration has shown a persistent pattern of bringing incompetent leaders into critical positions. We have seen it at FEMA. We have seen it at other agencies. And now it is true at FDA. I see appointments being made on the basis of ideology instead of competency. I have seen people who have worked and devoted their

lives to FDA resigning because they saw science being politicized. I am worried about this.

Now, I voted against the current FDA Director, not because he is not a pleasant man but because there were so many problems under his watch. And they are not getting better. Let's take the situation that occurred in the consideration of something called plan B. Regardless of how you feel about whether plan B emergency contraception should be available over the counter, I think we would all agree that a decision should be made. I understand it is controversial from a cultural standpoint, but the question is was it controversial from a scientific standpoint? Well, delay, delay, delay, delay. Even the head of the FDA recently promised Senators CLINTON and MURRAY that a decision would be made. Guess what happened? What happened was after the scientists made their decision, the Director delayed it because he said: How can we prevent teenagers from getting it? Well, Madam President, you are a mom. You know if we can keep alcohol and cigarettes out of the hands of teenagers, surely the Food and Drug Administration would know how to handle this issue of contraceptives with teenagers. Put it behind the counter. Dr. Susan Wood, the Director of the FDA Office of Women's Health, resigned in protest. Dr. Wood is a distinguished scientist. She is a competent policymaker. She headed up the Office of Women's Health that the distinguished Senator from Maine, Senator SNOWE, and I worked to establish, to be sure that as drugs and clinical devices went through the evaluation, special needs of women would be taken into consideration and also children—another aspect led by our colleague from Ohio, Senator DEWINE.

So this is what Wood's job was. Did she quit because of pay? Did she quit because she got some big job with the pharmaceutical industry? Why did she quit? She quit because, she said, ''after spending the last 15 years to ensure that science forms policy decisions, I can no longer serve when scientific and clinical evidence are being overruled by the leadership.''

Well, she quit. So what happened? Guess who they announced would serve as the acting director of the office last week? They announced a male, a guy, with a background in veterinary medicine. What a dismissive attitude of the Office of Women's Health.

Now, I am not saying a man could not handle that job. He probably would have to work twice as hard to prove himself. But nevertheless, an individual with a background in veterinary medicine in charge of the Office of Women's Health? I admire the veterinarian community. They play a very important role in our community. They are respected. They are admired. They have sophisticated training. But I do not believe, as we are looking at the impact of a drug on pregnancy, or of postmenopausal women that someone with a background in veterinary medicine should be in charge.

Guess what. Advocates and scientists pounded the table, and they put someone else in charge. And the FDA doesn't even have the guts to stand up for the immediate appointment it made. It backed off, saying: Oh, we never announced his appointment. However a lot of people have that e-mail. I do not know the qualifications of the new acting director, but we are not heading in a good direction.

I want FDA to be the gold standard on safety and efficacy. There are many countries around the world that are poor. They rely on what is approved by FDA because they could never afford to have an FDA. Doctors in clinical practice rely on the FDA to tell them what is a good and safe drug, or what is a good and safe medical device, or an effective device. This is phenomenal. I had the benefit of this myself. I wore a heart monitor, invented in the United States of America, that could tell my doctor whether the drugs they were giving me controlled a condition of arrhythmia that I have. It was wonderful to know it had been approved by FDA, that it could tell me if what I was doing was safe, and could give advice to my physician on how best to treat me. This is what we want the FDA to be able to do.

We have a lot of problems. Look what is happening. We know what happened to Vioxx, out there prematurely, or with data withheld. We have all of these questions.

If you want to worry about teenagers, let's worry about antidepressants. I worry they can get antidepressants faster than they can get plan B. That is up to parents and others to control. But these antidepressants have had a very negative and dangerous effect on some teenagers. Where was FDA?

Now we have these implantable defibrillators that can go into your body, wonderful devices that can jumpstart a heart. But guess what. They are found to have short circuits. The manufacturer knew about it, FDA knew about it, and they took no action on this. What is happening to our FDA?

I have fought for the right resources, I fought for the right legislative framework for FDA, and I am going to fight for the right leadership.

I wish Dr. Crawford would, No. 1, take charge of his agency. I am not calling for his resignation today, though he has to think about what he is doing over there. He cannot continue to politicize this agency. I am saying to him now that if he continues to politicize it, we will have to look at further action. I believe he is a decent person, but either he is getting direction from somewhere else or he has lost direction. This is meant to be a scientific agency, standing sentry over the safety of our food supply, doing the necessary evaluations as to whether a drug should come into clinical practice, and making decisions about whether a medical device can be safe and reliable and be the tool it was supposed to be, such as the one I had the benefit from.

So I say let's support the appropriations, let's make sure they have the right resources, but I sure in heck want them to have the right leadership so we can come to the right conclusions, and people all over the world—doctors, clinicians, and the American people can rely on FDA. I want to rely on FDA for science and not politics.

I yield the floor.

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

NOMINATION OF JOHN ROBERTS

Mr. BINGAMAN. Mr. President, I rise today to state my intention to support the nomination of John G. Roberts to be the next Chief Justice of the U.S. Supreme Court.

He has the experience, judicial temperament, and qualifications necessary to be Chief Justice, and his testimony before the Senate Judiciary Committee has given me reason to believe he is not an ideologue and that he will make decisions based on sound legal reasoning that is within the mainstream of judicial thought in this country. I do not believe that he has an agenda to reverse our Nation's historic commitment to civil rights, and I take him at his word when he says that he will take each case on its facts and apply the law regardless of his personal views. It is for these reasons that I intend to vote in favor of Judge Roberts' nomination.

Many people have raised legitimate concerns about views that Judge Roberts expressed in the past. As a 26-year-old staff attorney in the Reagan White House Counsel's Office, Roberts wrote a series of memos that raised concerns about his commitment to civil rights. At his confirmation hearing he said that he no longer held certain views and it was important to distinguish between his personal views and those of an advocate seeking to uphold the policies of his client.

Due to the limitations the Senate faced in obtaining documents, in making my decision I had to primarily rely on Judge Roberts' testimony before the Judiciary Committee. The assurances he provided in his testimony give me what I believe is a reasonable expectation regarding how he will approach cases if placed on the Court. I would like to take a moment to briefly discuss some of these expectations that I believe are reasonably based on what he said at that set of hearings.

First, Judge Roberts repeatedly stressed that he respects the rule of law and recognizes the importance of considering stare decisis in the decision making process. I agree that looking to settled precedent should always be the starting point in this process. It is essential that the decisions of the Supreme Court provide reliable guidance to the American people, Congress, and the executive branch, and I believe that the whimsical reinterpretation of settled law is not in the best interest of our Nation. Based on the answers that

Judge Roberts gave, I believe it unlikely that Judge Roberts will chart a new right-wing course for the Court based on his own personal views. His answers indicate that he will apply the law in a fairminded way and that he will afford longstanding precedent adequate deference.

Second, when asked about whether the Constitution contains a right to privacy, which provides the legal basis for a woman's right to choose and the use of birth control, Judge Roberts made clear that he believed that it did. He stated clearly that the right to privacy was protected by the ''liberty'' due process clauses of the fifth and fourteenth amendments. More importantly, Judge Roberts asserted that the right to privacy conferred under the Constitution was a substantive and not merely a procedural right. This view is in stark contrast to that of Justice Scalia, who has argued for a strict constructionist interpretation of the Constitution and believes the right to privacy is an artificial construct that lacks any foundation in the Constitution.

Third, Judge Roberts also distinguished his views from those who see Constitution as a static document and only recognize recourse to the ''original'' intent when interpreting it. I believe strongly that the Constitution was intended to be a living document, and that we must have a constitution that is able to address the challenges and adversities that we face as a modern society. When our country was founded we were living in very different times, and it is important that our Constitution reflect the new world we are living in. In his testimony, Roberts noted that although it was impermissible to contradict the plain text of the Constitution, where the Constitution uses general terms, such as ''liberty'' or ''equal protection,'' it is acceptable to interpret the text in light of today's notions of liberty and equal justice, not just those concepts as they were contemplated in 1787.

Fourth, with regard to recent Supreme Court decisions that have restricted the ability of Congress to enact certain laws pursuant to the commerce clause, Roberts' answers indicated a willingness to interpret these cases in the context of the overwhelming jurisprudence supporting Congressional authority in this area. Further restrictions on the power of Congress to legislate under the commerce clause could have profound implications concerning the ability of Congress to pass laws with respect to the environment, civil rights, and many of the basic advancements we made during the Warren court.

In addition, Judge Roberts also specifically rejected the tenets of the Supreme Courts' 1905 decision in Lochner v. New York, which drastically curtailed the ability of Congress to pass critical workers' rights legislation, such as wage and child labor laws. Of course this decision has since been overruled, but some jurists nominated by President Bush, Judge Janice Rogers Brown, have advocated that the decision was correctly decided.

There is one other issue that I would like to discuss. Some of the most challenging issues that the Supreme Court will likely face over the next decade will involve how we balance civil liberties with the need to confront terrorism. The President has asserted tremendous authority in this area, including the right to indefinitely detain a U.S. citizen that he unilaterally deems an ''enemy combatant.'' The Court will have to decide issues involving the detention of suspected terrorists, due process rights, constraints regarding the use of torture, and many other questions that will define our commitment to longstanding principles of civil rights and civil liberties. During the hearings, Judge Roberts rejected the Supreme Courts' decision in Korematsu, which upheld the mass detainment of Japanese Americans during World War II. Although this decision is a sad part of our history, in a technical sense it is still legally binding. Judge Roberts' complete rejection of this approach gives me hope that he understands that governmental powers are not without limit in times of war.

When asked whether he considers himself in the mold of Justices Scalia or Thomas, Judge Roberts stated clearly that he would be his own man. As I have stated, I expect that Judge Roberts will afford adequate deference to Congress, will follow longstanding precedent, and will apply the law in a fair and straightforward way. It is my hope that Judge Roberts will uphold these expectations.

TEAM NUTRITION

Mr. President, I now speak on a different issue. This is in relation to an amendment I have filed on the current pending legislation, the Agriculture appropriations bill. I will not offer that amendment at this point because we are still in discussions with the bill's manager and the ranking Democrat and their staffs to see if we can find an appropriate offset for this amendment. It is one I offer with Senator LUGAR as my cosponsor. I believe it is a very important amendment. It is an amendment to provide $10 million in additional funding to expand and develop new team nutrition programs across the country.

Senator LUGAR and I offer this amendment in light of the growing and profound evidence that our Nation must confront what both the Department of Agriculture and the Department of Health and Human Services refer to as our ''growing epidemic of childhood obesity.''

As Eric Bost, the Under Secretary for Food, Nutrition, and Consumer Services, testified before Congress in April of this year:

> Nearly 365,000 deaths a year are related to poor diet and physical inactivity; poor diet and inactivity are the second leading cause of preventable death after smoking.

He added:

> In the past 20 years the percentage of children who are overweight has doubled and the percentage of adolescents who are overweight has more than tripled. If we do not stem this tide, this may be the first generation of children who will not have a longer life expectancy than their parents.

According to a 2005 Institute of Medicine report, there are approximately 9 million children nationwide over the age of 6 who are considered obese, resulting in increases in children being diagnosed with type II diabetes and hypertension. In addition to the negative effects on the health and well-being of these children, the rise in childhood obesity has a profound economic cost for our country.

Between 1979 and 1999, obesity-associated hospital costs for children between the ages of 6 and 17 more than tripled, according to a study published in Children Pediatrics. To combat this, the administration has launched an initiative it refers to as part of its larger healthier U.S. initiative. It is called the Healthier U.S. School Challenge, which is focused on helping children live longer, better, and healthier lives.

Secretary Ann Veneman and the U.S. Department of Agriculture announced in July of this year:

> The school challenge builds upon the Team Nutrition Program and recognizes schools that achieve nutrition and physical activity standards.

The School Challenge and Team Nutrition requires schools to do essentially five things: One, to serve national school lunch meals that are verified to meet nutrition standards; second, to offer nutrition education, which is the purpose of the amendment Senator LUGAR and I are offering; third, to maintain national school lunch participation above certain levels; fourth, to offer physical activity for students in those schools; and fifth, to ensure that all foods offered through the school meet healthy standards as reflected in the dietary guidelines for Americans.

Although there are 28,000 schools nationwide that are participating as of October of last year as Team Nutrition schools, that is far from adequate. There are way too many schools that are not participating that should be participating. In fact, these programs are chronically underfunded. Team nutrition has once again been proposed by the administration, and in the current spending bill before the Senate the proposed funding is $10 million. This is equivalent to 21 cents per year for every child in public school in this country. There is nobody who could credibly argue that 21 cents per child per year is an adequate funding level for nutrition education. Unfortunately, the $10 million that has been proposed this year for funding in this program is what was proposed last year. It is what was proposed the year before. Essentially, we are on auto pilot in the Department of Agriculture with regard to this program. There is no effort to

move ahead and deal with the very real, new challenges we have in trying to teach nutrition to the young people of this country.

Furthermore, there is not a single set of funding in over half of the States in the country as Team Nutrition dollars are only going to 21 States. Unfortunately, New Mexico is one of those States and is not able to participate in Team Nutrition at any level because the funding is so inadequate.

Today, one in seven young people is obese in this country; one in three is overweight. Obese children are twice as likely as nonobese children to become obese adults. Only 2 percent of children consume a diet that meets the five main recommendations of a healthy diet from the food guide pyramid that is published by the Secretary of Agriculture, and three out of four children in the United States consume more saturated fat than is recommended in the dietary guidelines for Americans published by the Secretary of Agriculture.

We need to support any effort we can to curb this growing obesity problem. We need to support making our children healthier today by teaching them and the adults in their lives about the importance of healthy eating habits and physical activity.

I urge the support of my amendment and Senator LUGAR's amendment. As I indicated, we will not call it for consideration or a vote at this time, but hope we are able to find an appropriate offset and get agreement to add this amendment to the legislation.

I would argue, I think without any reservation, that this is a small investment. It is a first step, but it is an important step we should be making as a Nation to confront the profound and growing problem many children in our society face.

I yield the floor.

Mr. MCCONNELL. 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. Without objection, it is so ordered.

Mr. BURNS. Mr. President, we understand in the House bill there is one section that deals with the country-of-origin labeling. This has been one of the most heated debates we have had in the livestock industry. It seems like it comes up every year.

In 2002, a mandatory country-of-origin labeling law was passed in the farm bill. I remind my colleagues it is the law of the land. It was signed into law. USDA was directed to start writing the administrative rules that all meat being imported into the United States have a label on it and also that meat domestically produced would also have a label saying: ''Made in the U.S.A.'' That was in 2002. That was 3 years ago. We have gone through this debate, and I know sometimes it gets carried away and is very emotional. I understand in the House bill there is another delay in putting the rules into effect.

Now, whether you agree or do not agree with the mandatory law, it is the law of the land. This old business of delay and delay and delay does not do anything for our beef or pork producers because there is no consistency in the law. They do not know what to expect and what to do.

In Montana, my producers are tired of waiting. The USDA published a proposed rule on mandatory country-of-origin labeling on October 27, 2003.

The public had a chance to comment. In fact, they even extended the comment period to give folks extra time to weigh in on this important issue. Three years have gone by, and here we are—no progress on labeling. This is unacceptable. The Department needs to publish a final rule, and they need to do it now. It is long past time to implement country-of-origin labeling. It is the law of the land. If you don't like the law, then repeal the law. But let's move on. At a minimum, at least let us take a look at the rule. Congress voted to delay COOL once already, and the anti-COOL forces are at it again. But we don't know what the labeling requirements will look like. So the USDA needs to act and to take a leadership role, and it needs to be published.

My producers in Montana will not tolerate another day of delay in this important program. We need to get it done, and it needs to be done right. And it needs to be mandatory. If Congress votes to make COOL voluntary, they may just as well repeal the law because voluntary COOL, or country-of-origin labeling, will not work.

In October of 2002, the Secretary did publish guidelines for a voluntary labeling program. Any retailer who chose could begin labeling their products. There is a lot of misconception and misinformation. Some would contend that if we have a mandatory labeling law, that would take precedence over a marketing label. In other words, if you wanted to label beef as certified Angus beef, they couldn't do that. Sure, they can do that. They can do it as long as it is domestically produced, and the vast majority of it is, or any other marketing tool that a State should have or that a product should have can still be published, but we have to have a label USA.

Since we put it off and the voluntary rule has been in effect, I wonder if anybody knows how many people took advantage of that voluntary program. It doesn't take long to count them: zero, none, zilch. Some of my friends say before we mandate a program, let's try making it voluntary. Well, we tried that. It has been a 3-year period. Nobody has used it. Nobody participated in a voluntary labeling program. Now it is time to shift the balance of power to the world of agricultural marketing.

Overwhelmingly, the folks who support country-of-origin labeling are small cow/calf producers. These are the people who work hard every day to raise healthy calves, produce a product, highest quality beef in the world. They take a lot of pride in their products. They want consumers to know that their beef was made in America, made in the good old USA. But they don't have a whole lot to say about this decision, though, because after they sell their calves, they go to a feedlot, and from the feedlot they go into processing. From processing they go into the retail channels. Somebody doesn't want to say this is a product of the USA. Costly, have to trace, herd ID—all of those things, yes, there will probably be a little work to it. But labeling is no more than putting the label on of their own logo. It is time we did it.

Cow/calf people right now have not had much luck in sharing our pride with our product. That is why Congress must act. Congress has acted. We have passed mandatory COOL 2002. It is the law of the land. That is the way it should be. Yet every year when Congress takes up Agriculture appropriations, we face another attempt on the part of some to prevent cattle producers from marketing their products as U.S. origin. What I am saying today is; enough is enough. Congress passed the law. Let's implement it. Producers are tired of waiting around. If you don't like the law, then repeal the law. But don't keep us in this limbo of standing here and waiting for something to happen, knowing that it never will.

I know we will try and deal with this, whether it be on the Senate floor—I would probably prefer not because the chairman of the Agriculture appropriations said maybe this is a time that we should have a little scrap in conference, and that is where I think it should be done. I trust his judgment on that. But, nonetheless, I want everybody to know—and I want the House of Representatives to know—that this is irresponsible. You passed that law just like we did. If you didn't like the law, then for goodness' sake, stand up and have nerve enough to repeal it. But if it is not repealed, let's implement it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

AMENDMENTS NOS. 1803, 1804, AND 1805, EN BLOC

Mr. BENNETT. Mr. President, I send to the desk a series of cleared amendments and ask that they be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT] proposes amendments numbered 1803, 1804, and 1805, en bloc.

Mr. BENNETT. These amendments have been cleared on both sides. I ask for their approval by voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendments.

The amendments were agreed to, as follows:

AMENDMENT NO. 1803

At the appropriate place in the bill, insert the following new paragraph:

''SEC. . Section 274(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1324(a)(1)) is amended by adding at the end the following:'' (C) It is not a violation of clauses (ii) or (iii) of subparagraph (A), or of clause (iv) of subparagraph (A) except where a person encourages or induces an alien to come to or enter the United States, for a religious denomination having a bona fide nonprofit, religious organization in the United States, or the agents or officers of such denomination or organization, to encourage, invite, call, allow, or enable an alien who is present in the United States to perform the vocation of a minister or missionary for the denomination or organization in the United States as a volunteer who is not compensated as an employee, notwithstanding the provision of room, board, travel, medical assistance, and other basic living expenses, provided the minister or missionary has been a member of the denomination for at least one year.

AMENDMENT NO. 1804

On page 170 strike Section 767 and replace it with the following new paragraph:

''SEC. . Notwithstanding any other provision of law, none of the funds provided for in this or any other Act may be used in this and each fiscal year hereafter for the review, clearance, or approval for sale in the United States of any contact lens unless the manufacturer certifies that it makes any contact lens it produces, markets, distributes, or sells available in a commercially reasonable and non-discriminatory manner directly to and generally within all alternative channels of distribution: Provided, That for the purposes of this section, the term 'manufacturer' includes the manufacturer and its parents, subsidiaries, affiliates, successors and assigns, and 'alternative channels of distribution' means any mail order company, Internet retailer, pharmacy, buying club, department store, mass merchandise outlet or other appropriate distribution alternative without regard to whether it is associated with a prescriber: Provided further, That nothing in this section shall be interpreted as waiving any obligation of a seller under 15 USC 7603: Provided further, That to facilitate compliance with this section, 15 USC 7605 is amended by inserting after the period: ''A manufacturer shall make any contact lens it produces, markets, distributes or sells available in a commercially reasonable and non-discriminatory manner directly to and generally within all alternative channels of distribution; provided that, for the purposes of this section, the term 'alternative channels of distribution' means any mail order company, Internet retailer, pharmacy, buying club, department store, mass merchandise outlet or other appropriate distribution alternative without regard to whether it is associated with a prescriber; the term 'manufacturer' includes the manufacturer and its parents, subsidiaries, affiliates, successors and assigns; and any rule prescribed under this section shall take effect not later than 60 days after the date of enactment.''

AMENDMENT NO. 1805

At the appropriate place in the bill, insert the following new paragraph:

''SEC. . The Federal facility located at the South Mississippi Branch Experiment Station in Poplarville, Mississippi, and known as the ''Southern Horticultural Laboratory'', shall be known and designated as the ''Thad Cochran Southern Horticultural Laboratory'': Provided, That any reference in law, map, regulation, document, paper, or other record of the United States to such Federal facility shall be deemed to be a reference to the ''Thad Cochran Southern Horticultural Laboratory''.

AMENDMENT NO. 1752, AS MODIFIED

Mr. BENNETT. Mr. President, I ask unanimous consent that notwithstanding the adoption of amendment No. 1752, the amendment be modified with the changes at the desk.

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

The amendment, as modified, is as follows:

On page 173, after line 24 insert the following:

''SEC. . The Secretary of Agriculture may establish a demonstration intermediate relending program for the construction and rehabilitation of housing for the Mississippi Band of Choctaw Indians: *Provided*, That the interest rate for direct loans shall be 1 percent: *Provided further*, That no later than one year after the establishment of this program the Secretary shall provide the Committees on Appropriations with a report providing information on the program structure, management, and general demographic information on the loan recipients.''

AMENDMENTS NOS. 1806 AND 1807

Mr. BENNETT. Mr. President, there are cleared amendments at the desk, one from Senator KYL and one from Senator LEAHY. I ask unanimous consent that they be agreed to and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. KYL, proposes an amendment numbered 1806.

The Senator from Utah [Mr. BENNETT], for Mr. LEAHY, proposes an amendment numbered 1807.

The PRESIDING OFFICER. Without objection, the amendments are agreed to en bloc.

The amendments were agreed to, as follows:

AMENDMENT NO. 1806

(Purpose: To convey title in certain real property)

On page 173, after line 24, insert the following:

SEC. 7_____. As soon as practicable after the Agricultural Research Service operations at the Western Cotton Research Laboratory located at 4135 East Broadway Road in Phoenix, Arizona, have ceased, the Secretary of Agriculture may convey, without consideration, to the Arizona Cotton Growers Association and Supima all right, title, and interest of the United States in and to the real property at that location, including improvements.

AMENDMENT NO. 1807

(Purpose: To direct the Secretary of Agriculture to submit to Congress a report on whether to restore the National Organic Program)

On page 173, after line 24, insert the following:

SEC. 7_____. The Secretary of Agriculture shall—

(1) as soon as practicable after the date of enactment of this Act, conduct an evaluation of any impacts of the court decision in Harvey v. Veneman, 396 F.3d 28 (1st Cir. Me. 2005); and

(2) not later than 90 days after the date of enactment of this Act, submit to Congress a report that—

(A) describes the results of the evaluation conducted under paragraph (1);

(B) includes a determination by the Secretary on whether restoring the National Organic Program, as in effect on the day before the date of the court decision described in paragraph (1), would adversely affect organic farmers, organic food processors, and consumers;

(C) analyzes issues regarding the use of synthetic ingredients in processing and handling;

(D) analyzes the utility of expedited petitions for commercially unavailable agricultural commodities and products; and

(E) considers the use of crops and forage from land included in the organic system plan of dairy farms that are in the third year of organic management.

AMENDMENT NO. 1808

Mr. BENNETT. Mr. President, there is an amendment from Senator FEINGOLD at the desk which I would like to call up and have a voice vote on at this time.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. FEINGOLD, proposes an amendment numbered 1808.

The amendment is as follows:

(Purpose: To direct the Administrator of the Animal and Plant Health Inspection Service to publish uniform methods and rules for addressing chronic wasting disease)

On page 173, after line 24, insert the following:

SEC. 7_____.(a) Not later than 90 days after the date of enactment of this Act, the Administrator of the Animal and Plant Health Inspection Service (referred to in this section as the ''Administrator'') shall publish in the Federal Register uniform methods and rules for addressing chronic wasting disease.

(b) If the Administrator does not publish the uniform methods and rules by the deadline specified in subsection (a), not later than 30 days after the deadline and every 30 days thereafter until the uniform methods and rules are published in accordance with that subsection, the Administrator shall submit to Congress a report that—

(1) describes the status of the uniform methods and rules; and

(2) provides an estimated completion date for the uniform methods and rules.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1808) was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The journal clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1809

Mr. BENNETT. Mr. President, there is an amendment at the desk offered by

Senator MCCONNELL which I would like to call up for consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. MCCONNELL, proposes an amendment numbered 1809.

The amendment is as follows:

(Purpose: To provide for livestock assistance)

On page 173, after line 24, insert the following:

SEC. 7_____.(a) In carrying out a livestock assistance, compensation, or feed program, the Secretary of Agriculture shall include horses within the definition of ''livestock'' covered by the program.

(b)(1) Section 602(2) of the Agricultural Act of 1949 (7 U.S.C. 1471(2)) is amended—

(A) by inserting ''horses'', after ''bison''; and

(B) by striking ''equine animals used for food or in the production of food,''.

(2) Section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106-387; 114 Stat. 1549A–51) is amended by inserting ''(including losses to elk, reindeer, bison, and horses)'' after ''livestock losses''.

(3) Section 10104(a) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 1472(a)) is amended by striking ''and bison'' and inserting ''bison, and horses''.

(4) Section 203(d)(2) of the Agricultural Assistance Act of 2003 (Public Law 108-7; 117 Stat. 541) is amended by striking ''and bison'' and inserting ''bison, and horses''.

(c)(1) This section and the amendments made by this section apply to losses resulting from a disaster that occurs on or after July 28, 2005.

(2) This section and the amendments made by this section do not apply to losses resulting from a disaster that occurred before July 28, 2005.

Mr. BENNETT. Mr. President, I ask that the amendment be agreed to with a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1809) was agreed to.

Mr. BENNETT. I ask unanimous consent that the motion to reconsider be laid upon the table.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The journal clerk proceeded to call the roll.

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

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

COUNTRY OF ORIGIN LABELING

Mr. THOMAS. Mr. President, I come to the floor to talk about part of the Senate bill that has to do with the identification of livestock products and the country of origin labeling. This is an issue we have talked about for some time and one that I think is very important. It is important to my State and to livestock producers there.

Country of origin labeling is a very simple thing: When you go into the store to buy a package of meat, it says on there where it comes from. That is not a unique idea. We do it on T-shirts and jackets and everything else and often many other foods. I think people would like to know, and have the right to know, where that product comes from.

Country of origin labeling actually was put on the Agriculture bill about 3 years ago, I believe. I was one of the original sponsors of the amendment that put it on the Agriculture bill in 2002, as a matter of fact. It has been around since. It simply says that consumers have the right to know what was the origin of this particular product that they are buying. It can be done by identifying the product as it comes off the farm or range and following it through the process. It does not require the same thing for hamburger or mixed food, which would be very difficult.

I believe most consumers support mandatory labeling and many nations require it on many kinds of foods and other products, including the United States. But this bill, even though it passed originally, has been postponed several times. I think there is something to that effect in the House appropriations bill now. It is time we do it. We ought to come to the snubbing post and get something done. It can be done. It has been done other places. I think there is support for doing it.

There is labeling of fish, shellfish, and other foods, and that appears to be working. As I said, it has been delayed more than once, and I think the idea is it would be put in place in 2006.

I am asking, as we bring this bill to completion and come on to working with the House in the conference, that we make sure we allow this bill, that has been passed and approved by the House and the Senate in the past, to go on and become law.

I will not take a great deal more time. I wish to point out it is something, No. 1, that can be done; No. 2, that there has been support for doing it. What we have done is kept postponing doing it. There are some people, some of the retailers and so on, who do not want to have to go to the trouble. But I think the process, for the consumers, is a good idea. People should have the right and they have the desire, I believe, to know the source of the product that they and their family are going to consume. I ask, as we go forward with this bill, we should keep that in mind and seek to complete this whole action, allowing it to move forward.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENTS NOS. 1786, 1800, 1785

Mr. BENNETT. Mr. President, I understand that there are three amendments at the desk; one offered by Senator GORDON SMITH, one offered by Senator JOHN MCCAIN, and one offered by MAX BAUCUS.

I ask these amendments be called up and considered en bloc. They are amendments No. 1786, for Senator SMITH; No. 1785, for Senator MCCAIN; and No. 1800, for Senator BAUCUS.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

The clerk will report.

The legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT] proposes amendments numbered 1786, 1800, and 1785, en bloc.

Mr. BENNETT. I ask unanimous consent that the amendments be agreed to.

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

The amendments were agreed to, as follows:

AMENDMENT NO. 1786

(Purpose: To allow the Secretary to authorize the use of certain funds that would otherwise be recaptured under the rural business enterprise grant program)

On page 173, after line 24, insert the following:

SEC. 7_____. With respect to the sale of the Thermo Pressed Laminates building in Klamath Falls, Oregon, the Secretary of Agriculture may allow the Klamath County Economic Development Corporation to establish a revolving economic development loan fund with the funds that otherwise would be required to be repaid to the Secretary in accordance with the rural business enterprise grant under section 310B(c)(1)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(c)).

AMENDMENT NO. 1800

(Purpose: To express the sense of the Senate regarding public sector funding of agricultural research and development)

On page 173, after line 24, insert the following:

SEC. 7_____.(a) The Senate finds the following:

(1) Research and development have been critical components of the prosperity of the United States.

(2) The United States is entering an increasingly competitive world in the 21st century.

(3) The National Academy of Sciences has found that public agricultural research and development expenditures in the United States were the lowest of any developed country in the world.

(4) The Nation needs to ensure that public spending for agricultural research is commensurate with the importance of agriculture to the long-term economic health of the Nation.

(5) Research and development is critical to ensuring that American agriculture remains strong and vital in the coming decades.

(b) It is the sense of the Senate that, in order for the United States to remain competitive, the President and the Department of Agriculture should increase public sector funding of agricultural research and development.

AMENDMENT NO. 1785

(Purpose: To express the sense of the Senate regarding funding directives contained in H.R. 2744 or its accompanying report)

On page 173, after line 24, insert the following:

SEC. 7_____. SENSE OF THE SENATE.

(a) FINDINGS.—The Senate finds the following:

(1) In a time of national catastrophe, it is the responsibility of Congress and the Executive Branch to take quick and decisive action to help those in need.

(2) The size, scope, and complexity of Hurricane Katrina are unprecedented, and the emergency response and long-term recovery efforts will be extensive and require significant resources.

(3) It is the responsibility of Congress and the Executive Branch to ensure the financial stability of the nation by being good stewards of Americans' hard-earned tax dollars.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that any funding directive contained in this Act, or its accompanying report, that is not specifically authorized in any Federal law as of the date of enactment of this section, or Act or resolution passed by the Senate during the 1st Session of the 109th Congress prior to such date, or proposed in pursuance to an estimate submitted in accordance with law, that is for the benefit of an identifiable program, project, activity, entity, or jurisdiction and is not directly related to the impact of Hurricane Katrina, may be redirected to recovery efforts if the appropriate head of an agency or department determines, after consultation with appropriate Congressional Committees, that the funding directive is not of national significance or is not in the public interest.

AMENDMENT NO. 1785

Mr. MCCAIN. Mr. President, this sense-of-the-Senate amendment is nearly identical to the amendment that was adopted unanimously last week during debate on the Commerce-Justice-Science appropriations bill. It is another attempt to reign in wasteful spending, particularly during this time when portions of our country along the gulf are enduring the devastating impact of Hurricane Katrina—indeed, a national tragedy.

As our Nation continues to manage the aftermath of Hurricane Katrina, the Congress and the administration must do what it can to help the hundreds of thousands of victims of one of the worst natural disasters in our history. And now, another hurricane is gaining momentum which could cause even more serious destruction to the region.

The costs of the recovery and relief effort will be enormous. We have already appropriated more than $62 billion, and that is likely a mere down-payment on the yet to be determined total expenditures that will be required. Indeed, we live in times of great need and limited resources.

Americans are being called to sacrifice, and so many are selflessly contributing what they can to the recovery efforts—they are donating money, opening their homes, or offering other useful assistance. Congress needs to do its part too. To the extent that it is possible, we should pay for this effort now rather than pass on even more debt to future generations. We should also make better use of taxpayers' money by eliminating wasteful spending, and that is what this amendment is about.

This year's Agriculture appropriations bill, and particularly its accompanying report, contain numerous questionable earmarks, the majority of which warrant further review, particularly given the circumstances that have arisen since the bill was reported by the Appropriations Committee in July.

Here are just a few examples: $2,000,000 for the National Sheep Industry Improvement Center; $50,000 earmarked to study the shiitake mushroom; $300,000 for USDA research at the Utah State University Space Dynamics Laboratory to accurately measure gaseous emissions from agriculture operations; $200,000 for grapefruit juice/drug interaction research in Winterhaven, FL; $140,000 to the University of Nevada Reno to conduct a feasibility study for a cooperative sheep slaughter facility; $1,000,000 for grasshopper and Mormon cricket pest control in the State of Utah; $24,066,000 above the budget request for boll weevil pest management; $1,150,000 above the budget request for grasshopper pest management; $300,000 for biological weed control in Sidney, MT; $300,000 for the healthy beef initiative, Little Rock, AR; $200,000 to study sudden oak death in Oregon; $600,000 for cranberry production assistance in the States of Massachusetts and Wisconsin; $6,000,000 for the construction of the Animal Waste Management Research Laboratory in Bowling, KY; $1,000,000 for multiflora rose control in the State of West Virginia; $1,500,000 for the construction of the Center for Grape Genomics in Geneva, NY; $100,000 earmarked for animal identification and tracking in the State of Washington; $100,000 for brown tree snake management in Hawaii and Guam; $248,000 to reduce beaver damage to cropland and forests in the State of Wisconsin; and $400,000 earmarked for preventing blackbird damage to sunflowers in North and South Dakota.

Certainly I must not be the only one who questions these kinds of earmarks. We simply cannot afford ''business as usual'' around here.

The sense-of-the-Senate amendment that I am proposing would allow for a redirection of the funding for any of the earmarks that have not been authorized, have not been requested by the President, or are not related to the impact of Hurricane Katrina to be used for recovery efforts. This would occur if the agency or Department head determines, after consultation with the appropriate congressional committees—and this would mean authorizers as well as appropriators—that such an earmark is not of national significance or is not in the public interest. Since almost all of these earmarks are in the report language, which is not something I can amend, this amendment at least sends a strong message to the agencies that they will be held accountable for reviewing these directives and ensuring they are only funded if found to be in the public interest.

I hope the amendment can be easily adopted and not take much of the Senate's time, particularly since a similar provision was agreed to last week. In a time of national catastrophe, it is the responsibility of the U.S. Congress to take quick and decisive action to help those in need. It is not appropriate to continue the practice of wastefully earmarking scarce funds in the face of such a great tragedy. This should be a time of sacrifice for the sake of our suffering citizens.

Mr. President, despite high gas prices, despite a swelling $331 billion deficit, despite our military operations overseas, and despite our domestic emergencies, pork continues to thrive in good times and bad. The cumulative effect of these earmarks erodes the integrity of the appropriations process and, by extension, our responsibility to the taxpayer.

I thank the chairman and ranking member of the subcommittee for agreeing to accept this amendment.

Mr. BENNETT. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Wisconsin.

AMENDMENT NO. 1741

Mr. KOHL. Mr. President, I send an amendment to the desk on behalf of Senator DEWINE.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. KOHL], for Mr. DEWINE, proposes an amendment numbered 1741.

Mr. KOHL. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To pledge continued support for international hunger relief efforts and express the sense of the Senate that the United States Government should use resources and diplomatic leverage to secure food aid for countries that are in need of further assistance to prevent acute and chronic hunger)

On page 173, after line 24, insert the following:

SEC. 7_____. It is the sense of the Senate that—

(1) the Senate—

(A) encourages expanded efforts to alleviate hunger throughout developing countries; and

(B) pledges to continue to support international hunger relief efforts;

(2) the United States Government should use financial and diplomatic resources to work with other donors to ensure that food aid programs receive all necessary funding and supplies; and

(3) food aid should be provided in conjunction with measures to alleviate hunger, malnutrition, and poverty.

Mr. KOHL. Mr. President, I have worked a great deal with my friend from Ohio on international hunger issues and encourage my colleagues to support his amendment.

I also ask that I and Senator CHAMBLISS be added as cosponsors.

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

Mr. KOHL. In recent weeks, we have witnessed disaster and hunger and displacement on our own shores. Those images are compelling. They remind us that hunger and displacement and enormous human need are chronic conditions in many parts of the world. For the people living in these circumstances, U.S. food aid is as important as it has ever been.

I hope this amendment forces policymakers to rethink and recommit themselves to international hunger relief.

I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1741) was agreed to.

Mr. KOHL. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1812

Mr. BENNETT. Mr. President, I send an amendment to the desk for the senior Senator from Nevada, Mr. REID.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. REID, proposes an amendment numbered 1812.

Mr. BENNETT. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide that funds made available for the Plant Materials Center in Fallon, Nevada, shall remain available until expended)

At the appropriate place, insert the following:

SEC. ____. Amounts made available for the Plant Materials Center in Fallon, Nevada, under the heading ''CONSERVATION OPERATIONS'' under the heading ''NATURAL RESOURCES CONSERVATION SERVICE'' of title II of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 2823) shall remain available until expended.

Mr. BENNETT. Mr. President, I ask that this amendment be agreed to on a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1812) was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BENNETT. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

RECESS

Mr. BENNETT. There is a briefing going on in the Capitol with Members of the Senate invited to attend. Accordingly, with the approval of leadership, I ask unanimous consent that the Senate stand in recess until 5 o'clock.

There being no objection, the Senate, at 4:01 p.m., recessed until 5 p.m. and reassembled when called to order by the Presiding Officer (Mr. COBURN).

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I say to Senator BENNETT that I know he is managing a bill, and I see no one else is here on that bill at this time and I would like to make a statement about Judge Roberts.

NOMINATION OF JOHN ROBERTS

Mrs. BOXER. Mr. President, when a seat on the Supreme Court opened in July, I made a promise to the people of California. I promised I would only support a nominee I believed would protect their rights and freedoms.

After much thought, I have concluded that I cannot in good conscience give my constituents that assurance with the nominee we have before the Senate, Judge John Roberts. In fact, I am very worried that with Judge Roberts on the Supreme Court, the rights and freedoms that have made America a light to the rest of the world could be in serious jeopardy.

The question before the Senate is not whether Judge Roberts is a brilliant lawyer and not whether he is well qualified or well spoken or affable or unflappable. He is certainly all of those. But examining his credentials is where our analysis must begin, not end. The American people understand this. In poll after poll after poll, the American people say that before we vote, it is important to know where Judge Roberts stands on key issues that define us as Americans and what kind of country we will leave behind for our children.

The next Chief Justice will have the opportunity to steer a deeply divided Court and influence our lives and the lives of our families for generations. In recent years, the Court has issued 5-to-4 decisions to protect our air, to safeguard women's reproductive health and the rights of the disabled, to give HMO patients the right to a second opinion, to allow universities to use affirmative action, and to guarantee government neutrality toward religion.

With so many of our fundamental rights hanging in the balance, it is not good enough, in my view, to simply roll the dice, hoping a nominee will change his past views. It is not good enough to think this is the best we can expect from this President. I simply do not buy into that reasoning. And no, I don't buy into this reasoning either: Let's support this nominee because the next one might be worse. I will tell you why that rationale does not work for me and it will never work for me as long as the Constitution gives me and my colleagues in the Senate an equal role in this process.

It fails the bar that I set—the bar that says that I must be able to look into the eyes of my constituents and assure them that I feel confident in this choice. I said I could only vote for a nominee who would protect the rights and the freedoms of the people I represent.

I need to be able to look into the eyes of my constituents and to assure them I have made that judgment before I vote yes in their name. I can't do it here. We must demand far more in a nominee because the people we represent deserve no less.

I will vote no on this nomination because of what we know and what we do not know about Judge Roberts.

Long before President Bush made this nomination, we knew that his model judges were Justices Scalia and Thomas.

Now, President Bush isn't known for changing his mind, so that doesn't leave us in a good place if we're hoping for a moderate. Nor does a reading of Judge Robert's record while he served in the Reagan Administration 20 years ago.

In fact, some of Judge Roberts's writings raise serious concerns about whether he understands the ugly history of discrimination and injustice in our country, or the proper role of government in injustice and discrimination.

Of course, we were told over and over again by Judge Roberts and by this administration and some of his supporters: Do not pay attention to those memos; they were written long ago; he was just a young man; he was just a lowly staff attorney. Here is the point: Judge Roberts never backed away from those memos. When given the chance, he said over and over again they were written for someone else. Someone else is not up for the Supreme Court; Judge Roberts is up for the Supreme Court. So to simply say, Yes, I wrote that, but I wrote it for someone else, just does not pass the test.

Then we try to examine Judge Roberts' tenure years later as a top political appointee under the first President Bush. That is when he worked as Deputy Solicitor General for Ken Starr,

who was the Solicitor General. Again and again, Senator LEAHY, Senator KENNEDY, Senator FEINSTEIN, all the Democrat Senators on the Judiciary Committee asked for documents relating to just 16 cases that would have shed some light on the way Judge Roberts approaches civil rights, reproductive health, the separation of church and state, environmental protection, and more. The Democratic women Senators asked too. But again and again, the administration refused to turn over the documents, and Judge Roberts refused to help us.

The President had access to that information when he nominated Judge Roberts. Why should this Senate a full partner in choosing the next Justice—have anything less?

This is not a small point of process. This goes to the heart and soul of what we are expected to do as Senators. We are supposed to be an equal partner in this process. We have the role of advice and consent to the President on judicial nominations. How can we do our job if the administration has access to information and yet we don't? I don't think it is fair. I don't think it is just.

Mr. KENNEDY. Will the Senator yield?

Mrs. BOXER. I am happy to yield.

Mr. KENNEDY. I thank the Senator for making her statement and particularly her comments about the effort by the Judiciary Committee to seek some 16 of the 300 cases in which Judge Roberts was involved as a Deputy Solicitor General.

As Judge Roberts pointed out during the hearings, when he was acting as the Solicitor General, he was acting as America's lawyer. That was not being a part of the Republican administration. The Solicitor General is to act as America's lawyer. That is why even Robert Bork, when he was Solicitor General, gave the information to the committee; and Brad Reynolds, who was in the Solicitor General's Office, also gave the materials from the Solicitor General to the committee.

As I have listened to the Senator, this is basically Judge Roberts' job interview for America. The members of the Judiciary Committee are just instruments to try to help the American people understand this nominee. It seems to me if the material had been favorable to Judge Roberts, they probably would have made it available. I imagine the American people are wondering, since others have made it available, why they did not make it available for him and why they denied the American people additional helpful information so they would be able to make up their own minds during the course of the hearing.

I underline the point the Senator made about the importance of information and the importance of documents. Would the Senator not agree this is basically Judge Roberts' interview with America, that the Judiciary Committee is the instrument by which the American people are forming an impression? It is a worthwhile part.

This is no more a client-lawyer relationship than the man in the moon, although some have suggested that. This is a longstanding process where that material has been made available to the Judiciary Committee. I have had the good opportunity to sit for some 20 nominees, I have seen the different procedures followed, and I have seen when it has worked the best. The information has been made available to the American people, and this is the point the Senator is making.

I wanted to ask the Senator if she agreed with me that this is his job interview with America?

Mrs. BOXER. I thank the Senator for asking me this question. I could not agree more. The American people have told us through many polls that they want to have this information. They want to know. They believe it is more important and I believe the number was 77 percent said it was more important to know about where Judge Roberts stood than it was to know about his qualifications. Everyone agrees on his qualifications. The Senator is absolutely right. It is, to me, very disappointing that the judge himself refused to help us.

It is also my understanding—and Senator KENNEDY, if I am wrong, I hope you will correct me—that when Judge Rehnquist was up for the Court, he also turned over documents from when he was a lawyer in government. So we had Judge Rehnquist, we had Robert Bork, and that was the right thing to do.

You have to ask the question, What are they hiding? The American people are very smart. They understand it. Why wouldn't one show the committee this information?

Mr. KENNEDY. Will the Senator yield?

Mrs. BOXER. I am delighted to.

Mr. KENNEDY. The point being this was only a request for 16 cases out of the 300 cases he actually participated in directly. There were many more where he expressed an opinion. These 16 directly involve constitutional issues. One was on a case involving affirmative action where the Federal Communications Commission asked the Solicitor General's Office to support their program on affirmative action because no major television stations were available to any of the minorities, Black or Brown, in this country, and they were trying to work out a process where there could be greater availability and they would be able to participate in these various bids that were coming in. They requested the Solicitor General to help them. They had a program. It had been approved. They asked the Solicitor General's Office to help them with their program.

What happened is not only did Mr. Roberts decide he wouldn't help them, he filed a brief for the Solicitor General's Office in opposition to the agency's program that would have opened up greater competition, greater diversity in terms of communication and ownership. That is exceptionally done, rarely ever done. All we were trying to find out was the circumstances—why did this happen, this unique set of circumstances?

Clearly, if we had enough time, I suppose we could have had the Federal communications lawyers at that time come in, and we could have tried to do our own kind of investigation on this particular case. But that is not what these hearings are all about, and that was illustrative of the type of case that was being requested and was denied to the Judiciary Committee, which had a direct relevancy as to his competency—whether we were going to continue to march toward progress in striking down the walls of discrimination, the walls of denial of opportunity, the gender discrimination which we have had in this country and which we made very substantial progress in over the period of the last 30 years with title IX, the actions that we have taken in terms of the 1964, 1965 Act, the 1968 Housing Act.

Mrs. BOXER. I say to the Senator, I think what we have tried to do in this little exchange is make a point to the American people that information was denied to the Judiciary Committee, and that information was denied to the Senate. And, the only information we have is very slim. It is a 2-year stint on the DC Circuit Court of Appeals.

We have a lot of information from 20 years ago. So on the one hand, it is kind of a catch-22 circumstance here. When you go back 20 years ago, everybody says: Oh, that is old information. It does not reflect Judge Roberts. You ask Judge Roberts, he won't answer. He says he was writing for someone else. So we then need to look at the time in the 1990s when he worked in the Solicitor General's office. But, we cannot get that information. So we go around in a circle.

I have to say, if this debate were about a small matter, it would be one thing. But, we are talking about the future of this country. The importance of a position on the U.S. Supreme Court cannot be overstated.

Mr. KENNEDY. Mr. President, will the Senator yield further?

Mrs. BOXER. Mr. President, I am happy to yield.

Mr. KENNEDY. On those memoranda, I think the Senator quite appropriately recorded that he had written those a number of years ago. And he, when he was asked about those memos, indicated he was just working for the administration. Of course, he made the application to work for the administration; he was vetted for the administration; he got the job with the administration. So this was something he very much wanted to do. He was constantly promoted within the administration. He could have very easily worked in another area. As John Lewis pointed out, this was a key moment in American history in terms of the march toward progress and moving ahead in terms of knocking down walls of discrimination.

I say, as a member of the committee, I was disappointed that Judge Roberts would not say whether those were his views today. That was the key. You can accept that, well, he was just an attorney in the Ford administration and was carrying on the administration's policy, although I think that is a stretch in many of the different memoranda that he wrote, when he explicitly said ''this is my opinion'' and ''I believe,'' as compared to ''we believe'' or ''it is our position.'' I think that is very distinguishable.

But, nonetheless, he was asked repeatedly, as I mentioned in my comments earlier, by Senator KOHL, by Senator FEINGOLD, by Senator BIDEN, and other members of the committee, are those his views today? I expected he would say, ''well, you know, times have changed. I wouldn't have used those words. I wouldn't have come, perhaps, to those conclusions,'' which would have been very understandable. But there is not a single instance—not a single instance—during the course of those hearings where he said: Those are not my views today. I have changed my position.

I think the Senator appropriately points out that aspect of the hearings and why that is troublesome. Because we only can conclude if he does not disown those positions, they may very well be his positions today, which would be very disturbing.

Mrs. BOXER. I say to the Senator, again you are making a very important point. The fact is, Senators on the Judiciary Committee—and I watched every minute of the hearings I could. I even watched the reruns of your hearings in the evening. You gave Judge Roberts ample opportunity in a very nice way to distance himself from his writings. He refused to do so. He simply said: I was doing this for my boss, and I was thinking like my boss. It is not good enough because he is the one who is up for Chief Justice.

I know Senator BENNETT would like me to conclude, and I will do so.

In his reviewing his record, I also looked for some assurance in the decisions Judge Roberts wrote during his two years on the DC Circuit. But, again, nothing. In fact, some cases raised serious concerns about his commitment to protect the environment and his support of an all-powerful executive branch.

Judge Roberts had three days to tell the Senate and the American people what he really believes today.

He had the chance repeatedly to distance himself from the controversial positions he once advocated. He did not.

Let's face it: Judge Roberts was specific only when it mattered least and evasive when it mattered most.

Last year I ran for the Senate, and I ran a commercial that people said was very direct, but that is the kind of Senator I am. I said in my own words, right in that commercial, I would do everything in my power to ensure that we never go back to those dark days of back-alley abortions, when thousands of women died and many others were rendered infertile.

We know that Judge Roberts signed a brief calling for Roe to be overturned. It was one of those 16 cases the administration will not release. And it concerned one of the many important topics about which Judge Roberts refused to answer questions.

To simply say Roe is a precedent, which he said over and over again, is stating the obvious. Every case of the Supreme Court is a precedent. And to say you respect precedent, yes, every judge must respect precedent. But it does not give us an inkling into his views, and that is not good enough.

We deserved an answer to Senator FEINSTEIN's questions about privacy: Does the right to privacy extend to the beginning of life and the end of life? We still don't know what Judge Roberts believes.

We deserved an answer to Senator BIDEN's question about gender discrimination. Does Judge Roberts stand by an interpretation of title IX that would have denied all remedies to a girl who was repeatedly sexually harassed by her teacher? We still do not know how Judge Roberts feels.

We deserved an answer to Senator KENNEDY's probing questions about civil rights. Does Judge Roberts have any concerns about the constitutionality of landmark civil rights laws? We still do not know.

How could he be silent on those laws. They stand out in history as landmark moments that changed the course of human events in America forever, that finally spoke to all our citizens and told them they were equal, and the government would make sure they were protected and safe.

We deserved answers to Senator LEAHY's questions about Congressional War Powers. We did not get them.

Now, Judge Roberts says as a Justice, he will ''just'' be an umpire calling balls and strikes. Of course, balls and strikes look a lot different depending on where the umpire is standing. And umpires have a lot of power to decide who wins and who loses.

So who will be the winners if we confirm Judge Roberts next week? Will it be the families of America? Will it be the children of America? Will it be the victims of violence? Will it be the poor and the powerless? Will it be the middle class? Will it be the environment? Will it be freedom? Will it be liberty? Will it be justice? Will it be our Constitution? Or will the winners be those who want to stop the national Government from acting to protect and defend our people and their rights and their freedoms?

I cannot tell my people that Judge Roberts will continue the steady march of progress that has defined our country's proud history.

So I will vote no. And because I believe the Senate deserves those 16 cases that Senator KENNEDY talked about, and answers to our questions, I will vote no.

I hope and pray my doubts about Judge Roberts are misplaced and that he will join the moderate wing of the Court to protect the Constitution of this country that I love so much and the deserving people of my great State who will be counting on him to protect their rights and their freedoms.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. BENNETT. Mr. President, the hour of 4 o'clock has come and gone. That was the hour by which all amendments to the bill had to be submitted. We had 120. We have disposed affirmatively of 31 of those, and we are not at all sure the other roughly 90 are all going to be offered.

The majority leader has made it clear he wants to finish this bill tonight, and so I say to those who have amendments still on the list, if they do not show up to offer their amendments, we will move to third reading at an appropriate time. We want to accommodate the majority leader's desire. I think it is the desire of most of the Members of the Senate to move forward. So I say to the other Members who do have amendments, you are on notice that if you do not let us know you are going to be here and try to reserve some time to call up your amendment, we will indeed move to third reading. There are hotlines that have been going out to Senators who have amendments filed to give them that message. We will go forward in that fashion.

AMENDMENTS NOS. 1754 AND 1755

Mr. President, I do have two additional amendments to those that have already been cleared, which I send to the desk and ask for their immediate consideration. Both are on behalf of Senator SALAZAR of Colorado.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. SALAZAR, proposes amendments numbered 1754 and 1755 en bloc.

Mr. BENNETT. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

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

The amendments en bloc are as follows:

AMENDMENT NO. 1754

(Purpose: To provide for a report on the impact of increased prices of gas, natural gas, and diesel on agricultural producers, ranchers, and rural communities)

On page 173, after line 24, insert the following:

SEC. 7_____. Not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture, in cooperation with the Secretary of Energy, shall provide to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives a report that describes the impact of increased prices of gas,

natural gas, and diesel on agricultural producers, ranchers, and rural communities.

AMENDMENT NO. 1755

(Purpose: To require the Secretary of Agriculture to prepare a report on the conduct of activities to address bark beetle infestations)

On page 173, after line 24, insert the following:

SEC. 7_____. The Secretary of Agriculture (referred to in this section as the ''Secretary'') shall prepare a report for submission by the President to Congress, along with the fiscal year 2007 budget request under section 1105 of title 31, United States Code, that—

(1) identifies measures to address bark beetle infestation and the impacts of bark beetle infestation as the first priority for assistance under the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6501 et seq.);

(2) describes activities that will be conducted by the Secretary to address bark beetle infestations and the impacts of bark beetle infestations;

(3) describes the financial and technical resources that will be dedicated by the Secretary to measures to address bark beetle infestations and the impacts of the infestations; and

(4) describes the manner in which the Secretary will coordinate with the Secretary of the Interior and State and local governments in conducting the activities under paragraph (2).

Mr. BENNETT. Mr. President, I call for a vote on the two amendments.

The PRESIDING OFFICER. The question is on agreeing to the amendments.

The amendments (Nos. 1754 and 1755) were agreed to.

Mr. BENNETT. Mr. President, I move to reconsider the vote and move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BENNETT. With that, Mr. President, we continue to go through the amendments that are available to us to see if they can be cleared on both sides in an effort to get them cleared. But I say, once again, to Senators who may be watching, we need to have an understanding of whether you are coming forward. We will soon reach the point where the amendments that can be cleared on both sides have been. At that point, if a Senator has not notified us of his intention to proceed and has not shown up, we will move to third reading.

The PRESIDING OFFICER. The Senator from Utah should be advised that in my capacity as a Senator from Oklahoma, I plan to offer amendments, and I will make those arrangements forthwith.

Mr. BENNETT. I thank the Presiding Officer. We were aware of his intention to offer his amendments, and we will not take advantage of him being trapped in the Chair to move ahead without protecting his rights and his interests.

The PRESIDING OFFICER. The Chair thanks the Senator.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1760, WITHDRAWN

Mr. DURBIN. Mr. President, I rise to enter into a brief colloquy with Senator COCHRAN, who is the chairman of the Senate Appropriations Committee, to discuss agriculture disaster assistance. The purpose of this colloquy is to set the stage for withdrawing a pending amendment which I am sure the chairman of the subcommittee, the Senator from Utah, will be happy to hear.

This has been a tough year for agricultural producers from coast to coast. Hurricane Katrina has decimated production throughout the gulf coast. The most recent USDA estimates released yesterday put hurricane-related losses in that region at nearly $900 million as a result of Hurricane Katrina. Having just visited this region with Senator COCHRAN a few days ago, I am not surprised. The devastation there is unimaginable, until one is on the scene.

In addition, we have had a terrible drought in the Midwest—in my home State of Illinois, Missouri, parts of Iowa, and Minnesota. We have had the worst drought in over 100 years in some parts of my State. Every county but one in Illinois has been designated a disaster area by the Secretary of Agriculture. Corn that should be standing 10 feet tall in some of the most fertile ground in America barely measures 6 feet and, sadly, is not going to produce much. The same is true for many of my counties when it comes to soybean production.

These drought conditions have reduced crop yields. Based on September USDA estimates of 2005 crop production and prices, the value of corn and soybean production in Illinois has been reduced by over $792 million, relative to what might have been expected under average growing conditions. In addition to these losses, there may be impacts on other crops and pastures as well.

We also face flooding in parts of North Dakota, red tide problems in New England that are shutting down shellfish producers who depend on the sea for their livelihoods, and an extended drought in the West and parts of the South, including Arkansas.

During this uncertain time, it is important to ensure that our agricultural producers stay in business. Most producers depend on farming for their livelihoods. In addition, there is an intrinsic good in knowing our food has been grown locally, is regulated by the Federal and State Governments, and is the safest in the world. We all benefit when American farmers are prosperous. For all of these reasons, I hope to ensure that our farmers, ranchers, and others who face disaster losses have their day in court when it comes to our Federal Government.

We have done this in the past. Last year, following a series of hurricanes, we enacted legislation to provide assistance to farmers who experienced crop loss.

I wish to ask the Senator from Mississippi to include agriculture losses incurred due to Hurricane Katrina and other national disasters, including the drought in the Midwest, in the next Katrina supplemental package.

I yield the floor to the Senator from Mississippi for a response.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, I am happy to join my friend from Illinois in bringing to the attention of the Senate the fact that there have been substantial losses that have occurred as a result of Hurricane Katrina, particularly in the States of Louisiana, Mississippi, and Alabama.

Having visited the State, as the Senator pointed out, just recently, it makes a vivid impression upon anyone who looks upon the widespread disaster that was caused by this dreadful hurricane.

While we do have on the books Federal crop insurance programs, other disaster assistance authorization, there always seems to be examples in a disaster of this kind of unmet needs and where, for some reason or another, the effect of the disaster is not fully protected by existing programs.

I am pleased to note, on page 88 in the committee report accompanying this appropriations bill, the committee includes information about the recent amendments to the Agricultural Risk Protection Act. It amended the original Federal Crop Insurance Act to strengthen the safety net for agricultural producers by providing greater access to more affordable risk management tools and improved protection from production and income loss and to improve the efficiency and integrity of the Federal Crop Insurance Program.

So progress has been made, but notwithstanding, I agree to work with the Senator from Illinois and the chairman of the subcommittee to craft language and funding that would be approved by the Senate, it is my hope, in any supplemental bill which the administration may request.

It is my understanding, from a visit yesterday with the Director of the Office of Management and Budget, it is expected that the administration will request an additional appropriation supplementing the funds that are available for many Government agencies and some departments to continue to provide disaster assistance to help recover from this dreadful hurricane.

In that legislation, when it does come before the Senate, we will work together to ensure that an appropriate provision is included, as described by the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I thank the Senator from Mississippi for coming over to the floor because I know

there are thousands of agricultural producers across the United States who were anxious to hear we are mindful of the disasters they have faced and in the region of Hurricane Katrina and other natural disasters across our country.

I ask unanimous consent that the following cosponsors be added to the amendment I have sent to the desk: My colleague from Illinois, Senator OBAMA, who shares my feelings on the drought that has faced our State, as well as my colleague from across the Mississippi River, Senator BOND.

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

Mr. DURBIN. Mr. President, with this colloquy, however, I feel confident we can work together to resolve this problem in a reasonable way and, as a consequence, I ask unanimous consent to withdraw amendment No. 1760.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

Mr. OBAMA. Mr. President, I rise today to commend my colleague, the senior Senator from Illinois, Mr. DURBIN, for his work in crafting this legislation, of which I am a cosponsor. This amendment would provide critically needed disaster relief to Illinois farmers who face significant financial jeopardy from crop losses due to this season's historic drought.

Illinois agriculture is experiencing one of the driest periods in the last century and certainly one of the most severe droughts in two decades. Illinois is the Nation's leading producer of corn and soybeans. However, U.S. Department of Agriculture, USDA, reports show that more than half of the corn crop and almost a third of the soybean crop have been decimated by drought. Of the 102 counties in Illinois, 98 have reported crop damage due to the lack of rainfall.

In July, Senator DURBIN and I asked the Secretary of Agriculture to declare the affected counties in Illinois an agriculture disaster area. I am pleased that President Bush granted our request to give our Illinois farmers some much-deserved relief, qualifying Illinois farmers for USDA assistance programs, including low-interest emergency loans.

While this action provided an important amount of economic assistance, the scope and severity of this year's drought requires that additional measures be taken. At the present time, most of northern and western Illinois remains in a severe or extreme drought. Much of eastern Illinois is classified as abnormally dry. This is particularly alarming because farmers are at a critical point in the growing season.

Moreover, the reduction in fuel refining capacity caused by Hurricane Katrina has resulted in Illinois farmers facing a sudden surge in unanticipated fuel costs on top of already escalating fuel prices. The disruption in Mississippi River traffic at gulf ports, where half of the Nation's grain exports are shipped for foreign markets, has spiked shipping costs for farm commodities transported by barge downriver. The threat of an aflatoxin outbreak that affects corn during times of crop stress and drought is also of particular concern in recent weeks; should this condition progress after harvest and storage, farmers may face additional financial consequences in the coming months.

I understand that the Senior Senator from Mississippi, Mr. COCHRAN, has made a commitment to address this issue in the next hurricane supplemental appropriations bill that is sent to Congress. Given that commitment, I support Senator DURBIN's decision to withdraw the amendment, and I thank Senator COCHRAN for his cooperation.

Mr. BENNETT. Mr. President, we are making progress. I see the Senator from Minnesota on the floor and hope that he can proceed with his amendment.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. DAYTON. Is there an amendment pending?

The PRESIDING OFFICER. There is no amendment pending.

AMENDMENT NO. 1844, AS MODIFIED

Mr. DAYTON. Mr. President, I call up amendment No. 1844 and send a modification to the desk and ask unanimous consent that the amendment be modified.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. DAYTON] proposes an amendment numbered 1744, as modified.

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

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

The amendment is as follows:

On page 88, line 16, strike ''$23,103,000'' and insert ''$21,103,000''.

On page 109, line 21, before the period at the end, insert the following: '': *Provided further*, That none of the funds made available by this Act may be used to carry out section 508A(c)(1)(B)(i) of the Federal Crop Insurance Act (7 U.S.C. 1508A(c)) in a manner that, for purposes of counties declared to be disaster areas in calendar year 2005 by the Secretary under section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)) or by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), applies the phrase 'in the same crop year' to have a meaning other than not later than October 15 of the year in which the first crop was prevented from being planted''.

Mr. DAYTON. Mr. President, this is a very simple amendment. It addresses the severe crisis in counties in northwestern Minnesota that were flooded last June after they had planted their crops. Many farmers in that region of my State lost most or even all of their crops. So the preventive planting program has been established which allows them to plant alfalfa and other cover. It says, after November 1, they may harvest the crop or graze on the crop. That works well for most of the country, but whoever wrote that date into law some time ago forgot to check the weather maps as they pertain to northern Minnesota which, by November 1, is often under snow.

The intent of the program is to provide for the ecological covering of the affected acreage, then allowing for farmers to salvage something off the land in addition to the preventive payment from the Government by harvesting it or allowing grazing on it. The effective date is too late to benefit Minnesota farmers.

This amendment would simply say, for those counties in Minnesota and elsewhere across the country that have been declared an agriculture disaster in this calendar year by either the President of the United States or by the Secretary of Agriculture, pursuant to their authorities, that they would then, for the purpose of this year only, be able to use that acreage for harvesting or grazing effective October 15. It moves up the timetable.

I think it preserves the original and actual intent of the program, and it means it applies to northern Minnesota, as it does to the rest of the country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, the amendment offered by the Senator from Minnesota does involve some cost. We are, at the moment, unable to have a score from CBO. We are working on getting a scoring from CBO, so I ask we not vote on this amendment at the present time, until we get that.

I will say to the Senator and to Senators, generally, since the passage of the bill by the committee, we have had a number of requests, such as the one from the Senator from Minnesota, many of which appear to be meritorious but when added together, we get a sum of money that we simply cannot sustain under our allocation. So we have taken the position that we will not entertain these additional requests for money.

There are a number of Senators who have been disappointed as a result of that position, including, if I may say, the Senator from Utah. I felt that I had to deal with everybody equally, and those requests that have come in from my own State since the passage of the bill by the committee, with some difficulty, I have had to say to people, I cannot treat Utah differently than others.

This is a meritorious issue the Senator has raised, and I am not saying we will automatically oppose it because it does add to the list that I described. Because we want to know exactly what the number would be and get the information from CBO, I ask that we set this one aside for the time being, and when we have that information, then I

will be in a better position to respond to the Senator's amendment.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. Mr. President, I thank the distinguished chairman. I say that the practice of the committee chairman of treating himself equally with anyone else should be noted and praised. I commend it to the rest of the committee chairmen and ranking members as well. I thank the chairman for his remarks.

I apologize for the late moment and also the absence of a score. I had received a score today on a broader amendment, which was $2 million for this coming fiscal year 2006. I was asked to restrict the amendment. I believe, quite confidently, when the score is obtained, it will be less than that $2 million.

I am mindful of the imperatives on the subcommittee that they have to meet the mark they have been given. I recognize this will have an impact on that. I hope my staff might work with the chairman's staff and look for some suitable offset and some way to address this issue.

I thank the chairman for his consideration. I apologize again for adding to his burdens.

Mr. BENNETT. Mr. President, I thank the Senator for his comment and assure him this is no burden, and we will do the best we can.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from Oklahoma.

Mr. COBURN. Mr. President, in a few moments, I will offer several amendments, but I feel inclined, because of what we have heard about the last two or three amendments that have come forward here, to comment.

There are products offered called crop insurance. It is very important for us as a Senate to remember that everything in life has risk. As we look at Katrina and the tremendous issues that have come forward, not everybody who has a loss in this country is entitled for the Federal taxpayers to pay for that loss. If my house burns down and I am underinsured, is that a Federal Government responsibility? At what level do we recognize personal responsibility and risk in terms of natural events?

There is no question we are going to be working hard to do our part at the Federal level to aid those involved in the tragedy of Hurricane Katrina, but the very idea that now we are considering helping those people means we jump on with everybody else who has a need in this country right now is a very dangerous trend that I guarantee we cannot afford.

I applaud the statement of the Senator from Utah in recognizing there is a limit to what we can afford. I know these issues will come through in regular order and process, but I think it has to be said that these are meritorious, that is right, but they are going to have to be listed with the rest of the priorities in this country of what has to come first.

We do not have an unending source of funds, although sometimes we act as if we do. These are going to have to be put in that order of priority. I am sure this body will do that in terms of priority, but what we cannot do is continue to mortgage the future of the next two generations by not making those hard choices.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1773

Mr. COBURN. Mr. President, I would like to call up amendment 1773.

The PRESIDING OFFICER. Without objection, the pending amendment is laid aside. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 1773.

Mr. COBURN. I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To reduce spending levels, to promote more efficient use of resources, and to encourage more appropriate budget estimates)

On page 122, line 24, strike ''$653,102,000'' and insert ''$610,754,560''.

Mr. COBURN. Mr. President, this is the first of many amendments I am going to be offering the rest of the year to make a downpayment for our grandchildren to pay for Hurricane Katrina. I start small, but there are many in Washington who say we cannot do it, that there is not the waste, fraud, and abuse, there are not significant dollars that are not spent wisely and prioritized. This is one that I am not sure will pass, but it certainly cannot not be recognized by anybody who looks at the books of the rental assistance program that this is an appropriate amendment. The appropriation for this program in 2005 was $587,264,000. The budget estimate for 2006 was $650 million, the House allowance was $650 million, and the committee recommendation is $653 million.

According to the committee, this program and the objective of the program is to reduce rents paid by low-income families living in rural housing service financed with rental projects and farm labor housing projects. That is a meritorious goal. It is something we ought to be doing, and I fully support doing that. However, the payments from the fund are made to the project owner for the difference between the tenant's payment and the approved rental rate established for the unit.

Why would I offer an amendment to trim that back? It is because the rental assistance program has been gaming us, according to the Government Accountability Office. Let me explain how.

In March 2004, they reported that since 1990—this is 14 years—the rental housing program had consistently overestimated its budget needs for the rental assistance program. Concern had arisen about the issue in early 2003 because RLS reported hundreds of millions in unexpended balances tied to its rental assistance contracts. Specifically, in estimating the needs for rental assistance contracts, it routinely uses higher inflation factors than recommended by OMB, did not apply the inflation rates that are recommended to each year of a contract, and based the estimates of future spending on recent high usage rather than the average usage of the rental assistance program.

First, the agency used inflated factors that were higher than those recommended by the OMB budget process, that they didn't apply it separately to each year, but they did it cumulatively to gain the amount of money they were asking from Congress. The result was an inflation rate that was more than five times the rate of the last year than the first year. So therefore the numbers they are asking for and the balances that are retained are high. And they are not utilizing the money we are appropriating. They are just accumulating money. RLS based its estimates of future expenditures on recent maximum expenditures—and that may very well be right, but that is what we are doing in supplementals, that is what we have done the supplementals for—rather than the average rates for which the units were funded historically.

According to GAO in its most recent report the agency was not following the guidelines, and they actually overestimated their need last year by $51 million or 6 percent of their appropriations. That is not TOM COBURN saying that. That is the General Accounting Office saying it. The GAO has harshly criticized the agency for lacking proper internal control standards through its administration of this program. As a matter of fact, one single employee has largely been responsible for both budget estimating and allocating rental assistance funds. This amendment simply reduces it from a growth rate of 10 percent to a growth rate of 4 percent. That is higher than our rate of inflation, but it brings it back in line.

The agency has proven it cannot forecast its real needs accurately. It has not forecast its real needs accurately. It fails to track its real needs and fails to track its basic expenditures.

Let me underscore one point. This program will still receive a $23.5 million increase this year under this amendment. If we hope to approach any type of fiscal sanity in the Senate or in this country through this Government, then we have to start holding

agencies accountable. We can have all the GAO reports we want. If they keep getting the money on the same basis that they are getting the money, then we are not going to change behavior. What we want to do is not hurt one person who is relying on us for this rental assistance, but what we do want is the agency to apply and come up to the standards that are recognized as necessary in the Federal Government.

This is one of several amendments I will be offering over the next couple of months. But it proves to the American taxpayer that we can do better. My hope is that the committee will look at this amendment, decide that the GAO was right, decide that they have overestimated it, and trim back this money.

This money is money that can be saved and used to start to offset the costs of this catastrophe that is in front of us.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. BENNETT. Mr. President, the Senator from Oklahoma is correct in the comments that he makes about the GAO and their study of this program. We have looked into it for the same reasons that the Senator from Oklahoma has and find that there have been mistakes made and there have been overestimates made. However, we have also discovered that the Department has recognized this and has made changes in the program, and the Department has reacted to the criticism that has come from the GAO.

The estimates that we have before us in this bill we believe are sound and the concern we have is that there is, in fact, no extra money sitting around. If we were to accept the amendment the Senator has offered, there would, in fact, be people who are currently in low-income housing who would lose that housing. They would lose that housing immediately upon passage of this bill.

It is further, of course, exacerbated by the situation created by Katrina, in that people have lost their housing by virtue of the hurricane, and to see others who have not been affected by the hurricane turned out because of the cutback in this program is something I do not think anybody would want to see.

The President requested $650 million, as the Senator said. We are at $653 million, based on the information that we have from the Department, which we now believe is far more accurate than the information of previous years. The GAO criticism is correct about misestimates.

Also, we point out these are 4-year contracts, so that something that appears to be money sitting there is, in fact, not necessarily money sitting there. It is money that has been committed over the 4-year contract. This is not just a single year's appropriation.

For these reasons I would have to oppose the amendment of the Senator because I believe in the present circumstances we do not want to have the consequence of having people who are currently in housing, currently receiving aid under this program, lose that aid and have to leave their housing. If it were entirely prospective, I would be more sympathetic to the amendment of the Senator, but all of the information I have is that it would, in fact, cause people who are currently receiving this to lose their housing.

I know the Senator from Oklahoma has some other amendments. I would like to give as much notice as possible to Senators around the city as to when we would take a vote. The Senator from Oklahoma says he would like to have this the subject of a rollcall vote. Of course, we will accommodate him. But if we could find out what other amendments the Senator has, and see if we could have a discussion and then set a time for those votes to be stacked—if indeed he wishes to have additional rollcall votes?

I ask if the Senator could respond to that.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. COBURN. Mr. President, I will be happy to respond. The Senator from Utah has my great respect. I know he is an accountant and has a tremendous background in terms of finance. But if you overestimate for the 3 years prior to coming into this before you change it, and you have contracts based on that that were overestimated, you do have an excess of funds in there now. There will be no shortage of rental payments because of the over-roll of the overpayments, the overestimate of the contracts that have been made.

The good answer for the American people is this is going to throw people out. It is not going to throw a person out. There is plenty of money in this account. There is almost $50 million at the end of this year left in this account that is not expended and can be spent. So it is not accurate to say people will not be able to have the homes that they have.

I think the Senator will agree that if, in fact, you overestimate inflation rates 4 years running, and you have been appropriated all that money looking forward for that, and you had contracts on costs that were less than that, if anything the surplus will grow if the usage is the same.

To make the argument that we should not do this because somebody might be thrown out, when, in fact, it is not accurate based on the funding that is in this account at this time, doesn't do justice to the very problems that we have before us.

I do not expect this amendment to pass, and I probably will not ask for a rollcall vote. I don't know what I am going to do in terms of asking for a rollcall vote. But it is that kind of thing we have to look at. We have to tighten our belts. There is loose money in this program. It can be done better. They have demonstrated they have started to do better, but they have not demonstrated they are doing better. What I would ask is for us to send a message: Do better. It doesn't undercut the first person we are trying to help. We have already sent $62 billion out there for this disaster, and we are planning on sending more. If we need to make an adjustment in one of those appropriations bills, if in fact I am wrong and you are right—which I do not believe to be the case—we can do it then. But send the signal: Do it right, do it efficiently, and do it for the best price you can because our grandchildren are counting on you.

I hope at some point in time we will start getting to the realization that we have to start making some choices. This is a choice that is not going to hurt the first person, but it is going to change an agency to make them recognize you are going to start playing with real numbers and quit gaming the system. They have a cushion. They know they have a cushion. I believe the appropriators and accounting staff know they have a cushion, and we ought to take that cushion away and make them do what they should be doing.

Mr. BENNETT. Mr. President, I am unaware of the existence of the cushion. I would be happy to work with the Senator to try to find out exactly whether there is one and how much it is. But the information that I received both from the staff and, admittedly, from the Department, is there is no cushion and passage of this amendment would, in fact, cause people who are currently in housing to lose their housing.

I am not in a position to challenge the Senator's sources. I simply state that my sources have given me an additional answer. I have not looked over the books. I have not personally gone into the accounting of this situation, and therefore I am not in a position to do any more than state, as I have stated, that my information is different than his.

Clearly, this is a subject that needs to be pursued. I congratulate him on raising it. The question for the Senate now is how we proceed on this amendment, whether the Senator will ask for a rollcall vote and, if he does, when we schedule it.

Mr. COBURN. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator may state his inquiry.

Mr. COBURN. Does a decision on a rollcall vote have to be made at this time?

The PRESIDING OFFICER. The Senator is not under any obligation to ask for the yeas and nays at this time.

Mr. COBURN. I will defer that at this time and have a discussion with the Senator from Utah about having a vote on this amendment.

Mr. BENNETT. Very good. We will have that discussion. As I say, my desire is to give Senators notice if they are at a location sufficiently far from

the Capitol that they need a heads up. That is the only concern that I have. I will be here. I will be prepared to vote virtually at any time.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 1796

Mr. BINGAMAN. Mr. President, I ask unanimous consent to call up Senate amendment No. 1796.

The PRESIDING OFFICER. Is there objection to laying aside the pending amendment?

Hearing none, the clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for Mr. JEFFORDS, proposes amendment numbered 1796.

Mr. BINGAMAN. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide funds to carry out the historic barn preservation program, with an offset)

On page 85, line 15, strike ''$128,072,000'' and insert ''$126,072,000''.

On page 126, between lines 3 and 4, insert the following:

HISTORIC BARN PRESERVATION PROGRAM

For the historic barn preservation program established under section 379A of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008o), $2,000,000.

Mr. BINGAMAN. I ask unanimous consent to lay the amendment aside.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1775

(Purpose: To require that any limitation, directive, or earmarking contained in either the House of Representatives or Senate report accompanying this bill be included in the conference report or joint statement accompanying the bill in order to be considered as having been approved by both Houses of Congress)

Mr. COBURN. Mr. President, I call up amendment No. 1775 and ask to set the pending amendment aside.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 1775:

At the appropriate place, insert the following:

SEC. ___. Any limitation, directive, or earmarking contained in either the House of Representatives or Senate report accompanying H.R. 2744 shall also be included in the conference report or joint statement accompanying H.R. 2744 in order to be considered as having been approved by both Houses of Congress.

The PRESIDING OFFICER. The Senator is recognized.

Mr. COBURN. Mr. President, this is an amendment I offered earlier in the year on a previous appropriations bill. I want to set the stage for this because I think this is probably one of the most important amendments I will offer in the Senate. It is important the American public recognize what this amendment does.

Appropriations bills start in the House. They come to the Senate. They are met in conference.

In the House bill there is report language. In the Senate bill there is report language. In that report language is where you find out where the money is going to be spent. The purpose of this amendment is to make sure, when a bill comes out of conference, that the Members of this body know where all the money is going to be spent before they vote on the bill.

There is no lack of desire for many of us who want to know that, but it is hard to find out as you approach the conference bill; that is, for us. But it is also difficult for the American people to know.

What this amendment is about is about sunshine. It is about sunshine on the legislative process so that the American people know items that are special projects for Members of Congress, items that have been earmarked or especially directed that we ought to know of, and what that is ought to be in the report language, where it is going and to whom it is going.

This amendment received 34 votes last time. I think it is absolutely imperative for us to keep the integrity of our appropriations process so that we know, No. 1, what is in the bills that we vote on and have available to us—that information on report language, but, No. 2, for the American people to know.

It has been said they can find it on the Internet. They can if they care to really dig through it. But if there is report language that has it where you can go to, you can, in fact, know before we vote what the special interests are that influence the appropriations bills of this country.

This is simply saying sunshine, let us know what is in it, let us print what is in it, and let us not deny what is in it. If it is good, great; if not, take the lumps that go along with it.

If you are doing a special favor for someone, or earmarking one of your political constituencies, it ought to be out there, and it ought to be looked at.

This is a simple, straightforward amendment that we ought to honestly say that we like sunshine rather than darkness and less than straightforwardness.

It is my hope that the body will again consider this and add it to this bill so that, when we go to conference, everybody understands what is in the bill when it comes out of conference. We are going to know what is in the bill, and we will not have to play games to know what is in the bill.

I yield the floor.

Mr. BENNETT. Mr. President, as I examine this question, it is a question that involves the traditions and procedures of the full committee. At the risk of being accused of dodging, I would prefer to have Senator COCHRAN as chairman of the full committee examine and respond.

We have reached out to get hold of Senator COCHRAN to see if he is willing to do that. But this would be a departure from previous procedures.

As I understand, the Senator from Oklahoma would like there to be a permanent departure that occurs on virtually every appropriations bill from here on out. For that reason, I am a little reluctant to set a precedent on the bill over which I have responsibility which might then be cited as a precedent for all the other bills that would follow.

For that reason, I hope we can have Senator COCHRAN appear and have his position before we come to the question of whether or not we vote on it.

Mr. COBURN. Mr. President, so the Members of the body know, I intend to offer this on every bill that doesn't have it. Some of the bills have had it but some have not. So my intention is to offer this amendment for the next 6 years on every appropriations bill that comes through because I believe more information going to the American public is a whole lot better than information hidden and sequestered away from them to know what we are doing.

We are accountable. If we are doing our work, then we ought to be proud of our work, and we ought to put it out.

I will be happy to discuss this with the chairman of the committee. He knows. I have had this debate with him before. I am persistent, and the Senator from Utah knows that. I believe the people of Oklahoma believe it. I believe that the vast majority of Americans believe it. We ought to know what we are voting on, where the money is going and who is going to benefit from it ought to be printed.

On this amendment, I ask for the yeas and nays, and I ask for a rollcall vote on this amendment.

The PRESIDING OFFICER (Mr. SUNUNU). Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BENNETT. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

AMENDMENT NO. 1773

Mr. BENNETT. Mr. President, I call for the regular order on the Coburn amendment No. 1773.

The PRESIDING OFFICER. The amendment is now pending.

Mr. BENNETT. Mr. President, I call for a vote on this by voice.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 1773) was rejected.

Mr. BENNETT. Mr. President, I ask unanimous consent that the time between now and 7 o'clock be evenly divided between myself and Senator BINGAMAN from New Mexico, with the vote on the Coburn amendment No. 1775 to occur at 7 o'clock to be followed by a vote on the Bingaman amendment, with the yeas and nays ordered in both instances with no other amendments being allowed to either amendment prior to the time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

It shall be in order to order the yeas and nays on any amendment at this time.

Mr. BENNETT. Mr. President, I call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BENNETT. Mr. President, I renew my request.

The PRESIDING OFFICER. The Chair states that at 7 o'clock a rollcall vote will occur on the Coburn amendment, followed by a vote on the Bingaman amendment, with the time between now and then evenly divided between the Senator from Utah and the Senator from New Mexico.

Mr. BENNETT. Mr. President, I ask unanimous consent that between the two votes there be a period of 2 minutes for explanation equally divided between the Senator from New Mexico and myself.

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

The Senator from New Mexico is recognized for 10 minutes.

Mr. BINGAMAN. Thank you very much, Mr. President. And I thank my colleague from Utah for his courtesy.

AMENDMENT NO. 1797

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

The PRESIDING OFFICER. Without objection, the pending amendments are set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for himself and Mr. LUGAR, proposes an amendment numbered 1797.

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

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

The amendment is as follows:

On page 85, line 15, strike ''$128,072,000'' and insert ''$118,072,000''.

On page 132, line 24, strike ''$12,412,027,000'' and insert ''$12,422,027,000''.

On page 132, line 26, strike ''$7,224,406,000'' and insert ''$7,234,406,000''.

On page 133, line 6, before the period, insert the following: '': *Provided further*, That not less than $20,025,000 shall be available to implement and administer Team Nutrition programs of the Department of Agriculture''.

Mr. BINGAMAN. Mr. President, this amendment I described earlier today, but let me describe it briefly again because it is very straightforward.

Each year, when the administration sends the Congress its budget request for the Department of Agriculture, it asks for $10 million for nutrition education. It is the Team Nutrition programs sponsored by the Department of Agriculture. This is funding that goes to 21 States to try to assist them in providing nutrition education in the schools. The other 29 States get no funds. My State gets no funds because there is not enough being appropriated. This program cannot cover more than the 21 States that are currently covered. So the children in my State do not get the benefit of this nutrition activity.

Why is nutrition education an important issue for this Congress and this country at this time in our history? I would suggest that the best case for explaining that is set out in this letter which I received from the American Heart Association endorsing the amendment that I am offering on behalf of myself and Senator LUGAR. Senator LUGAR is the cosponsor of my amendment.

I ask unanimous consent that this letter be printed in the RECORD.

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

AMERICAN HEART ASSOCIATION,
AMERICAN STROKE ASSOCIATION,
September 21, 2005.

DEAR SENATOR BINGAMAN: On behalf of the American Heart Association and its division, the American Stroke Association, I am pleased to offer our support for legislation that would expand funding for Team Nutrition. This program provides funding to states to support nutrition education and promote physical activity in schools. The current funding level of $10 million provides support to only 21 States. The additional funding would be used to expand the program so that more young people could obtain the knowledge and skills necessary to make healthy lifestyle choices.

Overweight and obesity, especially among children, have emerged as serious threats to our nation's health. Today, about 16 percent of all children and teens in the United States are overweight. Obesity is a major risk factor for coronary heart disease, which can lead to heart attack. Obesity can also induce diabetes, which makes the danger of heart attack especially high. Recent research suggests that obesity shortens the average lifespan by at least four to nine months, and if childhood obesity continues to increase, it could cut two to five years from the average lifespan. This could cause our current generation of children to become the first in American history to live shorter lives than their parents. Besides its toll on health, obesity contributes significantly to rising health care costs. The World Bank has estimated the cost of obesity at 12 percent of the nation's healthcare budget.

The American Heart Association is committed to lowering rates of overweight and obesity in the United States by helping Americans make better nutrition choices and by facilitating increased levels of physical activity at all ages. We support program and activities like those in your amendment, that can help reduce rates of obesity, cardiovascular disease and stroke. We commend you for your leadership on this issue and look forward to working with you to advance this legislation.

Sincerely,

SUE A. NELSON,
Vice President Federal Advocacy.

Mr. BINGAMAN. Mr. President, I will read parts of this letter so people can understand the case that is being made.

The American Heart Association letter directed to me, signed by Sue Nelson, Vice President for Federal Advocacy, says:

Overweight and obesity, especially among children, have merged as serious threats to our Nation's health. Today, about 16 percent of all children and teens in the United States are overweight. Obesity is the major risk factor for coronary heart disease which can lead to heart attack. Obesity can induce diabetes which makes the danger of heart attack especially high. Recent research suggests that obesity shortens the average lifespan by at least 4 to 9 months, and if childhood obesity continues to increase it could cut 2 to 5 years from the average lifespan. It could cause our current generation of children to be the first in American history to live shorter lives than their parents. Besides its toll on health, obesity contributes significantly to rising health care costs.

The World Bank has estimated that the cost of obesity is 12 percent of this country's overall health care budget.

The problem is we don't seem to be willing to connect the dots. We don't seem to be willing to say if we spent a little more on something like nutrition education, maybe we would not have to spend 12 percent of our health care budget to deal with the problem of obesity. That is the simple reality.

All I am saying is, let's begin to connect the dots and put a reasonable amount of funding into the effort to provide instruction to children in our schools about how to eat a decent diet and maintain a decent body weight. That is the entire purpose of the amendment.

We used to appropriate more money for nutrition education than we do today. Unfortunately, the last 3 years we have fallen into an automatic $10 million a year. That means no new States can participate in the program. It means no new students can get the benefit of this instruction. To my mind that is not an acceptable circumstance, particularly with this change in the lifestyle of Americans which we see all around us.

We need to provide good information to our young people so they can grow up and lead healthy productive lives. We are not doing that today. When you look around other parts of the Federal budget and say, well, okay, maybe the Department of Agriculture is not providing help with this, but maybe the Department of Education is. They are not. This is the only effort being made by the Federal Government to assist.

We have a lot of lofty statements being made by the administration. I

welcome those statements. We need to follow through with some reality in addition to the statements. The administration has launched an initiative. It refers to this initiative as the Healthier United States School Challenge, and it focuses on helping children to live longer, better, and healthier lives.

Our former Secretary of Agriculture Ann Veneman and the U.S. Department of Agriculture announced in July that the school challenge builds upon the team nutrition program and recognizes schools that have obtained nutrition and physical activity standards. So we are announcing initiatives and calling them the Healthier United States School Challenge, but we are not willing to put in funds to allow the programs to be available to most children in this country. To my mind, that is not a responsible course. We can do better.

I offered an amendment similar to this 2 years ago in the Senate when the Agriculture appropriations bill came up. At that time I was told, no, there is no money; we cannot afford to do this. I withdrew the amendment at that time and I was encouraged because both the managers of the bill advised they would try to find additional funds. They were not able to do that. I am sure in good faith they tried. They were not able to do that. Accordingly, we are still at $10 million.

I don't know of any other way to get this issue dealt with other than to ask the Senate to please vote on this. Please support my amendment and Senator LUGAR's amendment and increase this funding. The offset we have chosen is one that is called CCE, common computer environment. It is a $128 million item in the budget for improving the coordination of the computing in the various parts of the Department of Agriculture. I am sure it is a worthy purpose, but I would be willing to see that reduced by $10 million so we could put that $10 million into child nutrition education. That is the purpose of that amendment.

I hope my colleagues will support it. At this time I have used my 10 minutes and I will go ahead and yield the floor and have a chance to explain it very briefly before the actual vote occurs.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, there is no question but that an education program to try to get our young people to eat better makes sense. There is no question that we should do what we can to deal with the challenge of obesity.

Now let us look at a few realities with which we are faced. The President requested $10.25 million for the program. The amendment offered by Senator BINGAMAN and Senator LUGAR would virtually double that amount. There is no other program we are dealing with where the request is to double the funds. We have people who are requesting incremental increases of 5 percent and 10 percent, but quite frankly we have resisted.

The total number of earmarks and requests that have come in since the committee acted is over $50 million. We have stood firm against all of them and said we are sorry, the money isn't there. We feel we have to stand firm against it. So this $10 million would double the program as it currently exists and would be 20 percent of the total amount we on the subcommittee have said we cannot fund.

The offset is very interesting. It is the common computer environment. It always seems easy to say, well, we can get by, by delaying activity with the computers. Let's cut the computers because education is more important.

During the debate we have had today, we have heard complaints from people about interoperability, about inability to communicate in the time of emergency. Katrina has exposed problems with computers. If we were to cut the computer program as drastically as this would cut it, we run the risk of closing county offices. We run the risk of stopping the modernization of services right at a time when complaints are coming in about how antiquated those services are.

But interestingly, as the $50 million requests have come in, almost all of them, when we told them you have to have an offset, say let's cut the computers. If indeed we responded to every one of the requests for additional spending, we would have cut the computers $50 million.

I don't want to cut the computers at all. I accept the arguments that say we have challenges with communication in the Department; we need to have as modern a communication system as we possibly can. The common computer environment that is trying to create that interoperability should be encouraged and maintained.

For that reason, as fond as I am of the Senator from New Mexico and the Senator from Indiana, I have to oppose this amendment. I will ask my colleagues, when the time comes for the rollcall vote, to oppose it. There will be another bill next year. We will see where we are next year with overall spending. We will see where we are with respect to emergencies and how the Department of Agriculture is dealing with those emergencies.

I am convinced when we come to that, as we sift through all the damage that is done by Katrina and perhaps by Rita and other challenges, we would like to have as powerful and as modern a computer system to deal with communications as we possibly can.

For those reasons, the doubling of a program at a time of budget constraints that we find ourselves in, and taking the offset from a program where we feel we need to be as modern as we possibly can, gives me two reasons to say that I would be opposed to this amendment.

I still have an additional 5 minutes and I frankly have said all I need to say. I yield back the remainder of my time. If the Senator from New Mexico wishes to claim it, I am happy to have him use it; otherwise, we can go into a quorum call until such time as the vote starts at 7 o'clock, unless there are other Senators who wish to speak.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. I will speak for another couple of minutes.

I ask unanimous consent to add Senator MURKOWSKI and Senator COBURN as cosponsors of this amendment.

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

Mr. BINGAMAN. Mr. President, let me make one point. This is requesting that we double the size of this program, but at the current time, we are spending 21 cents per child per year on nutrition education out of the Federal Government. This is suggesting we might want to spend up to 42 cents per child per year.

I remember when I offered this amendment 2 years ago, Senator BYRD said we ought to at least provide as much per child as it costs to buy a candy bar. I thought that was pretty good insight.

I see my colleague from Oklahoma, Senator COBURN, wishes to speak briefly.

Mr. COBURN. I thank the Senator for his amendment.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. COBURN. Mr. President, this is an area I am all too familiar with. If we are going to solve the health care crisis in America, it starts with prevention. In the year 2070, one out of every $2 of Medicare we spend will be for diabetes. Fifty percent of the diabetes that will occur in the future can be prevented by good nutrition education in the early years, not only of the children but of the parents.

This is a fantastic amendment. I told the Senator from New Mexico I wished I had thought of it. For every $1 we spend on prevention, we get $17 back. For every $1 we spend on computers, we probably get $2 or $3 back. It comes back to the questions of priorities.

This is a great idea. I understand the resistance to not cut anything in a bill that comes to the floor from a Committee on Appropriations. I understand that. But I think of all the amendments I have heard, including mine, other than sunshine, this is the best I have heard because it will have the greatest impact. We get the most value for the dollars we spend. That is what we should be about. I heartily support the amendment and I hope the Senate will too.

The PRESIDING OFFICER (Mr. COBURN). The Senator from Utah is recognized.

Mr. BENNETT. Mr. President, we have had previous conversations about the effectiveness of the Agriculture Department. We are talking about our own backgrounds. I have a little bit of

background in advertising. I would be anxious before we spend this money to do a little analysis of how effective the advertising has been.

You talk about instruction in schools. We all know that there are instructions that work and there are instructions that don't. My own experience is that the Government is not very good at advertising healthy lifestyle changes. We could have been spending—I have no idea. We have not researched this at all. I have no idea where the evidence might be. We could have been spending the 21 cents per pupil and wasting every bit of it in terms of results.

I have something of a background in advertising and I know how much advertising budgets get wasted simply because the advertising campaign is not effectively carried out.

I recommend to my colleagues we defeat this amendment and if, indeed, the Senator from Oklahoma and the Senator from New Mexico can examine this from their background and demonstrate we are getting a 17-to-1 return from this particular program, that we are getting a 17-to-1 return from the kind of instruction going on in classrooms, then I would be happy to endorse this at some future time.

In terms of what has been the result of the $10 million we have been spending, how certain will we be that doubling that is going to, in fact, increase health among our children? It may well be that a GAO study would say the $10 million has been spent on training materials that have been ineffective and produced no result whatever.

In effect, we are being asked to buy something of a pig in a poke without understanding exactly how it works. I hope we would stay with the committee allocation here. The issue is a very legitimate issue. I, for one, will be more than willing in the hearings to ask the Department to give us a demonstration of how effective this has been.

If it can be demonstrated that it has, in fact, reduced obesity and has had some impact on diabetes, at that point I would be all for doubling it or tripling it because of the 17-to-1 figure the Senator from Oklahoma cites. But lacking that information, in this particular situation I would be loathe to proceed.

The PRESIDING OFFICER. All time has expired.

VOTE ON AMENDMENT NO. 1775

The PRESIDING OFFICER. Under the previous order, the question occurs on agreeing to the Coburn amendment No. 1775. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from New Mexico (Mr. DOMENICI) and the Senator from Wyoming (Mr. ENZI).

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE), the Senator from Hawaii (Mr. INOUYE), the Senator from Maryland (Ms. MIKULSKI), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessary absent.

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

The result was announced—yeas 55, nays 39, as follows:

[Rollcall Vote No. 238 Leg.]

YEAS—55

Akaka	DeMint	Nelson (FL)
Alexander	Dodd	Nelson (NE)
Allen	Ensign	Obama
Bayh	Feingold	Roberts
Biden	Feinstein	Salazar
Bingaman	Graham	Santorum
Boxer	Inhofe	Schumer
Brownback	Isakson	Sessions
Burns	Kerry	Snowe
Burr	Kohl	Specter
Cantwell	Kyl	Stabenow
Chafee	Landrieu	Sununu
Clinton	Levin	Talent
Coburn	Lieberman	Thomas
Collins	Lugar	Voinovich
Cornyn	Martinez	Warner
Craig	McCain	Wyden
Crapo	McConnell	
Dayton	Murkowski	

NAYS—39

Allard	Dorgan	Leahy
Baucus	Durbin	Lincoln
Bennett	Frist	Lott
Bond	Grassley	Murray
Bunning	Gregg	Pryor
Byrd	Hagel	Reed
Carper	Harkin	Reid
Chambliss	Hatch	Sarbanes
Cochran	Hutchison	Shelby
Coleman	Jeffords	Smith
Conrad	Johnson	Stevens
DeWine	Kennedy	Thune
Dole	Lautenberg	Vitter

NOT VOTING—6

Corzine	Enzi	Mikulski
Domenici	Inouye	Rockefeller

The amendment (No. 1775) was agreed to.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I have a unanimous consent request in which all Senators, I believe, will be interested.

Mr. President, I ask unanimous consent that after the next vote, there be no other rollcall votes until 9:30 tomorrow morning, with the understanding that all amendments will be offered tonight, all debate will take place tonight, and all votes that occur tomorrow will be stacked to be followed by final passage.

The PRESIDING OFFICER. Is there objection?

Mr. BENNETT. That means, Mr. President, that there will be no more votes tonight, and amendments that require rollcall votes will be voted on in the morning, and that we will go to final passage immediately at 9:30 tomorrow after disposing of any rollcall votes. We have several amendments pending which we hope we can deal with by voice votes tonight, and I hope that we will not have any more rollcall votes and can go immediately to final passage.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I certainly understand the chairman's sentiments, but I ask the chairman of the Senate Judiciary Committee what the impact of this schedule will be on our hearing tomorrow.

Mr. SPECTER. Mr. President, the answer to that is, we will work around it. We will proceed, and we will get the nominee voted out of committee. We can accommodate it. That is the answer.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 1797

The PRESIDING OFFICER. Under the previous order, there are 2 minutes evenly divided on the amendment offered by the Senator from New Mexico. The Senator from New Mexico is recognized.

Mr. BINGAMAN. Mr. President, this amendment is being offered by myself, Senator LUGAR, Senator MURKOWSKI, and Senator COBURN. The amendment would add $10 million for child nutrition to the program that already exists in the Department of Agriculture called Team Nutrition. This is the only significant Federal effort we have to assist with nutritional education in our schools.

Today, it is drastically underfunded. This would allow us to add $10 million. Instead of spending 21 cents per child per year in this country on nutritional education from the Federal Government, we would be spending 42 cents.

This is an amendment that I think all Members should support. Clearly, this is needed to deal with the problem of childhood obesity that is becoming an epidemic in our society.

I hope my colleagues will all support this amendment.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, the President's request for this program was $10 million. This amendment doubles it and takes the money away from computers at a time when the Department is doing its very best to increase its interoperability and raise its level of technological ability. I do not think doubling a program that has not been evaluated for its effectiveness is the right thing to do in this time of heavy budget pressure.

I urge my colleagues to oppose the amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1797. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senator is necessarily absent: the Senator from New Mexico (Mr. DOMENICI).

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE), the Senator from Hawaii (Mr. INOUYE), the Senator from Maryland (Ms. MIKULSKI), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

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

The result was announced—yeas 66, nays 29, as follows:

[Rollcall Vote No. 239 Leg.]

YEAS—66

Akaka	Dorgan	Murray
Alexander	Durbin	Nelson (FL)
Baucus	Ensign	Nelson (NE)
Bayh	Feingold	Obama
Biden	Feinstein	Pryor
Bingaman	Grassley	Reed
Boxer	Harkin	Reid
Byrd	Hutchison	Salazar
Cantwell	Jeffords	Santorum
Carper	Johnson	Sarbanes
Chafee	Kennedy	Schumer
Clinton	Kerry	Sessions
Coburn	Kohl	Shelby
Coleman	Landrieu	Smith
Collins	Lautenberg	Snowe
Conrad	Leahy	Specter
Craig	Levin	Stabenow
Dayton	Lieberman	Sununu
DeMint	Lincoln	Talent
DeWine	Lugar	Thune
Dodd	McConnell	Warner
Dole	Murkowski	Wyden

NAYS—29

Allard	Cornyn	Kyl
Allen	Crapo	Lott
Bennett	Enzi	Martinez
Bond	Frist	McCain
Brownback	Graham	Roberts
Bunning	Gregg	Stevens
Burns	Hagel	Thomas
Burr	Hatch	Vitter
Chambliss	Inhofe	Voinovich
Cochran	Isakson	

NOT VOTING—5

Corzine	Inouye	Rockefeller
Domenici	Mikulski	

The amendment (No. 1797) was agreed to.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I call up amendment No. 1835.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN] proposes an amendment numbered 1835.

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

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

The amendment is as follows:

(Purpose: To limit the use of certain funds)

On page 160, line 10, before the period at the end insert the following: ''or for reimbursement of administrative costs under section 16(a) of the Food Stamp Act of 1977 (7 U.S.C. 2025(a)) to a State agency for which more than 10 percent of the costs (other than costs for issuance of benefits or nutrition education) are obtained under contract''.

Mr. HARKIN. Mr. President, first, I want to commend Senator BENNETT and Senator KOHL for their work on the bill that is before us today, the Agriculture appropriations bill. They worked hard to put together a good bipartisan bill and overall I find no fault with it. I think it is a great bill and it will have my support. I thank both Senator BENNETT and Senator KOHL and their respective staffs for working with me and with my staff on a number of issues that are in the Agriculture appropriations bill.

I want to draw the attention of Senators to page 160 of the bill, section 746:

None of the funds made available in this Act may be used to study, complete a study of, or enter into a contract with a private party to carry out, without specific authorization in a subsequent Act of Congress, a competitive sourcing activity of the Secretary of Agriculture, including support personnel of the Department of Agriculture, relating to rural development or farm loan programs.

Well, what does all that say? What it says basically is that the Department of Agriculture cannot engage in any contracting out to private contractors applications processes for anyone coming in to get any assistance under rural development or farm loan programs. In other words, those have to be carried out by public employees, employees who are publicly hired, and that any activity relating to that must go through those employees.

It says basically it has to be that way until we in the Agriculture Committee on the Senate and the House authorize the Department of Agriculture to specifically engage in such contracting activity.

Do I support section 746? Yes, I think it is a good addition to the bill. I do not think the Secretary or the Department ought to be going out and contracting out to private entities these kinds of activities until we have had a chance to look at it, until the authorizing committees of the Senate and the House have hearings, take into consideration what is involved, and either grant that to the Secretary of Agriculture or not grant it.

So I think section 746 is basically a sound approach that recognizes both the value of the public sector and public employees, and recognizes the jurisdiction of the Agriculture Committees. However, there is something missing from section 746. I believe this same logic should apply to other USDA programs. In particular, I believe we need to protect vital services and benefits offered through the Food Stamp Program.

The amendment I am offering would apply the same protection that 746 applies to farm loan and rural development functions to the Food Stamp Program as well. In other words, my amendment basically says if you want to contract out to private contractors elements of the Food Stamp Program that have to do with application processes, you cannot do it until it is specifically authorized by Congress—just as the underlying bill requires for rural development or farm loan programs.

My amendment is basically an extension of the logic of the underlying bill. It is not a departure from it. It is not a major policy change. It simply says the Food Stamp Program, like rural development and farm loan programs, is a vital public service program. It is not broken, it is working well. If you want to make some changes, why don't you come to Congress. We will have some hearings, and we will see if it needs to be fixed.

I have been on the Agriculture Committee now for 30 years. That is right, this is my 30th year, now that I think about it: 10 in the House and 20 in the Senate. We have been through a lot in the Food Stamp Program in 30 years. We have always made changes to it to meet changing times and circumstances. I was one of those who was in the lead on getting rid of food stamps and getting it to an electronic benefit transfer program, where you have a debit program. It has worked well.

However, in all of those cases we in the Congress decided on the changes that should be made to the underlying program, not just the Secretary of Agriculture. As I said, this program is not broken. In fact, recent events have highlighted the value of the Food Stamp Program and the need to protect it from changes that could undermine it.

Amidst the devastation wrought by Hurricane Katrina, the Food Stamp Program has nobly and efficiently served those in need.

There has been a lot of criticism of the Federal Government's response to Katrina, but I have heard no criticism of the Food Stamp Program. In many places hit by Katrina, the Disaster Food Stamp Program was one of the first responders. We often think of first responders as being firefighters and policemen, emergency services personnel. That is true, they are. But in this case, first responders were also those public employees who helped those most in need get the food they needed for themselves and their families.

In Louisiana, nearly 300,000 households are already receiving food stamps and have been for the last couple of weeks since the hurricane hit. In Texas, another 125,000 households are receiving emergency food stamp assistance. Overall, approximately 1 million individuals affected or displaced by Hurricane Katrina are receiving emergency food stamp benefits.

The USDA was able to respond quickly and set up these programs efficiently, in large part because the programs were run by State agencies in consultation with the Federal Government. That was their purpose. That was their reason for being.

Why do we want to allow the Food Stamp Program to be privatized and put out to private contractors? Usually you do that if there is a problem, if something is failing to meet the needs of people. I defy anyone in this Senate to come up and show me or show anyone where the Food Stamp Program is failing to meet the needs of the people it serves, or is not being run efficiently.

When the next disaster occurs, do we want an outside contractor responsible for running the Disaster Food Stamp Program? Do we in the Senate want to open up the program to the risks associated with food stamp privatization in general? We can ill-afford to put the Food Stamp Program and the millions who benefit from it at this kind of risk.

What do I mean by risk? What is at the bottom of this? We know there has

been a State that is currently seeking permission from the Department of Agriculture to privatize food stamps. Here is what they want to do. They want to close a number of food stamp offices where a person goes to meet face to face with someone to determine eligibility and get their approval for food stamps. They want to close about 100 of those and open up three call centers. If you want to apply for food stamps, they tell me you are going to have to call on the phone. Or you can go online, as if people who apply for food stamps are sitting at home at their computers.

Let's take the case of these call centers. I have no reason to believe that it couldn't work like this. Imagine, here are people desperately in need of food stamps. They get a number to call—probably an 800 number or something like that, probably toll free, I assume. They call up. A voice answers, an automated voice answering system answers and says: I understand because you are calling you probably want to apply for food stamps. If you want to apply for food stamps and you live in this area, punch 1; if you live in this area, punch 2; if you live in this area, punch 3. You get all the way through and you are pretty confused about where you live.

Let's say you figure it out and you say I am in this area and you punch 3. Then another voice comes on and says: OK, we understand you live in this area and you want to apply for food stamps. If you are a single person, punch 1; if there are two of you, punch 2; if you have a family of three, punch 3. You see what I am saying? Then you have to punch in another entry.

Another automated voice comes on and says the next step in this process: If you are over a certain age, press this number; if you are under a certain age, press this number; if you have ever applied for food stamps—do you see what I am getting at? You have a person on the phone who wants to apply for food stamps and they are sitting there trying to figure out, punch 3 for this, punch 4 for that.

Finally, after they get through all of these automated voice prompts they are probably told: Thank you, your waiting time to talk to the next operator is now 19 minutes. And you have to sit there and listen to music. If you are patient enough to wait that long, you are probably going to get someone on the line you will talk to. For all I know, by the time you actually get to them, the person on the other line may not even be in the United States. That is what this is all about.

There are some companies that want to do this. They probably figured out they can make a lot of money. They hire someone in another country for, I don't know, 50 cents an hour.

Again, the underlying bill says you cannot do that if you are a utility company and you want to apply for a rural development loan. They don't make you go through call centers. They have someone there you go see.

If you are a farmer, if you have a farm, you have assets, you own something, and you want to apply for a farm loan, you don't have to go through a call center. You go see someone. But by allowing wholesale privatization of the Food Stamp Program, we would not be providing to low-income Americans the same basic treatment. Poor people have to go through call centers and get all the runaround that we always get when we try to call and get someone in one of those call centers.

That is why section 746 needs to be amended. That is why it needs this addition, so that the Food Stamp Program is treated the same as farm loans or rural development. If they want to change it, have them come up to Congress. We will have hearings. We will take a look at it. Maybe they can make a good case. I don't know. But I am just concerned if we do not add this amendment, that waivers will be given that will allow contracting out the food stamp operations.

Furthermore, this may undo a lot of the progress we have made in improving program integrity. Right now, program error in the Food Stamp Program is the lowest than at any time in its existence. Why do you want to change it? If something is working, why try to fix it? Why would we choose to put these successes at risk by now turning it over to untested entities and call centers?

Under the current food stamp law, public employees of State food stamp agencies are responsible for two essential oversight functions: Payment accuracy and an annual self-evaluation of program management. But if these functions are turned over to a private contractor with no experience in running the Food Stamp Program, how do we know if they will be able to maintain program accuracy? Should we just roll the dice and take it on faith that they will continue the error rate as low as we have it right now?

I want to make it clear, I am not opposed to privatization of certain things. I point out the electronic benefit transfer program under food stamps is privatized. It is all run by—I guess Citibank or someone, I don't know, I could be a little wrong on that. But that is fine. There is nothing wrong with turning to specialized contractors for technical services like financial operations. What I am talking about is when you apply for food stamps; when you are in need and you want to apply or you want to modify your food stamps because of another child born or some other thing, something else has happened to change your life. That is when you need to have someone there who can help you immediately in your situation and talk to you.

Anyway, as I said, my amendment would not stop that. It would not stop the private contracting out for EBT, but it certainly would for fundamental program functions like application and eligibility processes.

To repeat for emphasis sake, there is no evidence that we have any problems in the Food Stamp Program that requires privatization. The error rate is the lowest ever. The accuracy rate is high. Emergency food stamps for disaster situations have worked extremely well. So there is no evidence, nor have we had a hearing, to suggest that privatizing the Food Stamp Program would in any way improve program effectiveness. That is why we should have extensive hearings on this before allowing any waivers to be granted.

The Food Stamp Program is strong. Not only does it deliver much needed food assistance to 25 million Americans, but as we have just shown with Katrina, it is serving hundreds of thousands of families, over a million people devastated by that hurricane.

My amendment simply ensures that the Food Stamp Program remains as it is with those public employees best suited to carry it out. It extends the logic that is in Section 1746 of the underlying bill dealing with rural development farm and loan programs to the Food Stamp Program as well.

As I said, if they want to do something, they can come to the Agriculture Committee. We can have hearings and take into account some problems that somebody might feel would be cured by privatizing and setting up these call centers for food stamp applications.

I ask for support of the amendment, and I yield the floor.

Mr. BENNETT. Mr. President, I ask that we proceed to a vote on the Harkin amendment by voice vote.

The PRESIDING OFFICER. Is there further debate on amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 1835) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. HARKIN. Mr. President, I thank the chairman of the committee for his kindness and having this vote. Hopefully we can at least keep this in as we move ahead going to conference.

I thank the chairman for his kindness.

Mr. BENNETT. Mr. President, I am unaware of any other Senator who is planning to offer any amendment. I don't want to cut anybody off, but I made it clear during the vote that all amendments have to be offered tonight and all debate take place tonight. We are scheduled for the vote tomorrow morning. My understanding is that the Dayton amendment is still pending, and, therefore, if it can't be disposed of tonight, it would be available for tomorrow morning. The Jeffords amendment is still pending, and if that cannot be resolved tonight, that would be voted on tomorrow morning. Those are

the only two I am aware of at the present time.

I will suggest the absence of a quorum so we can check the list and see who else might be out there. But I would say to any who are monitoring our procedures on behalf of their respective Senators that the time for offering amendments is getting mighty short. We don't want to deny any Senator his or her rights, but I feel we have given fair warning this is what we will do.

With that, I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

Mr. KOHL. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

AMENDMENT NO. 1818

Mr. KOHL. Mr. President, I call up amendment No. 1818, which is at the desk, on behalf of Senator DODD.

The PRESIDING OFFICER. Without objection, the pending amendments are set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. KOHL] for Mr. DODD, for himself, Mr. HARKIN, Mr. REED, Mr. CARPER, Mr. BIDEN, and Mr. LIEBERMAN, proposes an amendment numbered 1818.

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

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

The amendment is as follows:

(Purpose: To require the Food and Drug Administration to issue a monograph with respect to over-the-counter sunscreen)

On page 173, after line 24, insert the following:

SEC. 7 . (a) Congress makes the following findings:

(1) Consumers need clear and consistent information about the risks associated with exposure to the sun, and the protection offered by over-the-counter sunscreen products.

(2) The Food and Drug Administration (referred to in this section as the ''FDA'') began developing a monograph for over-the-counter sunscreen products in 1978.

(3) In 2002, after 23 years, the FDA issued the final monograph for such sunscreen products.

(4) One of the most critical aspects of sunscreen is how to measure protection against UVA rays, which cause skin cancer.

(5) The final sunscreen monograph failed to address this critical aspect and, accordingly, the monograph was stayed shortly after being issued until issuance of a comprehensive monograph.

(6) Skin cancer rates continue to rise, especially in younger adults and women.

(7) Pursuant to section 751 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379r), a Federal rule on sunscreen labeling would preempt any related State labeling requirements.

(8) The absence of a Federal rule could lead to a patchwork of State labeling requirements that would be confusing to consumers and unnecessarily burdensome to manufacturers.

(b) Not later than one year after the date of enactment of this Act, the FDA shall issue a comprehensive final monograph for over-the-counter sunscreen products, which shall include UVA and UVB labeling requirements.

AMENDMENT NO. 1849 TO AMENDMENT NO. 1818

Mr. KOHL. Mr. President, I send an amendment to the desk in the second degree.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. KOHL], for Mr. DODD, proposes an amendment numbered 1849 to amendment No. 1818.

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

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

The amendment is as follows:

(Purpose: To express the sense of Congress with respect to over-the-counter sunscreen)

In lieu of the matter proposed to be inserted, insert the following:

SEC. 7_____. (a) Congress makes the following findings:

(1) Consumers need clear and consistent information about the risks associated with exposure to the sun, and the protection offered by over-the-counter sunscreen products.

(2) The Food and Drug Administration (referred to in this section as the ''FDA'') began developing a monograph for over-the-counter sunscreen products in 1978.

(3) In 2002, after 23 years, the FDA issued the final monograph for such sunscreen products.

(4) One of the most critical aspects of sunscreen is how to measure protection against UVA rays, which cause skin cancer.

(5) The final sunscreen monograph failed to address this critical aspect and, accordingly, the monograph was stayed shortly after being issued until issuance of a comprehensive monograph.

(6) Skin cancer rates continue to rise, especially in younger adults and women.

(7) Pursuant to section 751 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379r), a Federal rule on sunscreen labeling would preempt any related State labeling requirements.

(8) The absence of a Federal rule could lead to a patchwork of State labeling requirements that would be confusing to consumers and unnecessarily burdensome to manufacturers.

(b) It is the sense of Congress that the FDA should, not later than one year after the date of enactment of this Act, issue a comprehensive final monograph for over-the-counter sunscreen products, including UVA and UVB labeling requirements, in order to provide consumers with all the necessary information regarding the dangers of skin cancer and the importance of wearing sunscreen.

Mr. KOHL. Mr. President, I urge adoption of the modification and adoption of the amendment as modified.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the second-degree amendment. The amendment (No. 1849) was agreed to.

Mr. KOHL. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the first-degree amendment, as amended.

The amendment (No. 1818), as amended, was agreed to.

Mr. KOHL. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KOHL. Mr. President, I thank you.

Mr. BENNETT. Mr. President, no one has come forward, so we are prepared to close down with the two amendments still unresolved, Dayton and Jeffords, and then move to final passage after those two are resolved for a voice vote or yeas and nays, I assume which will be determined tomorrow. At the moment, the yeas and nays have not been ordered. I want to respect the rights of both of those Senators.

While we get together whatever final activity needs to go forward, 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. BENNETT. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

MOLOKAI AGRICULTURE DEVELOPMENT

Mr. INOUYE. Would the distinguished Senators from Utah and Wisconsin yield? I would like to discuss with you a program that addresses the very limited employment and high barriers to entry into sustainable agricultural enterprises on the Island of Molokai.

Mr. BENNETT. I would be pleased to yield to the senior Senator from Hawaii.

Mr. KOHL. I, too, would also like to join in on the discussion of this matter.

Mr. INOUYE. I thank my distinguished colleagues for yielding. In fiscal year 2005 and prior fiscal years, the subcommittee has included $250,000 for a program that provides training, business coaching, and cost share assistance to new agricultural businesses on the Island of Molokai, that have the promise of being sustainable and beneficial to this predominantly Native Hawaiian community. In 2004, the program allowed past grantees who had demonstrated success in their businesses to apply for expansion and enhancement funding. As a result, eight businesses were able to strengthen their operations through diversification, value added treatment, and improved marketing. As a result of the program, increased quantities and percentages of local produce and value added products are available in Molokai's grocery stores, farmers markets and other venues. In addition, the marketing of sweet potatoes and papayas has continued to expand to the Island of Maui and on the mainland. In the coming year, the emphasis will be on first-time farm businesses. Mini start-up grants will be instituted to prepare new applicants for possible

projects in the future. While this program is showing success in an economically depressed part of my State, the need for this program continues.

Despite the support by the Congress, no funds are provided for the program in fiscal year 2006. Accordingly, efforts to assist first-time farm businesses and to provide assistance and employment opportunities to the Island of Molokai will not continue without the continued support of the Congress and funding for the program. Would my colleagues consider including such support for the program during conference deliberations on the Agriculture, Rural Development, Food and Drug Administration, and related agencies appropriations bill?

Mr. BENNETT. I would like to assure the Senator from Hawaii that I will work with Senator KOHL to ensure that this program will be considered in conference.

Mr. KOHL. I concur with my colleague from Utah, and will also work with him to have this program addressed in conference.

Mr. INOUYE. I thank my colleagues for their consideration and support of the Molokai Agriculture Development program.

POSITION TRANSFER

Mrs. MURRAY. Mr. President, I ask to be recognized for the purposes of a colloquy.

Senator KOHL, the legume plant pathologist position currently working in the CRIS titled ''Improving Disease Management of Soil-borne Diseases of Edible Legumes'' is being eliminated in a reorganization proposed by USDA ARS.

Root diseases are fast becoming a major problem in all of the production areas. These root diseases cause a loss of yields and quality of pulse crops.

A reduction of research support by USDA ARS at this time of rapidly increasing acreages of pulses in ND, MT, SD and NE is unacceptable. Eliminating this research could substantially hurt the entire pulse crop industry.

Within the fiscal year 2006 Agriculture appropriations, there is funding provided for a legume pathologist focused on root diseases. Due to the reorganization of the ARS Prosser facility, this pathologist will not be funded unless that position is moved to the ARS Pullman facility. The need for this project is clear and should be supported by ARS. In order to continue this vital research it is clear that it will need to be moved to ARS Pullman.

I ask that the conference report accompanying the Agriculture bill include language directing ARS to transfer the legume pathologist position and the $250,000 from the Vegetable and Forage Legume Research Unit at Prosser, WA, to the Grain Legume Genetics and Physiology Research Unit at Pullman, WA. This requires no new funding, as it will solely involve the transfer of the legume pathologist from Prosser to Pullman.

This will allow ARS to continue its research on pulse crops at no additional costs.

Senator KOHL, would you support this language moving the legume pathologist position from Prosser, WA, to Pullman, WA?

Mr. KOHL. Yes, Senator MURRAY. Thank you for bringing this issue to my attention. I will work with my colleagues in conference to support your request and include language in the final report.

Mr. BENNETT. I concur with my colleague's views on the need to move this ARS position to Pullman, WA, from Prosser, WA, and will work with Senator KOHL in conference to have language included in the final report.

Mrs. MURRAY. Thank you, Senator KOHL, and thank you, Mr. Chairman, for your support on this issue. This project is critical to the long-term health and viability of dry pea and lentil producers in Washington State and all across the country.

CITRUS CANKER COMPENSATION

Mr. MARTINEZ. Mr. President, I rise today to discuss the serious problem of a disease that threatens to wipe out the citrus industry of Florida. I sincerely appreciate the great efforts made thus far by Chairman BENNETT, the Senate Agriculture Appropriations Subcommittee, and their staff to work to address the on-going eradication efforts in Florida. Under the FY 2006 Agriculture appropriations bill, $40,000,000 has been directed towards the Animal and Plant Health Inspection Service to assist citrus producers in combating this terrible bacterium.

Citrus canker is a bacterial disease characterized by the lesions it leaves on citrus trees and fruit that leaves trees weakened and results in reduced fruit production.

The four hurricanes that hit Florida in 2004 caused significant spread of citrus canker into commercial growing areas. The 2004 hurricane season in Florida not only damaged citrus crops and trees, it was a primary cause of the spread of citrus canker beyond what was generally believed to be reaching a goal of eradication. The storms created an additional need for compensation to support the continuing eradication effort.

Compensation for citrus producers is a vital component of the program as many commercial growers would not allow their trees to be cut without the promise of compensation. There is no cure for canker. The only known way to contain the spread of citrus canker is to cut down infected and exposed trees in a 1,900 square foot area. In a commercial grove, that radius can encompass up to 250 acres around a single infected tree. That's why the post-hurricanes outbreak has led to the destruction of nearly 55,000 acres.

USDA has estimated that the 2002–2005 citrus crop will yield 151 million boxes of oranges, down from their 225 million box estimate earlier in 2004. This year's decrease of 94 million boxes represents a staggering decrease of 38 percent.

Before the 2004 hurricane season, the U.S. Department of Agriculture had compensated commercial growers an average $7,600 an acre for destroying their property. According to my growers in Florida and the Florida Department of Citrus, the backlog of unpaid compensation has grown to nearly $450 million. It is my hope that during the conference negotiations process with the House Agriculture Appropriations Subcommittee that citrus canker compensation funding will be addressed at an appropriate level on behalf of growers that abide by the USDA canker eradication program.

Mr. BENNETT. I thank Senator MARTINEZ, for sharing his concerns on this important issue. It is my understanding that the House has appropriated $10 million for citrus canker compensation payments and we are aware of the impact that this disease has on the citrus industry in his State. We are committed to working with his office to help provide funding for his growers that have worked with USDA to help eradicate this destructive bacteria.

Mr. MARTINEZ. I thank the chairman. I appreciate his support and look forward to working with him as well as the appropriations process moves forward.

SPECIALTY CROPS

Mr. BENNETT. Mr. President, throughout this entire process, both at subcommittee and at full committee level, Senator FEINSTEIN and Senator CRAIG have expressed great interest and concern about specialty crops, and they have asked us to take action with respect to specialty crops. We have been unable to find room in our allocation to deal with it. However, we recognize that the House has an allocation for specialty crops, and for that reason we believe we will be able to find a solution to this issue in conference.

The 2 Senators have been very cooperative and helpful. I want to make everyone understand that as we have worked our way through this they have been in no way less than enthusiastic about supporting the issue of specialty crops. If we get the problem solved in conference, as I am hopeful we can, and as I have commented to them that I will work to do, it will be in large measure because of the tenacity and leadership of Senator FEINSTEIN and Senator CRAIG. We appreciate their calling our attention to this particular issue.

Also, Senator DEWINE and Senator STABENOW have a problem which we have indicated we will do our best to deal with in conference. We understand the importance of the issue they have raised.

With that, I want to once again pay tribute to the ranking member, Senator KOHL, and to his staff as we have gone through this process. Both the

majority and minority staff have worked as one rather than as two competing staff. That is one of the reasons we have been able to clear as many amendments as we have as expeditiously as we have.

I once again want to thank my ranking member not only for his professionalism but for his friendship as we have gone throughout this process.

Mr. KOHL. Mr. President, I thank Senator BENNETT very much for the sentiments expressed, which are felt similarly by myself and people who are working with me.

On the question of Senator FEINSTEIN and Senator CRAIG and others in specialty crops, as you have indicated, we all understand how important this program is across the country, not only in California and in Idaho but in other States, as well. I am aware the House bill includes funding.

I will join with Senator BENNETT and we will do everything we can to adopt the House level in conference.

MORNING BUSINESS

Mr. BENNETT. Mr. President, I now ask unanimous consent there be a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

The PRESIDING OFFICER. The majority whip.

HISTORIC AFGHAN PARLIAMENTARY ELECTIONS

Mr. MCCONNELL. Madam President, I rise to share great news with all of our colleagues. Last Sunday, an estimated 6 million people in Afghanistan voted in that country's historic first legislative election in over three decades. This is a tremendous achievement for the citizens of Afghanistan, for the people of the broader Middle East, and for obviously the United States because of America's interest in seeing peace and democracy flourish around the world. And, of course, it is a victory in the war on terror.

Afghans turned out, despite threats of violence, and despite unfamiliarity with the parliamentary system, to vote in great numbers for a 249-member lower parliamentary house and the members of 34 provincial councils. Those councils, along with President Hamid Karzai, will help select the 51 members of the upper parliamentary house, and the Afghan Parliament will convene for the first time this coming December.

Four years ago, the ruthless Taliban regime ruled Afghanistan with an unyielding, murderous intolerance, and they laid down that country's welcome mat to terrorists. Al-Qaida called the Afghan deserts their home, and they plotted the deaths of Americans. Well, no more. Today a democratically elected President and Parliament chart a new course for that country.

The turnout rate in this historic parliamentary election is estimated to exceed the typical turnout rate in our own country for our so-called off-year congressional elections, that is, when there is no Presidential election on the ballot. This follows the remarkable trend set last October when Afghanistan elected Hamid Karzai in its first Presidential election ever, also with a higher turnout rate than we had in this country a month later. I do not think Americans have to worry about terrorist threats or deadly bombing attacks on their way to the polls, but obviously the people in Afghanistan were certainly concerned that that might happen.

In fact, though there was some scattered violence, the Afghan police and army did an excellent job on the whole of securing the polls and thwarting these would-be terrorists. For instance, the police defused a large cache of explosives in Mazar-i-Sharif. In the western town of Helmand, an attack on a polling station ended with the deaths of two men suspected to be remnant Taliban members. Police even caught two terrorists attempting to smuggle explosives hidden in a pen into a polling station.

Turnout among women was high as well. We do not have the official results yet, but President Karzai claims it should account for about 40 to 60 percent of the total turnout. This is Afghanistan we are talking about. Forty to 60 percent of the total turnout in the legislative elections were women. This Afghan election is a huge success story, despite the deafening silence about it in the mainstream media. I continue to be disappointed at the media's refusal to cover the good news taking place in the broader Middle East.

I would like to read the beginning of a commendable editorial from the September 19, 2005, edition of the Wall Street Journal. I ask unanimous consent to have the entirety of that article printed in the RECORD.

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

[From the Wall Street Journal, Sept. 19, 2005]

THE AFGHAN SUCCESS

Who would have thought that free and successful elections in Afghanistan would so quickly become a non-story? We sure didn't, but that seems to be the case judging from the paucity of news coverage of yesterday's historic Afghan vote for a national parliament and provincial assemblies. Success is apparently boring.

Taliban terrorists were unable to fulfill their pledge to disrupt the vote, not that they didn't try. They killed five candidates and four election workers leading up to the election, and yesterday another 15 people died in violence, including a Frenchman who was part of the international force helping to provide security. Despite such dangers, turnout was said to be heavy, though perhaps not up to the eight million who voted in last October's presidential election.

The vote was also another milestone for Afghan women, with 580-some female candidates, or 10% of the total. The Taliban had threatened female candidates in particular, much as they had turned women into second-class citizens during their time in power. For a country that hadn't chosen a legislature in decades, and was thought too benighted to support democracy by many Western sages, this is worth celebrating.

About 20,000 U.S. soldiers remain on the ground in the country, providing security while Afghan police and army forces continue to build. American and NATO forces will need to be there for some time, notably special forces who can pursue Taliban fighters who use terrorist tactics. But a legitimate new legislature will make it that much harder for the Taliban and its foreign recruits to find popular sympathy or sanctuary.

It's worth recalling how perilous for U.S. interests this comer of Southwest Asia was only four years ago. With the Taliban running Afghanistan, and Pakistan intelligence helping them, an Islamist takeover in Islamabad was not out of the question. But now with the Taliban routed and Hamid Karzai governing in Kabul, the region is no longer an al Qaeda sanctuary. This is one battle in the war on terror that we're clearly winning.

Mr. MCCONNELL. Here is how it begins:

Who would have thought that free and successful elections in Afghanistan would so quickly become a non-story? We sure didn't, but that seems to be the case judging from the paucity of news coverage of yesterday's historic Afghan vote for a national parliament and provincial assemblies. Success is apparently boring.

I think they must teach them in journalism school that only bad news is news. Let me repeat that last part. As President Bush and our armed forces continue to defend and spread freedom in the broader Middle East, if there is bad news, setbacks or casualties to report, the mainstream media will gladly hold the front page. But reporting success is apparently boring. Well, tell that to any one of the millions who cast their cherished ballot last Sunday.

I think the American people deserve to know the progress we are making in expanding freedom in countries that until now have known only terror. That is among one of the best ways of ensuring that terror does not strike our shores again, as it did on September 11, 2001. But it appears that the mainstream media is not that interested in good news. There is only one way to report this story: as a victory in the war on terror.

I ask all of our colleagues to join me in congratulating the Afghan people for taking this giant step toward becoming a free democratic state, justly governed under the rule of law. I ask them to join me in pledging the full support of the United States as Afghanistan continues to root out the last vestiges of its extremist terrorist element and moves forward into its democratic future. And I ask them to join me in declaring that whatever the final outcome of the elections, the true winners are the Afghan people, and the people of the region who can look to the Afghan exercise in democracy this past weekend as a model of success.

HONORING TERRENCE M. McDERMOTT

Mr. DURBIN. Mr. President, I rise today to honor a constituent, Terrence M. McDermott, executive vice president and chief executive officer of the National Association of Realtors, and congratulate him on his retirement.

Born and raised on the West Side of Chicago, Mr. McDermott attended Loyola University in Chicago and the National College of Education in Evanston, IL.

Before serving as CEO for the National Association of Realtors, Mr. McDermott gained nearly 30 years of experience in publishing and media. He also served as the executive vice president and chief executive officer of the American Institute of Architects and on the board of the American Architectural Foundation.

In addition to his many professional accomplishments, Mr. McDermott possesses a lifelong love of politics instilled by his family. Politics were routinely discussed around the dinner table, and Mr. McDermott worked as a volunteer on Senator Paul Douglas's last campaign before he could even vote.

Mr. McDermott is also an avid hunter and fisherman and plans to spend his retirement expanding his extensive decoy collection. Mr. McDermott and his wife Sue Ann recently celebrated their 39th anniversary and have two children, Matthew and Patricia.

I congratulate Mr. McDermott on his many accomplishments throughout his long and successful career, and I wish him many more years of happiness and accomplishment in retirement.

EXTENSION OF THE HIGHER EDUCATION ACT

Mr. ENZI. Mr. President, I rise today to encourage my colleagues to pass H.R. 3784, which would provide for a temporary extension of the Higher Education Act of 1965. As my colleagues are aware, the Senate Committee on Health, Education, Labor and Pensions approved legislation unanimously that would reauthorize Federal higher education programs for another 6 years. However, as many of these programs will expire on September 30, it is important that we extend the programs authorized by this act until the Congress can successfully complete work on the reauthorization legislation.

I am pleased to have been able to report that legislation with a unanimous vote out of committee. I am hopeful that the Senate will take action on that legislation quickly, either in the context of budget reconciliation or on its own, and that we can continue the commitment of Congress to support the access and affordability of higher education in this country.

HIGHER EDUCATION ACT EXTENSION

Mr. HATCH. Mr. President, while I recognize that the Senate Committee on Health, Education, Labor, and Pensions, HELP, is overwhelmed in addressing the needs associated with the Hurricane Katrina recovery, the Higher Education Act, HEA, is set to expire on September 30, 2005. I am concerned that with the extension of the HEA until December 31, 2005, we may be sending a signal that we are not planning on acting on the HEA reauthorization bill in the near future. I would like to know if my friend, the chairman of the HELP Committee, could give me his assurance he still intends to make passage of the permanent reauthorization a priority in the next few weeks?

Mr. ENZI. Mr. President, in response to that question, I would like to assure my colleague from Utah that the HELP Committee intends to keep this a high priority and we are hopeful of having a bill signed into law before December 31, 2005.

Mr. HATCH. Mr. President, I would like to thank the chairman for that confirmation.

LOCAL LAW ENFORCEMENT NEEDS OUR HELP

Mr. LEVIN. Mr. President, I have been a strong supporter of the Community Oriented Policing Services, or COPS, program since its creation in 1994. Nationwide, the COPS program has awarded more than $11 billion in grants, resulting in the hiring of 118,000 additional police officers. In Michigan, 514 local and State law enforcement agencies have received more than $220 million in grants through the COPS program. These grants have improved the safety of communities by putting more than 3,300 law enforcement officers on Michigan streets.

In the past month alone, the COPS program has awarded nearly $2 million in grants to Michigan communities. One COPS grant program, the Secure Our Schools Initiative, recently awarded more than $1 million in grants to nine Michigan communities to provide enhanced security for public schools. These grants help our schools pay for security assessments, security training for students and personnel and the installation of metal detectors, locks, lighting, and other important security measures. Another COPS grant program, the Tribal Resources Grant Program, awarded more than $800,000 in grants to eight Native-American communities in Michigan. These funds will strengthen the police departments in these communities by helping tribes hire and train police officers and modernize their equipment. COPS grants like these are critical to Michigan communities that are working to prevent and respond to violent crimes, especially those involving guns.

Unfortunately, authorization for the COPS program was permitted to expire at the end of fiscal year 2000. Although the program has survived through the annual appropriations process, it has received significant funding cuts under this administration. In fact, the fiscal year 2005 Omnibus Appropriations Act included only $606 million for the COPS program, $142 million below the amount appropriated in 2004. During consideration of the fiscal year 2006 Commerce-Justice-Science appropriations bill last week, I supported an amendment that would have provided $1 billion for the COPS program. Unfortunately, this amendment was defeated and the majority in the Senate voted to cut the COPS program further to $515 million for fiscal year 2006.

I have cosponsored the COPS Reauthorization Act introduced by Senator BIDEN. This bill would continue the COPS program for another 6 years at a funding level of $1.15 billion per year. This funding would allow State and local governments to hire an additional 50,000 police officers over the next 6 years. In addition, the bill would modernize the COPS program by authorizing $350 million in Law Enforcement Technology Grants to assist police departments in acquiring new technologies for the analysis of crime data and the examination of DNA evidence, among other uses. The COPS Reauthorization Act would also build upon the accomplishments of the original COPS program by authorizing $200 million in Community Prosecutor Grants. These grants would be used to hire community prosecutors trained to work at the local and neighborhood level to prevent crime and improve relations with residents.

The increased threat of terrorism as well as the continuing epidemic of gun violence underscores the need to devote more resources for our law enforcement agencies. The safety and security of our communities depends upon our local police departments, most often the first responders, being adequately staffed, trained, and equipped. I hope the Senate will do more to support the efforts of our local law enforcement officials by adequately funding programs such as COPS.

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

On August 1, 2004, a man was shot with a pellet gun in the back near his him in Bronx, NY. The apparent motivation for the attack was the man's sexual orientation.

I would note that recently in the House hate crimes legislation was passed in a bipartisan vote. I strongly believe that we must also move similar legislation in the Senate. In the months ahead, I look forward to working with Senator KENNEDY as we continue our work in passing a hate crimes bill.

IN HONOR OF FORMER SENATOR CLAIBORNE PELL

Mr. DODD. Mr. President, I rise today to honor our former colleague Claiborne Pell, with whom I had the pleasure of serving in this body for 16 years.

I have always felt a special affinity for Senator Pell. Both of our fathers served in Congress. We represented neighboring States in the Northeast. We sat together on three committees and share many of the same views and principles about our great Nation and its role in the world. And, he was one of the few Senators who served with both my father and me. So it is with great personal pleasure that I come to the floor to honor him today.

Senator Pell accomplished important things during his Senate career, each one of which could have defined a successful tenure for any one Senator. He created a Federal college scholarship initiative—later to be named the ''Pell Grant'' in his honor. This initiative has opened the doors of our colleges and universities to millions of American students. He coauthored legislation to establish the National Endowment for the Arts and the National Endowment for the Humanities, both of which have enriched the cultural life of our Nation. He helped to establish the Northeast rail corridor. And he was a chief architect of the ban on nuclear testing on the ocean floor.

Throughout 36 years of service, Senator Pell left a graceful and indelible legacy. His commitment to education, the arts and humanities, and peace was an attempt to cultivate the best in all of us. And we have advanced as a nation in part because of his dedication to these ideals and his success in codifying them.

Almost as admirable as his legislative accomplishments was the manner in which he legislated. In the 16 years that I served alongside Senator Pell, even when he was the ranking member of the Foreign Relations Committee under the chairmanship of a hard-charging Senator from the other end of the political spectrum, I never saw him speak or act with anything but kindness and integrity. In the course of six elections to the U.S. Senate, Senator Pell never once attacked a political opponent who ran against him. He was a true gentleman. He always sought out the better nature of people through discussion and debate. He held immense respect for the history of the Senate and the vocation of public service. He was the model of what a leader should be.

Paying tribute to his tremendous career is reason enough to come to the floor today, but I have also come to speak on a more timely matter. Senator Pell is to be recognized this Friday by a regimental review at the U.S. Coast Guard Academy in Connecticut.

Senator Pell served in the Coast Guard for 37 years, enlisting 4 months before the attacks on Pearl Harbor. He began as a ship's cook, but quickly received his commission and served as a lieutenant on boats in the North Atlantic and Sicily. During World War II, he was arrested six times by enemy governments. After the war ended, he served as a captain in the Reserves until he reached the mandatory retirement age.

Senator Pell frequently cited his service as one of the defining moments in his life. He has always been an ardent supporter of the Coast Guard—believing, as I do, that it plays a vital role in keeping America safe. As the Coast Guard honors Senator Pell's service this week, it is important that we remember the Coast Guard personnel who continue to risk their lives to maintain the safety and security of our Nation.

Over the past few weeks, Coast Guard crews, operating with characteristic precision and professionalism, have rescued over 33,000 people in Louisiana, Mississippi, and Alabama. They have spent significant sums to do so—sums that were never contemplated to be spent for this purpose. Regrettably, however, none of the over $60 billion in aid that Congress recently sent to the Gulf coast region has been specifically set aside to replenish Coast Guard accounts. Their costs in both operations and reconstruction are estimated in the hundreds of millions of dollars. They are being forced to divert funds from continuing and future operations.

The men and women of today's Coast Guard are certainly vindicating Senator Pell's faith in and commitment to this branch of our military. By honoring their service—including by seeing to it that Coast Guard operations are fully supported by our Government—we honor the service of an outstanding leader, a great patriot, and a dear friend: Claiborne Pell. I wish him, his wife Nuala, and his family my best wishes on this wonderful occasion.

PAUL BRUHN: PRESERVING VERMONT FOR ALL GENERATIONS

Mr. LEAHY. Mr. President, it gives me great pleasure today to congratulate Paul Bruhn and the Preservation Trust of Vermont on an anniversary that marks 25 successful years of protecting and celebrating Vermont's historical treasures.

I am proud to be able to call Paul not only an accomplished Vermonter but also a very good friend. He was my first campaign manager and my first chief of staff, and the Preservation Trust of Vermont is only one of his significant gifts to the Green Mountain State.

Paul became the founding executive director of the Preservation Trust of Vermont in 1980, after helping me find my way through the Senate during my first term. Since then he has helped the Preservation Trust save countless architectural treasures in every corner of the State, helped reinvent communities that had eroded through years of neglect, and helped our State capitalize on its unique identity. Thanks in large part to his leadership, the Preservation Trust of Vermont has been a respected, appreciated, and integral part of Vermont's culture for the past quarter century.

My wife Marcelle and I consider ourselves highly fortunate to call Paul a close personal friend. Before my campaign in 1974, we saw in Paul attributes that we knew would bring Vermont wonderful things. As the consummate connector, Paul has been a humble servant of the public interest, forging and leading broad community coalitions to overcome some of the most difficult growing pains of development—retaining a community's character. He has used these talents to bring attention to and preserve the most unique and defining aspects of Vermont. From making sure Vermont music legend Sterling Weed had a band stand, to bringing attention to the wonderful architecture at the St. Johnsbury Athenaeum, he has helped Vermonters embrace their unique spirit and storied history.

Paul has always understood that a community's future vitality is directly linked to its past. When the city of Burlington was preparing to level the historic firehouse on Church Street—one of the most beautiful and unique buildings in the city—it was Paul who convinced me to open my first Senate office there to save the building from the wrecking ball. Years later, as historic downtowns across the country were being shuttered and demolished because of urban sprawl, Paul helped me work with local and State officials to find millions of dollars in Federal investments to revolutionize Burlington's historic center of commerce, turning Church Street into an award-winning pedestrian marketplace. Today the historic facades that have hung over Church Street for a century or more remind shoppers of Burlington's rich history.

There is hardly a nook or cranny, village or gore, throughout Vermont that has not felt the touch of Paul and the Preservation Trust of Vermont. Whether through a small Preservation Trust grant for the refinishing of a church tower, or through a multimillion dollar campaign led by Paul and the talented people he works with, every corner of the State from Burke to Bennington has benefited from Paul's community- and consensus-building.

Just last year, this native Vermonter was at the heart of an effort to have the entire State of Vermont designated as one of the top 10 endangered places by the National Preservation Trust. It

was the first time in the organization's history that an entire State was added to the list. He helped the city of Rutland persuade Wal-Mart to anchor in the community's historic downtown instead of outside of town in a vacant field, a victory that few other communities across the country have won. That was not enough though, and he has brought Rutland's story to other communities throughout the State, where no matter the outcome, he has helped empower community leaders to make decisions rather than bow to the whims of out-of-state developers.

In my lifetime of public service, I have never met a person so adept at bringing people together and finding ways to make sure everyone has a voice. Years before he came to work for me, Paul was a key player in setting up the consumer fraud office within the Vermont attorney general's office, where he not only protected consumer rights, but also helped the office create a toll-free number that revolutionized the way Vermonters communicated with their government. When I entered the Senate, Paul and I brought this concept to the greatest deliberative body in the Senate by operating the first toll-free phone line in the Congress.

Paul has always put the interests of all Vermonters ahead of himself or any organization he has ever steered. The Preservation Trust of Vermont has been no different. Through his involvement, Vermont is a better place and Vermonters have realized the wonderful things our past has to offer. Thank you Paul, and congratulations to you and everyone who has ever helped make the Preservation Trust of Vermont the success it is today.

ADDITIONAL STATEMENTS

CHIEF MASTER SERGEANT CHARLES T. DUBOIS

• Mr. BOND. Mr. President, I rise today to honor a man who has served over 36 years in the U.S. Air Force, with the vast majority of that service in the Missouri Air National Guard. CMSgt Charles T. DuBois retired on September 10, 2005, after a long and distinguished record of service to the State of Missouri and the United States. Chief DuBois enlisted in the U.S. Air Force on June 18, 1969, at the height of the Vietnam War. He served in the Air Force until March 12, 1973, and entered the Air National Guard on September 14, 1975.

As a member of the 131st Fighter Wing in St. Louis, MO, Chief DuBois has been associated with a unit whose history has spanned over eight decades and whose former members have included the likes of aviation pioneer Charles Lindbergh.

Throughout Chief DuBois' service at the 131st, he has seen the unit transition from F–100s to F–4 Phantoms to F–15As, and now upon his retirement, the transition to F–15Cs, the Nation's premier homeland defense and air superiority aircraft. As a crew chief, Chief DuBois was fully qualified on: the B–52D; C–141A; C–124; C–5A; F–100 C, D & F; F–4 C, D & E; and the F–15 A, B, C, and D models.

Throughout his career Chief DuBois remained dedicated concomitantly to the vital missions of the Air National Guard and to the paramount commitment of taking care of his family. It is the latter that Chief DuBois will continue to fulfill upon his retirement as a devoted husband, father and son. He and his wife Theresa were married in November of 1977 and have one son, Michael, who serves on my staff as an advisor on, among a number of other issues, the National Guard. Chief DuBois has one daughter, Kristine, who lives and works in northern Virginia. As a dedicated son of someone whom I have had the pleasure and honor to work with when I was Governor of Missouri, GEN Charles H. DuBois and his wife Ruth, ''Terry'' as Chief DuBois goes by in civilian life, remains dedicated to their well-being. The General, or ''Charlie Two Stars'' as I often referred to him, and his lovely wife Ruth, can rest assured they raised a son who has served both his family and the military with honor.

The honor in which Chief DuBois has served can be seen in the numerous awards, ribbons and commendations he has been decorated with throughout his career. He has received the Air Force Meritorious Service Medal, the Air Force Commendation Medal with two devices, the Air Force Achievement Medal with one device, the Joint Meritorious Unit Award for 2 AEF duty tours in Provide Comfort and Northern Watch, and the National Defense Service Medal with two devices for his service during Vietnam and Desert Storm. These accolades represent only a handful of the numerous other State and Federal service medals Chief DuBois has collected during his 36 years of service. As Chief DuBois retired, he was the most senior chief master sergeant in the U.S. Air Force and Air National Guard and was the youngest guardsman to make chief when he did so, just like his father who, upon his retirement, was the most senior major general in the Air Force and Air Guard and the youngest at the time to make general.

Again, I wish to extend Chief Charles T. DuBois my heartiest congratulations upon his retirement and my sincere thanks for the 35-plus years of service he has rendered to the State of Missouri and the Nation.•

100TH ANNIVERSARY OF ALEXANDER, NORTH DAKOTA

• Mr. CONRAD. Mr. President, I rise today to honor a community in North Dakota that is celebrating its 100th anniversary. On September 2 through September 5, the residents of Alexander, ND, celebrated their community's history and founding.

Alexander is a small town in the northwestern part of North Dakota with a population of 216. Despite its size, Alexander holds an important place within North Dakota's history. It began on July 24, 1905, when the city was platted by Frank B. Chapman. That same year, a wide variety of businesses were constructed in the town, including the Dakota Trading Company Store, the Alexander State Bank, and the Alexander Hotel. Later that year, the McKenzie County Chronicle began publication in an office of the Alexander State Bank. In 1918, the town suffered a devastating fire; however, the town rebuilt and continued to grow.

Today, Alexander remains a proud community with an economy bolstered by farming, ranching, and oil extraction. In the city's park, hamburgers are served every summer Saturday evening. The town is also home to the Lewis and Clark Trail Museum, which is housed in the old school house. Each room in the museum highlights a different and unique view of the area's history.

Mr. President, I ask the Senate to join me in congratulating Alexander, ND, and its residents on their first 100 years and in wishing them well through the next century. I believe that by honoring Alexander and all the other historic small towns of North Dakota, we keep the pioneering frontier spirit alive for future generations. It is such places as Alexander that have helped to shape this country into what it is today, which is why this community is deserving of our recognition.

Alexander has a proud past and a bright future.•

HONORING THE PUBLIC SERVICE OF GALE REINERS

• Mr. JOHNSON. Mr. President, I rise today to congratulate Mr. Gale Reiners for his 35 years of service to the Department of Veterans' Affairs. When he retires later this month, Mr. Reiners will have served his country for almost 40 years, both in the military and through his public service on behalf of our Nation's veterans.

During his tenure at the Regional VA Office in Sioux Falls, Gale provided important counsel and advice to veterans, family members, VA officials, veterans' service officers, and congressional members and their staff on a range of issues. Throughout that time, he has witnessed many changes in the VA, and has been diligent in assisting veterans with their questions, needs and issues. He has helped educate all those concerned about the ever-changing scope of the veterans' benefits program.

Gale wanted to retire 18 months ago but was persuaded to continue his duties at the VA. At the time he announced his retirement, the VA regional offices in North Dakota and South Dakota were working to combine various veterans' services. Gale's

experience and knowledge of those programs proved invaluable during the transition period.

Mr. Reiners is a man of passion and integrity who takes his responsibility to South Dakota veterans very seriously. It will be difficult to find someone more knowledgeable than Mr. Reiners on the wide array of benefit and resource programs available to veterans. My staff has worked with Gale and his colleagues at the regional office in Sioux Falls on numerous issues impacting veterans and their families. Gale always addressed each inquiry with professionalism. I commend his dedication and commitment to making sure every veteran's case or question was always handled in a timely manner.

The State of South Dakota will miss Gale Reiners' leadership. After 35 years of service, Mr Reiners will be spending more time with his wife Patty, and their 4 children. It is with great honor that I share his impressive accomplishments with my colleagues, and I thank him for his service to this Nation and its veterans.●

IN RECOGNITION OF FERNANDO VALENZUELA

● Mrs. BOXER. Mr. President, I am very pleased to take a few moments to recognize the many important accomplishments of Fernando Valenzuela, former pitcher, current radio broadcast announcer and long time member of the Los Angeles Dodgers family.

Fernando Valenzuela has been an amazing asset to the Los Angeles community. He has enriched the lives of many young children through their participation in the Amigos de Fernando children's program—an innercity youth program he founded that is designed to reward underprivileged children for their positive and active involvement in community sports teams.

For the third consecutive Major League Baseball season, the Amigos de Fernando children's program, with support from the Los Angeles Dodgers, has continued to assist local children's groups. Through their efforts, innercity children's groups receive assistance in continuing to guide and positively influence the children they service. The Amigos de Fernando children's program has provided nearly 1,000 young people of the City of Los Angeles with new and positive experiences that would have otherwise been unavailable to them.

Fernando Valenzuela began his career with the Los Angeles Dodgers in 1979. Since his rookie year in Major League Baseball, he has reached many notable accomplishments including honors as Rookie of the Year in 1981 and the highly coveted Cy Young Award—presented to each league's most outstanding pitcher—also in 1981. In addition to his many personal accomplishments, Fernando also played a significant role in achieving many team distinctions and championships, including the National League Pennant and World Series Championships for the 1981 and 1988 seasons. After a brief absence from the Los Angeles area, Fernando rejoined the Los Angeles Dodgers organization in 2003 as a member of the Spanish-Language radio commentator team, providing his expertise and views to countless fans.

I invite all of my colleagues to join me and the children of the City of Los Angeles in commending Fernando Valenzuela for his great leadership and service to the community through the Amigos de Fernando. His efforts are truly worthy of this recognition.●

THE PASSING OF SANDRA FELDMAN

● Mr. SALAZAR. Mr. President, I rise to remember and celebrate the incredible life and legacy of Sandra Feldman, a past president of the American Federation of Teachers, who passed away on Monday at the age of 66 after a long battle with breast cancer.

Ms. Feldman was truly a trailblazer for education. She dedicated her life to enhancing educational opportunities for our youth, to bettering the lives of educators and to fighting for civil rights for workers, women and minorities.

Feldman grew up poor in Brooklyn, NY. She credited the public schools and libraries for ''creating her future'' and instilling in her a love of education. She spent her entire life enriching the lives of others.

In the 1960s, she fought for civil rights, participating in the Freedom Rides and the March on Washington for Jobs and Freedom. She later became a leader in the protection of various workers' rights movements in New York, including representation of nurses and teachers. In 1997, Feldman became the president of the American Federation of Teachers, one of the largest unions representing our teachers in this country, with 1.3 million members, including 4,800 in Colorado,

As president of the American Federation of Teachers, Ms. Feldman advocated for early childhood education, greater investment in public education and greater emphasis on high standards and accountability. Feldman was nationally recognized as a champion of universal preschool for young children, extended kindergarten for disadvantaged youngsters, and redesigning schools to promote academic achievement. Many of Feldman's proposals, which were implemented on the State and Federal level, positively changed the lives of youth.

I commend and honor the life of Sandra Feldman, who stood and fought for civil rights, workers' rights, and education. She was the epitome of a public servant and we are all better because of her life. Sandra Feldman will be missed.●

REPORT ON THE CONTINUATION OF THE NATIONAL EMERGENCY WITH RESPECT TO PERSONS WHO COMMIT, THREATEN TO COMMIT, OR SUPPORT TERRORISM THAT WAS DECLARED BY EXECUTIVE ORDER 13224—PM 23

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

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice to the *Federal Register* for publication, stating that the national emergency with respect to persons who commit, threaten to commit, or support terrorism is to continue in effect beyond September 23, 2005. The most recent notice continuing this emergency was published in the *Federal Register* on September 22, 2004 (69 FR 56923).

The crisis constituted by the grave acts of terrorism and threats of terrorism committed by foreign terrorists, including the terrorist attacks in New York, in Pennsylvania, and against the Pentagon committed on September 11, 2001, and the continuing and immediate threat of further attacks on United States nationals or the United States that led to the declaration of a national emergency on September 23, 2001, has not been resolved. These actions pose a continuing unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. For these reasons, I have determined that it is necessary to continue the national emergency declared with respect to persons who commit, threaten to commit, or support terrorism, and maintain in force the comprehensive sanctions to respond to this threat.

GEORGE W. BUSH.

THE WHITE HOUSE, *September 21, 2005*.

MESSAGE FROM THE HOUSE

ENROLLED BILL SIGNED

At 10:18 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker of the House of Representatives has signed the following enrolled bill:

H.R. 3649. An act to ensure funding for sportfishing and boating safety programs

funded out of the Highway Trust Fun through the end of fiscal year 2005, and for other purposes.

The enrolled bill was subsequently signed by the President Pro tempore (Mr. STEVENS).

At 10:45 a.m., 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. 394. An act to direct the Secretary of the Interior to conduct a boundary study to evaluate the significance of the Colonel James Barrett Farm in the Commonwealth of Massachusetts and the suitability and feasibility of its inclusion in the National Park System as part of the Minute Man National Historical Park, and for other purposes.

H.R. 409. An act to provide for the exchange of land within the Sierra National Forest, California, and for other purposes.

H.R. 2132. An act to extend the waiver authority of the Secretary of Education with respect to student financial assistance during a war or other military operation or national emergency.

H.R. 3761. An act to provide special rules for disaster relief employment under the Workforce Investment Act of 1998 for individuals displaced by Hurricane Katrina.

H.R. 3765. An act to extend through December 31, 2007, the authority of the Secretary of the Army to accept and expend funds contributed by non-Federal public entities to expedite the processing of permits.

H.R. 3784. An act to temporarily extend the programs under the Higher Education Act of 1965, and for other purposes.

At 2:42 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 1368. An act to extend the existence of the Parole Commission, and for other purposes.

The message also announced that the House agree to the amendment of the Senate to the bill H.R. 3768, an act to provide emergency tax relief for persons affected by Hurricane Katrina, with an amendment, in which it requests the concurrence of the Senate.

At 5:11 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker of the House of Representatives has signed the following enrolled bill:

S. 1340. An act to amend the Pittman-Robertson Wildlife Restoration Act to extend the date after which surplus fund in the wildlife restoration fund become available for apportionment.

The enrolled bill was subsequently signed by the President pro tempore (Mr. STEVENS).

At 5:42 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 242. Concurrent resolution providing for acceptance of a statue of Po'Pay, presented by the State of New Mexico, for placement in National Statuary Hall, 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. 394. An act to direct the Secretary of the Interior to conduct a boundary study to evaluate the significance of the Colonel James Barrett Farm in the Commonwealth of Massachusetts and the suitability and feasibility of its inclusion in the National Park System as part of the Minute Man National Historical Park, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 409. An act to provide for the exchange of land within the Sierra National Forest, California, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2132. An act to extend the waiver authority of the Secretary of Education with respect to student financial assistance during a war or other military operation or national emergency; to the Committee on Health, Education, Labor, and Pensions.

H.R. 3784. An act to temporarily extend the programs under the Higher Education Act of 1965, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3761. An act to provide special rules for disaster relief employment under the Workforce Investment Act of 1998 for individuals displaced by Hurricane Katrina.

MEASURES READ THE FIRST TIME

The following bills were read the first time:

S. 1745. A bill to expand the availability of resources under the Community Services Block Grant Act for individuals affected by Hurricane Katrina.

S. 1748. A bill to establish a congressional commission to examine the Federal, State, and local response to the devastation wrought by Hurricane Katrina in the Gulf Region of the United States especially in the States of Louisiana, Mississippi, Alabama, and other areas impacted in the aftermath and make immediate corrective measures to improve such responses in the future.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–3829. A communication from the Regulatory Ombudsman, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Hours of Service of Drivers'' (RIN2126–AA90) received on August 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3830. A communication from the Director, National Institute of Standards and Technology, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fastener Quality Act'' (RIN0693–AB55) received on August 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3831. A communication from the Secretary, Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled ''Telemarketing Sales Rule Fees'' (RIN3084–AA86) received on August 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3832. A communication from the Special Advisor, Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Implementation of Section 210 of the Satellite Home Viewer Extension and Reauthorization Act of 2004 to Amend Section 338 of the Communications Act'' ((FCC 05–159)(MB 05–181)) received on August 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3833. A communication from the Attorney-Advisor, Federal Highway Administration, Department of Transportation, transmitting, pursuant to law, the report of a vacancy in the position of Administrator, received on August 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3834. A communication from the Deputy Assistant Administrator, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Financial Assistance To Establish a New Cooperative Science Center Under NOAA's Educational Partnership Program (EPP) with Minority Serving Institutions for Scientific Environmental Technology'' (Docket No. 030602141–5196–21) received on August 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3835. A communication from the Deputy Assistant Administrator, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Availability of Grants Funds for Fiscal Year 2006; Ballast Water Technology Demonstration Program'' (RIN0648–ZB55) received on August 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3836. A communication from the Deputy Assistant Administrator for Operations, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Gulf Reef Fish Limited Access System'' (I.D. No. 033105A) received on August 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3837. A communication from the Acting Deputy Assistant Administrator for Operations, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled ''Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Atlantic Deep-Sea Red Crab Fishery; Framework Adjustment 1 to the Atlantic Deep-Sea Red Crab Fishery Management Plan'' (RIN0648–AS35) received on August 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3838. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled ''Prohibiting Retention of 'Other Rockfish' in the Central Regulatory Area of the Gulf of Alaska'' (I.D. No. 072905A) received on August 23, 2005; to the

Committee on Commerce, Science, and Transportation.

EC–3839. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Zone off Alaska; Yellowfin Sole in the Bering Sea and Aleutian Islands Management Area'' (I.D. No. 072105A) received on August 23, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3840. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled ''Apportioning the Reserve of Arrowtooth Flounder in the Bering Sea and Aleutian Islands Management Area'' (I.D. No. 080805B) received on August 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3841. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled ''Opening Directed Fishing for Pacific Cod by Catcher Vessels Less than 60 Feet (18.3 Meters) Length Overall Using Hook-and-Line or Pot Gear in the Bering Sea and Aleutian Islands Management Area'' (I.D. No. 080805C) received on August 23 2005; to the Committee on Commerce, Science, and Transportation.

EC–3842. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled ''Prohibiting Directed Fishing for Non-Community Development Quota Pollock with Trawl Gear in the Chinook Salmon Savings Areas of the Bering Sea and Aleutian Islands Management Area'' (I.D. No. 080805D) received on August 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3843. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled ''Reallocating Pacific Cod from Vessels Using Jig Gear to Catcher Vessels Less than 60 Feet (18.3 Meters) Length Overall Using Pot or Hook-and-Line Gear in the Bering Sea and Aleutian Islands Management Area'' (I.D. No. 080405C) received on August 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3844. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled ''Pacific Ocean Perch in the West Yakutat District of the Gulf of Alaska'' (I.D. No. 080305B) received on August 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3845. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled ''Pelagic Shelf Rockfish in the West Yakutat District of the Gulf of Alaska'' (I.D. No. 080305A) received on August 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3846. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Area Navigation Instrument Flight Rules Terminal Transition Routes (RITTR); Charlotte, NC; Correction'' ((RIN2120–AA66)(2005–0199)) received on August 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3847. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Marion, KY'' ((RIN2120–AA66)(2005–0198)) received on August 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3848. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Legal Description of Class E Airspace; Lincoln, NE; Correction'' ((RIN2120–AA66)(2005–0197)) received on August 31 2005; to the Committee on Commerce, Science, and Transportation.

EC–3849. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; McCook, NE; Correction'' ((RIN2120–AA66)(2005–0196)) received on August 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3850. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class D Airspace; Worcester, MA'' ((RIN2120–AA66)(2005–0200)) received on August 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3851. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''FAA-Approved Child Restraint Systems'' (RIN2120–AI36) received on August 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3852. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bombardier Model DHC 8 100, DHC 8 200, and DHC 8 300 Series Airplanes'' ((RIN2120–AA64)(2005–0403)) received on August 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3853. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (76)'' ((RIN2120–AA65)(2005–0024)) received on August 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3854. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Special Local Regulations (including 5 regulations): [CGD05–05–026], [CGD05–05–040], [CGD07–05–038], [CGD11–05–003], [CGD11–05–008]'' (RIN1625–AA08) received on August 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3855. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Security Zones (including 17 regulations)'' (RIN1625–AA87) received on August 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3856. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zones (including 92 regulations)'' (RIN1625–AA00) received on August 31, 2005; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CRAIG, from the Committee on Veterans' Affairs, without amendment:

S. 1234. A bill to increase, effective as of December 1, 2005 the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans (Rept. No. 109–138).

By Mr. CRAIG, from the Committee on Veterans' Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 1235. A bill to amend chapters 19 and 37 of title 38, United States Code, to extend the availability of $400,000 in coverage under the servicemembers' life insurance and veterans' group life insurance programs, and for other purposes (Rept. No. 109–139).

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. COLLINS (for herself, Mr. LIEBERMAN, Mr. SUNUNU, Mr. DURBIN, Mr. PRYOR, Mrs. CLINTON, and Mr. CARPER):

S. 1738. A bill to expand the responsibilities of the Special Inspector General for Iraq Reconstruction to provide independent objective audits and investigations relating to the Federal programs for Hurricane Katrina recovery; to the Committee on Homeland Security and Governmental Affairs.

By Mr. LEAHY:

S. 1739. A bill to amend the material witness statute to strengthen procedural safeguards, and for other purposes; to the Committee on the Judiciary.

By Mr. CRAPO (for himself, Mr. JOHNSON, and Mr. BUNNING):

S. 1740. A bill to amend the Internal Revenue Code of 1986 to allow individuals to defer recognition of reinvested capital gains distributions from regulated investment companies; to the Committee on Finance.

By Mr. VOINOVICH (for himself and Mrs. CLINTON):

S. 1741. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to authorize the President to carry out a program for the protection of the health and safety of residents, workers, volunteers, and others in a disaster area; to the Committee on Homeland Security and Governmental Affairs.

By Mr. ROBERTS:

S. 1742. A bill to amend the Food and Stamp Act of 1977 to exclude certain military housing allowances from the eligibility requirements for food stamps; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SMITH:

S. 1743. A bill to authorize the Federal Trade Commission to investigate and assess penalties for price gouging with respect to oil and gas products; to the Committee on Commerce, Science, and Transportation.

By Mr. NELSON of Florida (for himself and Mr. BINGAMAN):

S. 1744. A bill to prohibit price gouging relating to gasoline and diesel fuels in areas affected by major disasters; to the Committee on Commerce, Science, and Transportation.

By Mr. ENZI (for himself and Mr. KENNEDY):

S. 1745. A bill to expand the availability of resources under the Community Services

Block Grant Act for individuals affected by Hurricane Katrina; read the first time.

By Mr. VITTER (for himself and Mr. KYL):

S. 1746. A bill to amend title 18, United States Code, to prevent interference with Federal disaster relief efforts, and for other purposes; to the Committee on the Judiciary.

By Mr. CORNYN (for himself, Mr. VITTER, Mrs. HUTCHISON, Mr. THUNE, Mr. LOTT, Mr. GRASSLEY, Mr. BROWNBACK, and Ms. LANDRIEU):

S. 1747. A bill to limit liability for volunteers and those providing goods and services for disaster relief, and for other purposes; to the Committee on the Judiciary.

By Mrs. CLINTON (for herself, Ms. MIKULSKI, Mr. HARKIN, Mr. LAUTENBERG, Mr. JEFFORDS, Mr. REED, Mr. SALAZAR, Mr. OBAMA, Mrs. BOXER, Ms. STABENOW, Mr. CORZINE, Mr. SCHUMER, Mr. DURBIN, Mrs. FEINSTEIN, Mr. FEINGOLD, Mr. CARPER, Mr. JOHNSON, and Mr. LEAHY):

S. 1748. A bill to establish a congressional commission to examine the Federal, State, and local response to the devastation wrought by Hurricane Katrina in the Gulf Region of the United States especially in the States of Louisiana, Mississippi, Alabama and other areas impacted in the aftermath and make immediate corrective measures to improve such responses in the future; read the first time.

By Mr. KENNEDY (for himself, Ms. LANDRIEU, Mr. HARKIN, Mr. REID, Mr. DURBIN, Mr. SCHUMER, Mrs. CLINTON, Mr. DODD, Ms. MIKULSKI, Mr. BINGAMAN, Mrs. MURRAY, Mr. REED, Mr. LEAHY, Mr. SARBANES, Mr. KERRY, Mr. LIEBERMAN, Mr. AKAKA, Mrs. FEINSTEIN, Mrs. BOXER, Mr. FEINGOLD, Mr. BAYH, Ms. CANTWELL, Mr. CORZINE, Mr. DAYTON, Mr. LAUTENBERG, and Mr. OBAMA):

S. 1749. A bill to reinstate the application of the wage requirements of the Davis-Bacon Act to Federal contracts in areas affected by Hurricane Katrina; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. SCHUMER (for himself, Mr. COLEMAN, Mrs. BOXER, Mrs. FEINSTEIN, Mr. REID, Mr. BINGAMAN, Mr. WYDEN, Mrs. CLINTON, Mr. LAUTENBERG, Ms. MIKULSKI, Mr. KENNEDY, Ms. STABENOW, Mr. LIEBERMAN, Mr. JOHNSON, Mr. HARKIN, Mr. KOHL, Mrs. MURRAY, Mr. FEINGOLD, Mr. DODD, Mr. BROWNBACK, Mr. SMITH, Mr. ROCKEFELLER, Mr. VOINOVICH, Mr. BIDEN, Mr. CORZINE, Mr. ALLEN, Mr. INHOFE, Mr. CARPER, Mr. GRAHAM, Mr. DEWINE, Mr. NELSON of Florida, Mr. LEVIN, Mr. GRASSLEY, Mr. BURR, Mr. ALEXANDER, Mr. MCCAIN, Mr. NELSON of Nebraska, Mrs. HUTCHISON, Mr. SARBANES, Mr. SALAZAR, Mr. CORNYN, Mr. HAGEL, Mr. TALENT, Mr. CONRAD, Ms. SNOWE, Mr. SANTORUM, Mr. DURBIN, and Mr. LEAHY):

S. Res. 245. A resolution recognizing the life and accomplishments of Simon Wiesenthal; considered and agreed to.

By Ms. SNOWE (for herself, Ms. CANTWELL, Ms. MIKULSKI, Mr. INOUYE, Mr. STEVENS, Mr. MARTINEZ, Mr. LOTT, and Ms. MURKOWSKI):

S. Res. 246. A resolution to express the sense of the Senate regarding the missions and performance of the United States Coast Guard in responding to Hurricane Katrina; considered and agreed to.

ADDITIONAL COSPONSORS

S. 15

At the request of Mr. KERRY, his name was added as a cosponsor of S. 15, a bill to improve education for all students, and for other purposes.

S. 132

At the request of Mr. SMITH, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 132, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for premiums on mortgage insurance.

S. 267

At the request of Mr. CRAIG, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. 267, a bill to reauthorize the Secure Rural Schools and Community Self-Determination Act of 2000, and for other purposes.

S. 298

At the request of Mr. INOUYE, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 298, a bill to amend the Internal Revenue Code of 1986 to repeal the reduction in the deductible portion of expenses for business meals and entertainment.

S. 424

At the request of Mr. BOND, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 424, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 511

At the request of Mr. DEMINT, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 511, a bill to provide that the approved application under the Federal Food, Drug, and Cosmetic Act for the drug commonly known as RU–486 is deemed to have been withdrawn, to provide for the review by the Comptroller General of the United States of the process by which the Food and Drug Administration approved such drug, and for other purposes.

S. 512

At the request of Mr. SANTORUM, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 512, a bill to amend the Internal Revenue Code of 1986 to classify automatic fire sprinkler systems as 5-year property for purposes of depreciation.

S. 589

At the request of Mr. KYL, his name was added as a cosponsor of S. 589, a bill to establish the Commission on Freedom of Information Act Processing Delays.

S. 713

At the request of Mr. ROBERTS, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 713, a bill to amend the Internal Revenue Code of 1986 to provide for collegiate housing and infrastructure grants.

S. 757

At the request of Mr. CHAFEE, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 757, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 760

At the request of Mr. INOUYE, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 760, a bill to amend the Public Health Service Act to provide a means for continued improvement in emergency medical services for children.

S. 769

At the request of Ms. SNOWE, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 769, a bill to enhance compliance assistance for small businesses.

S. 894

At the request of Mr. ENZI, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 894, a bill to allow travel between the United States and Cuba.

S. 909

At the request of Mr. DODD, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 909, a bill to expand eligibility for governmental markers for marked graves of veterans at private cemeteries.

S. 1067

At the request of Mrs. LINCOLN, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 1067, a bill to require the Secretary of Health and Human Services to undertake activities to ensure the provision of services under the PACE program to frail elders living in rural areas, and for other purposes.

S. 1081

At the request of Mr. KYL, the names of the Senator from Colorado (Mr. ALLARD) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 1081, a bill to amend title XVIII of the Social Security Act to provide for a minimum update for physicians' services for 2006 and 2007.

S. 1112

At the request of Mr. GRASSLEY, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 1112, a bill to make permanent the enhanced educational savings provisions for qualified tuition programs enacted as part of the Economic Growth and Tax Relief Reconciliation Act of 2001.

S. 1172

At the request of Mr. SPECTER, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S.

1172, a bill to provide for programs to increase the awareness and knowledge of women and health care providers with respect to gynecologic cancers.

S. 1313

At the request of Mr. CORNYN, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 1313, a bill to protect homes, small businesses, and other private property rights, by limiting the power of eminent domain.

S. 1321

At the request of Mr. SANTORUM, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1321, a bill to amend the Internal Revenue Code of 1986 to repeal the excise tax on telephone and other communications.

S. 1358

At the request of Mr. DURBIN, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1358, a bill to protect scientific integrity in Federal research and policymaking.

S. 1620

At the request of Mr. CORZINE, the name of the Senator from Florida (Mr. MARTINEZ) was added as a cosponsor of S. 1620, a bill to provide the nonimmigrant spouses and children of nonimmigrant aliens who perished in the September 11, 2001, terrorist attacks an opportunity to adjust their status to that of an alien lawfully admitted for permanent residence, and for other purposes.

S. 1645

At the request of Mrs. BOXER, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1645, a bill to establish a first responder interoperable communications grant program.

S. 1685

At the request of Mr. OBAMA, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1685, a bill to ensure the evacuation of individuals with special needs in times of emergency.

S. 1691

At the request of Mr. CRAIG, the name of the Senator from South Carolina (Mr. DEMINT) was added as a cosponsor of S. 1691, a bill to amend selected statutes to clarify existing Federal law as to the treatment of students privately educated at home under State law.

S. 1735

At the request of Ms. CANTWELL, the names of the Senator from New Jersey (Mr. CORZINE), the Senator from Indiana (Mr. BAYH), the Senator from Washington (Mrs. MURRAY) and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of S. 1735, a bill to improve the Federal Trade Commissions's ability to protect consumers from price-gouging during energy emergencies, and for other purposes.

S. CON. RES. 46

At the request of Mr. BROWNBACK, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. Con. Res. 46, a concurrent resolution expressing the sense of the Congress that the Russian Federation should fully protect the freedoms of all religious communities without distinction, whether registered and unregistered, as stipulated by the Russian Constitution and international standards.

S. CON. RES. 53

At the request of Mr. OBAMA, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. Con. Res. 53, a concurrent resolution expressing the sense of Congress that any effort to impose photo identification requirements for voting should be rejected.

AMENDMENT NO. 1741

At the request of Mr. DEWINE, the names of the Senator from Indiana (Mr. LUGAR), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Kansas (Mr. BROWNBACK), the Senator from Minnesota (Mr. COLEMAN), the Senator from Wisconsin (Mr. KOHL) and the Senator from North Carolina (Mrs. DOLE) were added as cosponsors of amendment No. 1741 proposed to H.R. 2744, a bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 1754

At the request of Mr. SALAZAR, the names of the Senator from California (Mrs. BOXER) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of amendment No. 1754 proposed to H.R. 2744, a bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 1760

At the request of Mr. DURBIN, the names of the Senator from Illinois (Mr. OBAMA) and the Senator from Missouri (Mr. BOND) were added as cosponsors of amendment No. 1760 intended to be proposed to H.R. 2744, a bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 1761

At the request of Ms. STABENOW, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of amendment No. 1761 intended to be proposed to H.R. 2744, a bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 1764

At the request of Mr. CRAIG, the names of the Senator from California (Mrs. BOXER), the Senator from Michigan (Ms. STABENOW), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Idaho (Mr. CRAPO), the Senator from Oregon (Mr. SMITH), the Senator from Pennsylvania (Mr. SANTORUM) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of amendment No. 1764 intended to be proposed to H.R. 2744, a bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 1768

At the request of Mr. SPECTER, the names of the Senator from New York (Mrs. CLINTON), the Senator from New York (Mr. SCHUMER) and the Senator from Louisiana (Mr. VITTER) were added as cosponsors of amendment No. 1768 intended to be proposed to H.R. 2744, a bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEAHY:

S. 1739. A bill to amend the material witness statute to strengthen procedural safeguards, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, under the Federal material witness statute our government is authorized to arrest a witness in order to secure his testimony in a criminal proceeding. In order to obtain a material witness warrant, the government must establish that the witness has information that is material to a criminal proceeding, and that it may become impracticable to secure the witness's presence at the proceeding by a subpoena. Once arrested, a material witness may be detained for a reasonable period, until his testimony can be secured by deposition or appearance in court.

The material witness law was intended to ensure the appearance of witnesses in those rare cases where they might otherwise flee to avoid testifying in a criminal proceeding. This authority is an important tool for our government's law enforcement duties, but it must be exercised responsibly. As the Court of Appeals for the Second Circuit noted in 2003, in the case of United States v. Awadallah, ''It would be improper for the government to use [the material witness statute] for other ends, such as the detention of persons suspected of criminal activity for which probable cause has not yet been established.'' Since September 11, 2001, however, that is exactly what the government has been doing. Indeed, senior Administration officials, including our current Attorney General, have admitted that the government routinely uses material witness warrants to detain suspects in the so-called war on terror.

A report released this summer by Human Rights Watch and the American Civil Liberties Union identifies 70 men, including more than a dozen citizens, whom the Department of Justice

arrested as material witnesses in connection with its terrorism investigations. Many were never brought before a court or grand jury to testify for the simple reason that they were viewed not as witnesses, but as suspects. The evidence against these suspects was often flimsy at best, and would never have sufficed for criminal arrest and pre-trial detention. This twisting of a narrow law designed to secure testimony into a broad preventive detention authority has resulted in some notorious abuses.

Just days after 9/11, the FBI arrested eight Egyptian-born men in Evansville, IN—one a naturalized American citizen—as material witnesses, based on a bogus tip that they planned to fly a plane into the Sears Tower in Chicago. The men were held for more than a week in solitary confinement before being released. Many months later, the FBI issued a rare public apology to these men. That apology, while necessary, could not repair the damage that had been done to them and their families in the form of lost business, tainted reputations, and the accusing stares of their friends and neighbors.

The case of Abdallah Higazy further highlights the danger that can occur when this authority is abused. Shortly after 9/11, the 30-year-old Egyptian graduate student with a valid visa, was picked up after a security guard at a hotel located across the street from Ground Zero claimed to have found an aviation radio in the room where Higazy had stayed on 9/11. Higazy was held for more than a month in solitary confinement until he ultimately confessed that the radio was his. Higazy was then charged with lying to the FBI for initially denying possession of the radio. These charges were dropped after the true owner of the radio, an American pilot, went to the hotel to claim it.

In another, higher profile case in May 2004, Portland attorney Brandon Mayfield was arrested as a material witness in connection with the Madrid train bombing. An email sent from the Portland FBI office to the Los Angeles FBI office the day before Mayfield's arrest refers to him as a ''Moslem convert'' and notes as a ''problem'' that there was not enough evidence to arrest him for a crime. After spending two weeks in prison, Mayfield was released and the FBI was expressing regret about the erroneous fingerprint match that led to his arrest.

These and other examples of post–9/11 misuse of the material witness statute are documented in the HRW/ACLU report. As the report shows, such misuse does more than just circumvent the requirement of probable cause for a criminal arrest. Suspects arrested as material witnesses are denied the basic protections guaranteed to criminal defendants, including the right to view any exculpatory evidence and to be able to challenge the basis for their arrest and incarceration. The report concludes that the misuse of the material witness law ''threatens U.S. citizens and non-citizens alike because it reflects a lowering of the standards designed to protect everyone from arbitrary and unreasonable arrest and detention.''

The bill I introduce today will ensure that the material witness law is used only for the narrow purpose that Congress originally intended, to obtain testimony, and not to hold criminal suspects without charge when probable cause is lacking.

First, the bill raises the standard that the government must meet to obtain a material witness warrant. Under current law, a judge may order the arrest of a material witness if there is probable cause to believe that securing his presence by subpoena may become ''impracticable.'' Under the bill, there must be probable cause to believe that the witness has been served with a subpoena and failed or refused to appear as required, or clear and convincing evidence that the service of a subpoena is likely to result in the person fleeing or cannot adequately secure the appearance of the person as required.

Second, the bill imports several due process safeguards from the Federal Rules of Criminal Procedure relating to the arrest and arraignment of criminal defendants. Among other things, the bill requires that a material witness warrant specify that the testimony of the witness is sought in a criminal case or grand jury proceeding, and command that the witness be arrested and brought to court without unnecessary delay. The warrant must also inform the witness of his right to retain counselor or request that one be appointed. The right to counsel is already guaranteed to material witnesses under the Criminal Justice Act, 18 U.S.C. 3006A(a)(1)(g), and protects the witness from erroneous, unnecessary, and prolonged incarceration.

The bill further provides that, upon arresting a material witness, the government must provide him with a copy of the warrant or inform him of the warrant's existence and purpose. A material witness must be brought before a judge ''without unnecessary delay''—a term that has been strictly interpreted when applied to the criminally accused. The initial appearance must be in the district of arrest or an adjacent district. At the initial appearance, the judge must inform the witness of the basis for his arrest and of his right to counsel. The judge must also allow the witness a reasonable opportunity to consult with counsel. The judge must then determine whether the witness should be released or detained pending the taking of his testimony.

Third, the bill establishes clear procedures for material witness detention hearings. Current law provides that material witnesses shall be treated in accordance with 18 U.S.C. 3142, which governs the release or detention of defendants pending trial. Section 3142, however, contains many factors that are not applicable to material witnesses. For example, courts have held that a material witness may not be detained on the basis of dangerousness. (See Awadallah, 349 F.3d at 63 n.15.) The bill clarifies that in detention hearings for material witnesses, flight risk is the only relevant factor. A court shall order a material witness detained only if no condition or combination of conditions will reasonably assure the appearance of the witness as required. As under current law, no witness may be detained because of inability to comply with any condition of release if the testimony of such witness can adequately be secured by deposition. In determining whether a material witness should be released or detained, the court shall take into account the available information concerning the history and characteristics of the witness, and may also consider challenges to the basis of the warrant.

Fourth, the bill establishes the ''clear and convincing evidence'' standard used in other civil detention contexts for material witness detentions. Few courts have directly examined what standard of proof should be required of the government to demonstrate that no conditions of release can reasonably assure a witness's appearance. While the lower ''preponderance of the evidence'' standard may suffice for pre-trial detention of defendants who pose a risk of flight, in the case of defendants there has also been a finding of probable cause to believe the person committed a crime. In the case of a witness, where there is no probable cause to believe the person committed a crime, the usual grounds for fearing flight—the defendant's aversion to risking a guilty verdict and attendant sentencing—are not present.

Fifth, the bill imposes reasonable but firm time limits on the detention of material witnesses. Current law sets no firm limit on how long a witness may be incarcerated before being presented in a criminal proceeding or released. This has resulted, according to the recent report, in many witnesses enduring imprisonment for two or more months, and in one case for more than a year. Under my bill, a material witness may initially be held for not more than five days, or until his testimony can adequately be secured, whichever is earlier. That period may be extended for additional periods of up to five days, upon a showing of good cause for why the testimony could not adequately be secured during the previous five-day period. The total period of detention may not exceed 10 days for a grand jury witness, or 30 days for a trial witness, and in no case may a witness be held any longer than necessary to secure his testimony.

Sixth, in recognition of the fact that material witnesses are not charged with any offense, the bill requires that they be held in a corrections facility that is separate, to the extent practicable, from persons charged with or convicted of a criminal offense, and under the least restrictive conditions possible.

Finally, to facilitate congressional oversight, the bill requires the Justice Department to report annually on the use of the material witness law. Since 9/11, the Department has withheld information relating to material witnesses on the theory—in my view, a flawed theory—that such information is covered by the grand jury secrecy rule. It is hard to imagine how the release of generalized data, such as the aggregate number of people detained as material witnesses, could damage any reputational interest or any of the other interests protected by Rule 6(e).

The recent, detailed report on post–9/11 uses of the material witness statute leaves no doubt that the law has been bent out of shape, with real consequences for citizens and non-citizens alike. My bill will restore the law to its original purpose and prevent future abuses. I urge its speedy passage.

I ask unanimous consent that the text of the bill be included in the RECORD.

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

S. 1739

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

SECTION 1. RELEASE OR DETENTION OF A MATERIAL WITNESS.

(a) AMENDMENTS TO TITLE 18.—Section 3144 of title 18, United States Code, is amended to read as follows:

"§ 3144. Release or detention of a material witness

''(a) ARREST OF MATERIAL WITNESS.—

''(1) IN GENERAL.—A judicial officer may order the arrest of a person as a material witness, if it appears from an affidavit filed by a party in a criminal case before a court of the United States, or by an attorney for the Government in a matter occurring before a Federal grand jury, that there is probable cause to believe that—

''(A) the testimony of such person is material in such case or matter; and

''(B) the person has been served with a summons or subpoena and failed or refused to appear as required.

''(2) EXCEPTION.—A judicial officer may waive the summons or subpoena requirement described in paragraph (1)(B), if the judicial officer finds by clear and convincing evidence that the service of a summons or subpoena—

''(A) is likely to result in the person fleeing; or

''(B) cannot adequately secure the appearance of the person as required.

''(b) WARRANT FOR MATERIAL WITNESS.—

''(1) REQUIREMENTS.—A warrant issued under subsection (a) shall—

''(A) contain the name of the material witness or, if the name of such witness is unknown, a name or description by which the witness can be identified with reasonable certainty;

''(B) specify that the testimony of the witness is sought in a criminal case or grand jury proceeding;

''(C) command that the witness be arrested and brought without unnecessary delay before a judicial officer;

''(D) inform the witness of the witness's right to retain counsel or to request that counsel be appointed if the witness cannot obtain counsel; and

''(E) be signed by a judicial officer.

''(2) EXECUTION OF WARRANT.—

''(A) ARREST OF WITNESS.—A warrant issued under subsection (a) shall be executed by arresting the material witness.

''(B) WARRANT TO BE PROVIDED TO WITNESS.—

''(i) IN GENERAL.—Upon arrest, an officer possessing the warrant shall show such warrant to the material witness.

''(ii) WARRANT NOT IN POSSESSION OF ARRESTING OFFICER.—If an officer does not possess the warrant at the time of arrest of a material witness, an officer—

''(I) shall inform the witness of the existence and purpose of the warrant; and

''(II) at the request of the witness, shall provide the warrant to the witness as soon as possible.

''(3) RETURN OF WARRANT.—

''(A) AFTER EXECUTION.—After executing a warrant issued under subsection (a), an officer shall return the warrant to the judicial officer before whom the material witness is brought in accordance with subsection (c).

''(B) UNEXECUTED WARRANT.—At the request of an attorney for the United States Government, an unexecuted warrant shall be brought back to and canceled by a judicial officer.

''(c) INITIAL APPEARANCE.—

''(1) APPEARANCE UPON ARREST.—A material witness arrested pursuant to a warrant issued under subsection (a) shall be brought without unnecessary delay before a judicial officer.

''(2) PLACE OF INITIAL APPEARANCE.—The initial appearance of a material witness arrested pursuant to a warrant issued under subsection (a) shall be—

''(A) in the district of arrest; or

''(B) in an adjacent district if—

''(i) the appearance can occur more promptly there; or

''(ii) the warrant was issued there and the initial appearance will occur on the day of the arrest.

''(3) PROCEDURES.—At the initial appearance described in paragraph (2), a judicial officer shall—

''(A) inform a material witness of—

''(i) the warrant against the witness, and the application and affidavit filed in support of the warrant; and

''(ii) the witness's right to retain counsel or to request that counsel be appointed if the witness cannot obtain counsel;

''(B) allow the witness a reasonable opportunity to consult with counsel;

''(C) release or detain the witness as provided by subsection (d); and

''(D) if the initial appearance occurs in a district other than where the warrant issued, transfer the witness to such district, provided that the judicial officer finds that the witness is the same person named in the warrant.

''(d) RELEASE OR DETENTION.—

''(1) IN GENERAL.—Upon the appearance before a judicial officer of a material witness arrested pursuant to a warrant issued under subsection (a), the judicial officer shall order the release or detention of such witness.

''(2) RELEASE.—

''(A) IN GENERAL.—A judicial officer shall order the release of a material witness arrested pursuant to a warrant issued under subsection (a) on personal recognizance or upon execution of an unsecured appearance bond under section 3142(b), or on a condition or combination of conditions under section 3142(c), unless the judicial officer determines by clear and convincing evidence that such release will not reasonably assure the appearance of the witness as required.

''(B) TESTIMONY SECURED BY DEPOSITION.—No material witness may be detained because of the inability of the witness to comply with any condition of release if the testimony of such witness can adequately be secured by deposition.

''(3) DETENTION.—

''(A) NO REASONABLE ASSURANCE OF APPEARANCE.—If, after a hearing pursuant to the provisions of section 3142(f)(2), a judicial officer finds by clear and convincing evidence that no condition or combination of conditions will reasonably assure the appearance of a material witness as required by this section, such judicial officer may order that the witness be detained for a period not to exceed 5 days, or until the testimony of the witness can adequately be secured by deposition or by appearance before the court or grand jury, whichever is earlier.

''(B) EXTENSION OF DETENTION.—

''(i) IN GENERAL.—Subject to clause (ii), upon the motion of a party (or an attorney for the United States Government in a matter occurring before a Federal grand jury), the period of detention under subparagraph (A) may be extended for additional periods of up to 5 days, or until the testimony of a material witness can adequately be secured by deposition or by appearance before the court or grand jury, whichever is earlier.

''(ii) LIMIT.—The total period of detention under this subparagraph may not exceed—

''(I) 30 days, where the testimony of the witness is sought in a criminal case; or

''(II) 10 days, where the testimony of the witness is sought in a grand jury proceeding.

''(C) GOOD CAUSE REQUIRED.—A motion under subparagraph (B) shall demonstrate good cause for why the testimony of a material witness could not adequately be secured by deposition or by appearance before the court or grand jury during the previous 5-day period.

''(4) FACTORS TO BE CONSIDERED.—A judicial officer, in determining whether a material witness should be released or detained—

''(A) shall take into account the available information concerning the history and characteristics of the witness, including the information described in section 3142(g)(3)(A); and

''(B) may consider challenges to the basis of the warrant.

''(5) CONTENTS OF RELEASE ORDER.—A release order issued under paragraph (2) shall comply with the requirements of paragraphs (1) and (2)(B) of section 3142(h).

''(6) CONTENTS OF DETENTION ORDER.—A detention order issued under paragraph (3) shall comply with the requirements of section 3142(i), provided that a judicial officer shall direct that a material witness be held—

''(A) in a facility separate and apart, to the extent practicable, from persons charged with or convicted of a criminal offense; and

''(B) under the least restrictive conditions possible.

''(e) REPORT.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, the Attorney General shall provide to the Committees on the Judiciary of the Senate and the House of Representatives an annual report regarding the use of this section by the United States Government during the preceding 1-year period.

''(2) CONTENT OF REPORT.—A report required under paragraph (1) shall include—

''(A) the number of warrants sought under subsection (a), and the number either granted or denied;

''(B) the number of material witnesses arrested pursuant to a warrant issued under subsection (a) whose testimony was not secured by deposition or by appearance before the court or grand jury, and the reasons therefore; and

''(C) the average number of days that material witnesses arrested pursuant to a warrant issued under subsection (a) were detained.''.

(b) AMENDMENT TO FEDERAL RULES OF CIVIL PROCEDURE.—Rule 46(h) of the Federal Rules of Criminal Procedure is amended to read as follows:

''(h) SUPERVISING DETENTION PENDING TRIAL.—To eliminate unnecessary detention, the court must supervise the detention within the district of any defendants awaiting trial and of any persons held as material witnesses.''.

By Mr. CRAPO (for himself, Mr. JOHNSON, and Mr. BUNNING):

S. 1740. A bill to amend the Internal Revenue Code of 1986 to allow individuals to defer recognition of reinvested capital gains distributions from regulated investment companies; to the Committee on Finance.

Mr. CRAPO. Mr. President, I rise today to introduce, along with my colleagues Tim Johnson of South Dakota and Jim Bunning of Kentucky, an important bill that will allow Americans to save more for the long term and will better prepare them for a secure retirement. The Generating Retirement Ownership Through Long-Term Holding GROWTH, Act has substantial and growing bipartisan support in the House, and Senator JOHNSON and I are proud to introduce this bipartisan legislation that provides Americans a better tool to grow their long-term retirement savings.

The GROWTH Act would allow investors in mutual funds to keep more retirement savings invested longer and growing longer by deferring taxation of automatically reinvested capital gains until fund shares are sold, rather than allowing those long-term gains—which generate no current income or cash in hand—to be taxed every year.

To understand how beneficial this bill would be, it is important to understand the role of mutual funds in long-term retirement savings. Among households owning mutual funds, 92 percent are investing for retirement, with more than 70 percent saying their primary purpose in investing in funds is to prepare for retirement. Many of today's workers do not yet have in place the retirement savings supplement to Social Security that will prepare them for the future. In fact, almost half of American workers—nearly 71 million of 151 million workers—are not offered any form of pension or retirement savings plan at work.

Meanwhile, the number of years spent in retirement is growing and the costs individuals can expect to bear in retirement are growing, too. The Employee Benefit Research Institute estimates that an individual retiring at age 65 in 2014 will need $285,000 just to cover health coverage premiums and expenses. Individual savings efforts also face significant obstacles. Those not covered by an employer's retirement plan, for example, can set aside a deductible IRA contribution of only $4,000 this year—$4,500 if they are age 50 or older.

Mutual funds are a hugely important part of American workers' preparation for retirement, both through their employers' retirement plans and on their own. Mutual funds now make up half of the $3.2 trillion held by American workers through 401(k) plans and other similar job-based savings programs. About 34 million American households hold mutual funds through their defined contribution plans. More than 30 million American households are saving through taxable mutual fund accounts, either as supplements to their employers' plans or because they do not have such plans.

The GROWTH Act is also a good idea because it remedies an unfairness in the tax code that can make saving difficult for many Americans. Mutual fund investors who are struggling to save for retirement should not have to pay taxes on ''profits'' they have not realized. If they don't have money in hand, it makes no sense for them to have to pay taxes. The GROWTH Act would defer taxes until the mutual fund shares are sold and the investor has actual funds to pay the taxes.

The GROWTH Act would be a valuable contributor to retirement savings efforts. Mutual fund savers who automatically reinvest are doing what policymakers want to see. They are holding for the long term, contributing to national savings, and building up their own retirement nest egg. These Americans should be encouraged to save—not discouraged through a tax on automatic reinvestments. The GROWTH Act is a step that will show immediate results, a step that will help tens of millions of American savers and ''should-be savers'' over the course of their working lives, and a step that with time can make a real difference in the retirement readiness of American families.

I urge my colleagues to join Senator JOHNSON and me in supporting the GROWTH Act. 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. 1740

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 ''Generate Retirement Ownership Through Long-Term Holding Act of 2005''.

SEC. 2. DEFERRAL OF REINVESTED CAPITAL GAIN DIVIDENDS OF REGULATED INVESTMENT COMPANIES.

(a) IN GENERAL.—Part III of subchapter O of chapter 1 of the Internal Revenue Code of 1986 (relating to common nontaxable exchanges) is amended by inserting after section 1045 the following new section:

''SEC. 1046. REINVESTED CAPITAL GAIN DIVIDENDS OF REGULATED INVESTMENT COMPANIES.

''(a) NONRECOGNITION OF GAIN.—In the case of an individual, no gain shall be recognized on the receipt of a capital gain dividend distributed by a regulated investment company to which part I of subchapter M applies if such capital gain dividend is automatically reinvested in additional shares of the company pursuant to a dividend reinvestment plan.

''(b) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) CAPITAL GAIN DIVIDEND.—The term 'capital gain dividend' has the meaning given to such term by section 852(b)(3)(C).

''(2) RECOGNITION OF DEFERRED CAPITAL GAIN DIVIDENDS.—

''(A) IN GENERAL.—Gain treated as unrecognized in accordance with subsection (a) shall be recognized in accordance with subparagraph (B)—

''(i) upon a subsequent sale or redemption by such individual of stock in the distributing company, or

''(ii) upon the death of the individual.

''(B) GAIN RECOGNITION.—

''(i) IN GENERAL.—Upon a sale or redemption described in subparagraph (A), the taxpayer shall recognize that portion of total gain treated as unrecognized in accordance with subsection (a) (and not previously recognized pursuant to this subparagraph) that is equivalent to the portion of the taxpayer's total shares in the distributing company that are sold or redeemed.

''(ii) DEATH OF INDIVIDUAL.—Except as provided by regulations, any portion of such total gain not recognized under clause (i) prior to the taxpayer's death shall be recognized upon the death of the taxpayer and included in the taxpayer's gross income for the taxable year ending on the date of the taxpayer's death.

''(3) HOLDING PERIOD.—

''(A) GENERAL RULE.—The taxpayer's holding period in shares acquired through reinvestment of a capital gain dividend to which subsection (a) applies shall be determined by treating the shareholder as having held such shares for one year and a day as of the date such shares are acquired.

''(B) SPECIAL RULE FOR DISTRIBUTIONS OF QUALIFIED 5-YEAR GAINS.—In the case of a distribution of a capital gain dividend (or portion thereof) in a taxable year beginning after December 31, 2008, and properly treated as qualified 5-year gain (within the meaning of section 1(h), as in effect after such date), subparagraph (A) shall apply by substituting '5 years and a day' for 'one year and a day'.

''(c) SECTION NOT TO APPLY TO CERTAIN TAXPAYERS.—This section shall not apply to—

''(1) an individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins, or

''(2) an estate or trust.

''(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 852(b)(3)(B) of such Code is amended by adding at the end the following new sentence: ''For rules regarding nonrecognition of gain with respect to reinvested capital gain dividends received by individuals, see section 1046.''.

(2) The table of sections for part III of subchapter O of chapter 1 of such Code is amended by inserting after the item relating to section 1045 the following new item:

''Sec. 1046. Reinvested capital gain dividends of regulated investment companies.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

By Mr. SMITH:

S. 1743. A bill to authorize the Federal Trade Commission to investigate and assess penalties for price gouging with respect to oil and gas products; to

the Committee on Commerce, Science, and Transportation.

Mr. SMITH. Mr. President, I rise today to introduce the Post-Disaster Consumer Protection Act of 2005. This bill is designed to prohibit price gouging of oil or gas products in the immediate aftermath of a declared disaster.

Hurricane Katrina had a devastating affect on the major oil and natural gas producing region of our Nation. This natural disaster has exposed our Nation's vulnerability to even short-term disruptions anywhere in the supply chain. Oil production curtailments, refinery shutdowns or pipeline disruptions can all cause price spikes in gasoline, diesel and aviation fuel.

Directly following Hurricane Katrina, extreme price volatility of gasoline throughout the United States led to accusations of price gouging. Reports were made of individual retailers charging as much as $5.87 a gallon for gas. Even in my State of Oregon, which is less reliant on Gulf of Mexico production, prices spiked in the immediate aftermath of the hurricane.

This bill declares that for the 30 days following the President's declaration of a disaster, it will be unlawful to engage in price gouging of oil or gas products for sale in the affected area, or of oil and gas products produced in the affected area for sale in interstate commerce.

In addition, this bill authorizes the Federal Trade Commission to determine what represents a gross disparity in pricing and to prevent violations under this act using its authorities under the Federal Trade Commission Act. Those authorities include seeking civil penalties of $11,000 per violation; assessing fines or repayment of illegal gains; freezing assets; and seeking preliminary injunctions, cease and desist orders or temporary restraining orders.

Drastic increases in oil and gas products have a negative impact on consumers and businesses. That is why we must have a system in place that discourages price gouging in the wake of a disaster, and allows enough time for markets to return to normal.

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. 1743

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 ''Post-Disaster Consumer Protection Act of 2005''.

SEC. 2. PRICE GOUGING PROHIBITION FOLLOWING MAJOR DISASTERS.

(a) DEFINITIONS.—In this section:

(1) AFFECTED AREA.—The term ''affected area'' means an area affected by a major disaster declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(2) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(3) OIL OR GAS PRODUCTS.—The term ''oil or gas products'' means oil, gasoline, diesel, aviation fuel, natural gas, or home heating oil.

(4) PRICE GOUGING.—The term ''price gouging'' means the charging of an unconscionably excessive price by a supplier of an oil or gas product.

(5) SUPPLIER.—The term ''supplier'' includes a seller, reseller, wholesaler, or distributor of an oil or gas product.

(6) UNCONSCIONABLY EXCESSIVE PRICE.—The term ''unconscionably excessive price'' means a price charged—

(A)(i) for an oil or gas product sold in an affected area that represents a gross disparity, as determined by the Commission, between the price charged by a supplier for that product after a major disaster is declared and the average price charged for that product by that supplier in the affected area during the 30-day period immediately before the President declares the existence of the major disaster; or

(ii) for an oil or gas product produced in the affected area for sale in interstate commerce that represents a gross disparity, as determined by the Commission, between the price charged by a supplier for that product after a major disaster is declared and the average price charged for that product by that supplier during the 30-day period immediately before the President declares the existence of the major disaster;

(B) that is not attributable to increased wholesale or operational costs incurred by the supplier in connection with the provision of the oil or gas product or to international market trends; and

(C) that is not attributable to a loss of production or loss of pipeline transmission capability.

(b) PRICE GOUGING INVOLVING DISASTER VICTIMS.—

(1) OFFENSE.—During the 30-day period following the date on which a major disaster is declared by the President, it shall be unlawful for a supplier to sell, or to offer to sell, any oil or gas product at an unconscionably excessive price as described in subsection (a)(6).

(c) UNFAIR OR DECEPTIVE ACT OR PRACTICE.—

(1) IN GENERAL.—The provisions of this Act shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.). A violation of any provision of this Act shall be treated as an unfair or deceptive act or practice violating a rule promulgated under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a).

(2) ACTIONS BY THE COMMISSION.—The Commission may prevent any person from violating this Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act. Any entity that violates any provision of this Act is subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this Act.

(d) EFFECT ON OTHER LAWS.—Nothing contained in this Act shall be construed to limit the authority of the Commission under any other provision of law.

By Mr. NELSON of Florida (for himself and Mr. BINGAMAN):

S. 1744. A bill to prohibit price gouging relating to gasoline and diesel fuels in areas affected by major disasters; to the Committee on Commerce, Science, and Transportation.

Mr. NELSON of Florida. 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. 1744

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 ''Price Gouging Act of 2005''.

SEC. 2. PRICE GOUGING PROHIBITION FOLLOWING MAJOR DISASTERS.

The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended—

(1) by redesignating sections 25 and 26 (15 U.S.C. 57c, 58) as sections 26 and 27, respectively; and

(2) by inserting after section 24 (15 U.S.C. 57b–5) the following:

''SEC. 25. PROTECTION FROM PRICE GOUGING FOLLOWING MAJOR DISASTERS.

''(a) DEFINITIONS.—In this section:

''(1) AFFECTED AREA.—The term 'affected area' means an area affected by a major disaster declared by the President under Federal law in existence on the date of enactment of this subsection.

''(2) PRICE GOUGING.—The term 'price gouging' means the charging of an unconscionably excessive price by a supplier in an affected area.

''(3) SUPPLIER.—The term 'supplier' means any person that sells gasoline or diesel fuel for resale or ultimate consumption.

''(4) UNCONSCIONABLY EXCESSIVE PRICE.—The term 'unconscionably excessive price' means a price charged in an affected area for gasoline or diesel fuel that—

''(A) represents a gross disparity, as determined by the Commission in accordance with subsection (e), between the price charged for gasoline or diesel fuel and the average price of gasoline or diesel fuel charged by suppliers in the affected area during the 30-day period immediately before the President declares the existence of a major disaster; and

''(B) is not attributable to increased wholesale or operational costs incurred by the supplier in connection with the sale of gasoline or diesel fuel.

''(b) DETERMINATION OF THE COMMISSION.—Following the declaration of a major disaster by the President, the Commission shall—

''(1) consult with the Attorney General, the United States Attorney for the district in which the disaster occurred, and State and local law enforcement officials to determine whether any supplier in the affected area is charging or has charged an unconscionably excessive price for gasoline or diesel fuel provided in the affected area; and

''(2) establish within the Commission—

''(A) a toll-free hotline that a consumer may call to report an incidence of price gouging in the affected area; and

''(B) a program to develop and distribute to the public informational materials in English and Spanish to assist residents of the affected area in detecting and avoiding price gouging.

''(c) PRICE GOUGING INVOLVING DISASTER VICTIMS.—

''(1) OFFENSE.—During the 180-day period after the date on which a major disaster is declared by the President, no supplier shall sell, or offer to sell, gasoline or diesel fuel in an affected area at an unconscionably excessive price.

''(2) ACTION BY COMMISSION.—

''(A) IN GENERAL.—During the period described in paragraph (1), the Commission shall conduct investigations to determine whether any supplier in an affected area is in violation of paragraph (1).

''(B) POSITIVE DETERMINATION.—If the Commission determines under subparagraph (A) that a supplier is in violation of paragraph (1), the Commission shall take any action the Commission determines to be appropriate to remedy the violation.

''(3) CIVIL PENALTIES.—A supplier that commits an offense described in paragraph (1) may, in a civil action brought in a court of competent jurisdiction, be subject to—

''(A) a civil penalty of not more than $500,000;

''(B) an order to pay special and punitive damages;

''(C) an order to pay reasonable attorney's fees;

''(D) an order to pay costs of litigation relating to the offense;

''(E) an order for disgorgement of profits earned as a result of a violation of paragraph (1); and

''(F) any other relief determined by the court to be appropriate.

''(4) CRIMINAL PENALTY.—A supplier that knowingly commits an offense described in paragraph (1) shall be imprisoned not more than 1 year.

''(5) ACTION BY VICTIMS.—A person, Federal agency, State, or local government that suffers loss or damage as a result of a violation of paragraph (1) may bring a civil action against a supplier in any court of competent jurisdiction for disgorgement, special or punitive damages, injunctive relief, reasonable attorney's fees, costs of the litigation, and any other appropriate legal or equitable relief.

''(6) ACTION BY STATE ATTORNEYS GENERAL.—An attorney general of a State, or other authorized State official, may bring a civil action in the name of the State, on behalf of persons residing in the State, in any court of competent jurisdiction for disgorgement, special or punitive damages, reasonable attorney's fees, costs of litigation, and any other appropriate legal or equitable relief.

''(7) NO PREEMPTION.—Nothing in this section preempts any State law.

''(d) REPORT.—Not later than 1 year after the date of enactment of this subsection, and annually thereafter, the Commission shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing—

''(1) the number of price gouging complaints received by the Commission for each major disaster declared by the President during the preceding year;

''(2) the number of price gouging investigations of the Commission initiated, in progress, and completed as of the date on which the report is prepared;

''(3) the number of enforcement actions of the Commission initiated, in progress, and completed as of the date on which the report is prepared;

''(4) an evaluation of the effectiveness of the toll-free hotline and program established under subsection (b)(2); and

''(5) recommendations for any additional action with respect to the implementation or effectiveness of this section.

''(e) DEFINITION OF GROSS DISPARITY.—Not later than 180 days after the date of enactment of this subsection, the Commission shall promulgate regulations to define the term 'gross disparity' for purposes of this section.''.

SEC. 3. EFFECT OF ACT.

Nothing in this Act, or an amendment made by this Act, affects any authority of the Federal Trade Commission in existence on the date of enactment of this Act with respect to price gouging actions.

By Mr. ENZI (for himself and Mr. KENNEDY):

S. 1745. A bill to expand the availability of resources under the Community Services Block Grant Act for individuals affected by Hurricane Katrina; read the first time.

Mr. KENNEDY. Mr. President, it is an honor to join Senator ENZI in introducing the Community Services Disaster Assistance Act.

The bill contains additional support for State Community Service Block Grant offices, and community action agencies. Community Service Block Grant agencies provide low-income communities with the support they need to achieve self-sufficiency on a daily basis. Their programs and services include literacy, child health care, afterschool activities, low-income housing development, food stamps, and emergency shelter assistance.

In the days after Hurricane Katrina, these agencies have been on the front lines. According to the National Association of State Community Service Programs, 32 States and their community action agencies have assisted over 65,000 evacuees. In this time of massive crisis, these agencies have been indispensable.

This bill will help the State offices and agencies continue their amazing work. Community action agencies are already able to receive emergency funds from FEMA, and this bill expresses the sense of the Senate that emergency assistance should be made available immediately.

The bill also authorizes State offices to transfer a portion of their funds for Community Service Block Grant administration or discretionary programs to the Gulf Coast States. Offices that wish to provide monetary support will be able to do so.

The bill establishes a temporary income eligibility waiver for services funded by Community Services Block Grants in places designated as disaster areas. Evacuees will not have to worry about having the right paperwork ready, they will receive the services they need exactly when they need it.

The bill also permits agencies and State offices to send their staff to federally designated disaster areas in other parts of the same State or in other states to provide disaster assistance.

Support for this emergency work is more important today than ever. The States hit hardest by the Hurricane and flood were also some of the poorest. We in Congress have a responsibility to do all we can to help these States rebuild and thrive again. Passing this bill is a needed early step because it provides urgently needed assistance to invaluable community service organizations, and I urge my colleagues to approve it.

Mr. CORNYN. Mr. President, I rise today to introduce new legislation, titled the Good Samaritan Liability Improvement and Volunteer Encouragement, or ''GIVE'' Act of 2005. I introduce this legislation to ensure that, as we continue to cope with the aftermath of Hurricane Katrina, that one of our country's greatest assets—the willingness of the American people to give to their neighbors in need—is not inhibited by one of its greatest liabilities—a broken civil justice system.

In addition, I will take a few moments to remind my colleagues of legislation that I introduced just before the August recess: the Respirator Access Assurance Act of 2005. This legislation is of even greater importance in the wake of Hurricane Katrina—its passage would help to ensure that the thousands of workers, volunteers, and citizens of New Orleans working to restore that great city have the necessary protection to sift through the clean-up.

From its beginning, the United States has been a generous nation. Indeed, in commenting on his observations of America in 1831, French historian Alexis de Tocqueville praised Americans for voluntarily assisting their neighbors during times of need. He noted, ''When an American asks for the cooperation of his fellow citizens, it is seldom refused; and I have often seen it afforded spontaneously, and with great good will.''

Since that time, America has continued to grow into an ever-more generous nation. As measured by financial contributions, giving by Americans is at an all-time high. According to the Giving USA Foundation, philanthropic donations totaled almost $250 billion in 2004 and represented a 5 percent increase over the previous year. The chair of Giving USA notes that ''about 70 to 80 percent of Americans contribute annually to at least one charity.''

Financial contributions are infinitely valuable. But, as we all know, the value of the gift of time cannot be underestimated. Each and every year, millions of Americans volunteer their time and their personal services to charity. Americans volunteer in soup kitchens, schools, and health clinics, devoting countless hours to assist others.

And in the wake of Hurricane Katrina, we have seen this charitable spirit shine brighter than ever. In the short time since Katrina hit the Gulf Coast, Americans have given more than $600 million to disaster relief efforts. Millions of Americans have sent money, donated food, sent needed tools and equipment, given clothing, volunteered medical or other services, and otherwise helped in whatever manner they could.

Perhaps most heartwarming of all, thousands of Americans have opened their homes to those who lost everything. I am particularly proud of my home State of Texas—where more than

250,000 of our neighbors sought shelter—and where virtually all of them have been able to find it.

But just as America enjoys a culture of giving and volunteering, she also faces a culture of litigation. And this ''sue first, ask questions later'' culture has produced an environment of fear that often gives pause to some people who would otherwise wish to extend a helping hand.

As Common Good co-founder and chair, Philip Howard pointed out in hearings before the House Judiciary Committee in June of 2004, ''[w]hat we have found is that, in dealings throughout society, Americans no longer feel free to act on their reasonable judgment. The reason is that they no longer trust our system of justice. . . No part of society is immune. Playgrounds have been stripped of anything athletic. Even seesaws are disappearing because town councils can't afford to be sued if someone breaks an ankle. . . There is a missing link in American justice—rulings on who can sue for what.''

Unfortunately, volunteers and nonprofits face this question every day. To what degree should people volunteering services or providing needed equipment and supplies be forced to choose between lending a helping hand or facing the specter of litigation? And, should non-profit organizations such as the Red Cross and the Salvation Army struggle to find appropriate housing for evacuees due to liability concerns?

In an attempt to respond to these concerns, 8 years ago the late Senator Paul Coverdell sponsored and successfully worked to enact the Volunteer Protection Act of 1997—legislation that protects volunteers from many frivolous lawsuits. However, as helpful and well-intentioned as this legislation was, more needs to be done to sufficiently protect all those lending a hand to those in need.

Consider, for example: Early this year, a jury in Milwaukee found the Catholic Archdiocese liable because a volunteer for a Catholic lay organization, driving her own car, ran a red light and caused an accident while delivering a statue of the Virgin Mary to an invalid person. Although the church does not direct the activities of this group, called the Legion of Mary, its meetings are held on church property. The jury decided the Archdiocese should pay $17 million to the paralyzed victim, an 82-year-old semi-retired barber.

In response to Hurricane Katrina, the Red Cross and the Salvation Army are unable to coordinate efforts to set up emergency housing in private homes for evacuees because of liability issues.

In the midst of administering chest compressions to a dying woman several days after Hurricane Katrina struck, Dr. Mark N. Perlmutter was ordered to stop by a federal official because he wasn't registered with the Federal Emergency Management Agency. ''I begged him to let me continue,'' said Perlmutter, who left his home and practice as an orthopedic surgeon in Pennsylvania to come to Louisiana and volunteer to care for hurricane victims. ''People were dying, and I was the only doctor on the tarmac where scores of non-responsive patients lay on stretchers. Two patients died in front of me . . . I asked him to let me stay until I was replaced by another doctor, but he refused. He said he was afraid of being sued.''

So, today, even as volunteers, businesses, and non-profit organizations across the Nation are working to return New Orleans and the gulf coast region to something close to normal—I feel it is crucial to ensure that those volunteers are protected from needless and frivolous litigation.

That's why I am introducing today—and am proud to be joined by Senators HUTCHISON, VITTER, LOTT, GRASSLEY and THUNE—the Good Samaritan Liability Improvement and Volunteer Encouragement, or GIVE Act of 2005.

The legislation offers a comprehensive solution to the fear of litigation that unnecessarily burdens volunteers and often prevents the provision of necessary goods and services to those in need. It will provide protection for volunteers across the Nation, particularly those working in response to national disasters such as 9/11 or Hurricane Katrina. More specifically, the GIVE Act will provide that: Disaster relief volunteers, generally, are not liable for harm caused in carrying out their volunteer activities in connection with disaster relief, unless their act or omission constitutes willful, knowing or reckless misconduct; medical and other professionals can volunteer their services for disaster relief services based on being licensed in their home State regardless of where the declared disaster occurred; a disaster relief volunteer is protected from liability under the act even if the volunteer is not working for a specific non-profit organization; disaster relief volunteers can offer their services without subjecting their business partners or employers to liability; disaster relief volunteers are protected from punitive damages and non-economic damages are apportioned according to percentage of fault; non-profit organizations are not liable for the acts or omissions of their volunteers unless the organization has willfully disregarded or is recklessly indifferent to the safety of the individual harmed; all donors of goods or equipment—whether businesses, non-profits, or individuals—are not liable for harm caused by donating those items unless they acted with willful, knowing or reckless misconduct; and all litigation that proceeds despite any protections under this act or under the Volunteer Protection Act requires a high level of specificity and documentation in the claim and a review by a judge that the claim raises—as a matter of law—a genuine issue of material fact.

I urge my colleagues to support these two pieces of legislation—legislation designed to ensure that the fear of litigation that pervades our culture won't stand in the way of well-intentioned Americans trying to help their neighbors in need.

By Mr. KENNEDY (for himself, Ms. LANDRIEU, Mr. HARKIN, Mr. REID, Mr. DURBIN, Mr. SCHUMER, Mrs. CLINTON, Mr. DODD, Ms. MIKULSKI, Mr. BINGAMAN, Mrs. MURRAY, Mr. REED, Mr. LEAHY, Mr. SARBANES, Mr. KERRY, Mr. LIEBERMAN, Mr. AKAKA, Mrs. FEINSTEIN, Mrs. BOXER, Mr. FEINGOLD, Mr. BAYH, Ms. CANTWELL, Mr. CORZINE, Mr. DAYTON, Mr. LAUTENBERG, and Mr. OBAMA):

S. 1749. A bill to reinstate the application of the wage requirements of the Davis-Bacon Act to Federal contracts in areas affected by Hurricane Katrina; to the Committee on Health, Education, labor, and Pensions.

Mr. KENNEDY. As we send hundreds of billions of dollars in Federal aid to the areas devastated by Hurrican Katrina, we must remember that we are just rebuilding highway and schools—we are rebuilding communities and neighborhoods. And the foundation of such communities is good jobs with fair wages.

The winds of Katrina exposed to all of America just how much more work remains to be done to achieve equality and fairness in this country. We are a stronger country when we are a fairer country. Yet, as the Administration awards billions of dollars in contracts to many of their corporate friends, they decide that the men and women of the gulf coast don't deserve to be paid a fair wage. The victims of Katrina have lost everything, and now President Bush says it is okay for them to lose their fair wages too. That is why I am introducing this legislation to ensure that that the workers involved in the recovery and reconstruction effort after Hurricane Katrina will earn a prevailing wage.

Many people harmed by Hurricane Katrina were already struggling to make ends meet. Mississippi and Louisiana rank 1st and 2nd among States by the percentage of people below the poverty line. Moreover, Mississippi and Louisiana rank 2nd and 3rd by the percentage of children below the poverty line. Now the devastation of hurricane has caused the jobs and businesses they relied on to disappear. Experts have said that from 400,000 to 1 million workers may become unemployed as a result of the hurricane, with the unemployment rate reaching 25 percent or higher in the gulf region. Many affected workers will be unemployed for 9 months or longer.

The new jobs in the clean up, recovery, and rebuilding of the area will be a major source of new employment, and we need to be sure that they pay decent wages. This is all that Davis-Bacon does: it simply ensures that workers on Federal Government

projects earn a typical wage. Otherwise the large size of Federal contracts can overwhelm a local labor market lead to bidding wars that drive wages down. Indeed, Representative Davis and Senator Bacon were Republicans who wanted to protect local contractors, who would not be able to compete in such a price war.

Workers who take these jobs will already face special hazards. Each day the administration reveals more details about workers' exposure to elevated levels of e.coli, toxic chemicals from flooded Superfund sites, and contaminants from massive oil spills. These workers should not have to suffer below-market wages, too.

But the President apparently believes that workers in Louisiana, Mississippi, Alabama, and parts of Florida don't even deserve to earn a decent wage for a day's work. He would have you believe that Davis-Bacon wages are exorbitant—nothing could be further from the truth. Indeed, in areas affected by Katrina, some typical wages include: $9.16 per hour sheet metal workers, in Pearl River County, MS, $10.00 per hour for laborers in Livingston Parish, LA, $8.54 hour for truckdrivers in Mobile County, AL. And Federal spending post-Hurricane Katrina should be lifting workers up, not forcing them into a race to the bottom.

I urge the Congress to reverse the President's decision and to stand with the hardworking men and women of the gulf coast as they rebuild their towns and their lives.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 245—RECOGNIZING THE LIFE AND ACCOMPLISHMENTS OF SIMON WIESENTHAL

Mr. SCHUMER (for himself, Mr. COLEMAN, Mrs. BOXER, Mrs. FEINSTEIN, Mr. REID, Mr. BINGAMAN, Mr. WYDEN, Mrs. CLINTON, Mr. LAUTENBERG, Ms. MIKULSKI, Mr. KENNEDY, Ms. STABENOW, Mr. LIEBERMAN, Mr. JOHNSON, Mr. HARKIN, Mr. KOHL, Mrs. MURRAY, Mr. FEINGOLD, Mr. DODD, Mr. BROWNBACK, Mr. SMITH, Mr. ROCKEFELLER, Mr. VOINOVICH, Mr. BIDEN, Mr. CORZINE, Mr. ALLEN, Mr. INHOFE, Mr. CARPER, Mr. GRAHAM, Mr. DEWINE, Mr. NELSON of Florida, Mr. LEVIN, Mr. GRASSLEY, Mr. BURR, Mr. ALEXANDER, Mr. MCCAIN, Mr. NELSON of Nebraska, Mrs. HUTCHISON, Mr. SARBANES, Mr. SALAZAR, Mr. CORNYN, Mr. HAGEL, Mr. TALENT, Mr. CONRAD, Ms. SNOWE, Mr. SANTORUM, Mr. DURBIN, and Mr. LEAHY) submitted the following resolution; which was considered and agreed to:

S. RES. 245

Whereas Simon Wiesenthal was born on December 31, 1908, to Jewish merchants in Buczacz, in what is now the Lvov Oblast section of the Ukraine;

Whereas after he was denied admission to the Polytechnic Institute in Lvov because of quota restrictions on Jewish students, Simon Wiesenthal received his degree in engineering from the Technical University of Prague in 1932;

Whereas Simon Wiesenthal worked in an architectural office until he was forced to close his business and become a mechanic in a bedspring factory, following the Russian army's occupation of Lvov and purge of Jewish professionals;

Whereas following the Germany occupation of Ukraine in 1941, Simon Wiesenthal was initially detained in the Janwska concentration camp near Lvov, after which he and his wife were assigned to the forced labor camp serving the Ostbahn Works, which was the repair shop for Lvov's Eastern Railroad;

Whereas in August of 1942, Simon Wiesenthal's mother was sent to the Belzec death camp as part of Nazi Germany's ''Final Solution'', and by the end of the next month 89 of his relatives had been killed;

Whereas with the help of the Polish Underground Simon Wiesenthal was able to help his wife escape the Ostbahn camp in 1942, and in 1943 was himself able to escape just before German guards began executing inmates, but he was recaptured the following year and sent to the Janwska camp;

Whereas following the collapse of the German eastern front, the SS guards at Janwska took Simon Wiesenthal and the remaining camp survivors and joined the westward retreat from approaching Russian forces;

Whereas Simon Wiesenthal was 1 of the few survivors of the retreat to Mauthausen, Austria and was on the brink of death, weighing only 99 pounds, when Mauthausen was liberated by American forces on May 5, 1945;

Whereas after surviving 12 Nazi prison camps, including 5 death camps, Wiesenthal chose not to return to his previous occupation, and instead dedicated himself to finding Nazi war criminals and bringing them to justice;

Whereas following the liberation of Mauthausen, Simon Wiesenthal began collecting evidence of Nazi activity for the War Crimes Section of the United States Army, and after the war continued these efforts for the Army's Office of Strategic Services and Counter-Intelligence Corps;

Whereas Simon Wiesenthal would also go on to head the Jewish Central Committee of the United States Zone of Austria, a relief and welfare organization;

Whereas Simon Wiesenthal and his wife were reunited in 1945, and had a daughter the next year;

Whereas the evidence supplied by Wiesenthal was utilized in the United States Zone war crime trials;

Whereas, after concluding his work with the United States Army in 1947, Simon Wiesenthal and others opened and operated the Jewish Historical Documentation Center in Linz, Austria, for the purpose of assembling evidence for future Nazi trials, before closing the office and providing its files to the Yad Vashem Archives in Israel in 1954;

Whereas despite his heavy involvement in relief work and occupational education for Soviet refugees, Simon Wiesenthal tenaciously continued his pursuit of Adolf Eichmann, who had served as the head of the Gestapo's Jewish Department and supervised the implementation of the ''Final Solution'';

Whereas in 1953, Simon Wiesenthal acquired evidence that Adolf Eichmann was living in Argentina and passed this information to the Government of Israel;

Whereas this information, coupled with information about Eichmann's whereabouts in Argentina provided to Israel by Germany in 1959, led to Eichmann's capture by Israeli agents, trial and conviction in Israel, and execution on May 31, 1961;

Whereas following Eichmann's capture, Wiesenthal opened a new Jewish Documentation Center in Vienna, Austria, for the purpose of collecting and analyzing information to aid in the location and apprehension of war criminals;

Whereas Karl Silberbauer, the Gestapo officer who arrested Anne Frank, Franz Stangl, the commandant of the Treblinka and Sobibor concentration camps in Poland, and Hermine Braunsteiner, who had supervised the killings of several hundred children at Majdanek, are among the approximately 1,100 war criminals found and brought to justice as a result of Simon Wiesenthal's investigative, analytical, and undercover operations;

Whereas Simon Wiesenthal bravely forged ahead with his mission of promoting tolerance and justice in the face of danger and resistance, including numerous threats and the bombing of his home in 1982;

Whereas the Simon Wiesenthal Center was established in 1977, to focus on the prosecution of Nazi war criminals, commemorate the events of the Holocaust, teach tolerance education, and promote Middle East affairs;

Whereas the Simon Wiesenthal Center monitors and combats the growth of neo-Nazi activity in Europe and keeps watch over concentration camp sites to ensure that the memory of the Holocaust and the sanctity of those sites are preserved;

Whereas the Simon Wiesenthal Center played a pivotal role in convincing foreign governments to pass laws enabling the prosecution of Nazi war criminals;

Whereas throughout his lifetime, Simon Wiesenthal has had many honors and awards bestowed upon him, including decorations from the Austrian and French resistance movements, the Dutch Freedom Medal, the Luxembourg Freedom Medal, the United Nations League for the Help of Refugees Award, the French Legion of Honor, and the United States Congressional Gold Medal, which was presented to him by President James Carter in 1980;

Whereas President Ronald W. Reagan once remarked, ''For what Simon Wiesenthal represents are the animating principles of Western civilization since the day Moses came down from Sinai: the idea of justice, the idea of laws, the idea of the free will.'';

Whereas President George H. W. Bush has stated that Simon Wiesenthal, ''is our living embodiment of remembrance. The two pledges of Simon Wiesenthal's life inspire us all — 'Never forget' and 'Never again'.'';

Whereas President William Clinton has remarked of Simon Wiesenthal, ''To those who know his story, one of miraculous survival and of relentless pursuit of justice, the answer is apparent. From the unimaginable horrors of the Holocaust, only a few voices survived, to bear witness, to hold the guilty accountable, to honor the memory of those who were killed. Only if we heed these brave voices can we build a bulwark of humanity against the hatred and indifference that is still all too prevalent in this world of ours.''; and

Whereas, at the end of a life dedicated to the pursuit of justice and advocacy for victims of the Holocaust, Simon Wiesenthal passed away on September 20, 2005, at the age of 96: Now, therefore, be it

Resolved, That the Senate—

(1) expresses its most sincere condolences to the family and friends of Simon Wiesenthal;

(2) recognizes the life and accomplishments of Simon Wiesenthal, who, after surviving the Holocaust, spent more than 50 years helping to bring Nazi war criminals to justice and was a vigorous opponent of anti-Semitism, neo-Nazism, and racism; and

(3) recognizes and commends Simon Wiesenthal's legacy of promoting tolerance, his tireless efforts to bring about justice, and the continuing pursuit of these ideals.

SENATE RESOLUTION 246—TO EXPRESS THE SENSE OF THE SENATE REGARDING THE MISSIONS AND PERFORMANCE OF THE UNITED STATES COAST GUARD IN RESPONDING TO HURRICANE KATRINA

Ms. SNOWE (for herself, Ms. CANTWELL, Ms. MIKULSKI, Mr. INOUYE, Mr. STEVENS, Mr. MARTINEZ, Mr. LOTT, and Ms. MURKOWSKI) submitted the following resolution; which was considered and agreed to:

S. RES. 246

Whereas the United States Coast Guard has been charged by Congress with missions central to protecting the lives and well-being of individuals and communities in the United States, including protecting homeland security, conducting search and rescue of lives in danger, protecting marine environments from pollution, maintaining maritime safety and aids to navigation, enforcing Federal fishing laws, and intercepting illegal drugs and migrants before they reach our shores;

Whereas the Coast Guard anticipated the potential for significant loss of life and property as Hurricane Katrina approached Louisiana, Mississippi, and Alabama and made landfall on August 29, 2005 and, in advance of the storm, relocated its personnel, vessels, and aircraft out of harm's way;

Whereas Hurricane Katrina made landfall as a Category 4 hurricane with winds reaching 175 miles per hour and massive storm surges, the combination of which left a trail of devastation unprecedented on United States soil, as it leveled countless homes, businesses, and other structures, displaced millions of people from their communities, and otherwise made coastal urban and rural areas unliveable;

Whereas the Coast Guard immediately deployed nearly 1,000 personnel, including captains, crew, pilots, rescue swimmers, pollution response teams, and other specialists and reservists, from stations all over the country, to coastal areas affected by the hurricane, for a total regional force size of approximately 3,619 personnel;

Whereas Coast Guard personnel who had never personally worked together before began to work as teams to conduct and coordinate search and rescue operations while Hurricane Katrina continued to bear down on the central Gulf of Mexico shoreline;

Whereas the Coast Guard rescued or evacuated 33,544 individuals as of September 21, 2005, a number that represents eight times the number of lives saved by the Coast Guard in an average year;

Whereas three Coast Guard pollution response Strike Teams responded to 1,129 pollution incidents as of September 20, 2005, which include total discharges of more than 7 million gallons of oil, unknown amounts of sewage, and unknown quantities of other toxic chemicals, and the Coast Guard has contained or otherwise closed 426 of these cases;

Whereas Coast Guard buoy tenders have responded to 964 discrepancies in buoys and other aids to navigation and have restored 39 of 48 critical aids to navigation as of September 21, 2005;

Whereas the costs of responding to Hurricane Katrina have depleted the Coast Guard's operations and maintenance budget for fiscal year 2005 and are rapidly depleting its budget for fiscal year 2006, and the Coast Guard's costs associated with this hurricane are anticipated to exceed $500 million;

Whereas the Coast Guard performed its hurricane response missions largely with outdated legacy assets, increasing the wear and tear on these assets while foregoing regularly scheduled maintenance activities in the interest of sustaining its surge in lifesaving operations;

Whereas the Coast Guard already conducts its missions with the 40th oldest fleet of the 42 nations with Coast Guard or naval fleets;

Whereas the Coast Guard's program, known as Deepwater, for modernizing its fleet of vessels and aircraft, is vital for increasing the capabilities in performing its missions in the face of ever-increasing natural and human threats;

Whereas the Deepwater program requires sustained Federal funding commitments in order for the citizens of the United States to realize the benefits of the Coast Guard having state-of-the-art vessels, aircraft, technologies, and interoperable communication equipment;

Whereas in addition to covering operation and maintenance costs of a rapidly aging fleet, the Coast Guard needs to rebuild several Coast Guard facilities in Louisiana, Mississippi, and Alabama, including Station Gulfport which was completely destroyed and where personnel are now working in trailers amidst the ruins of that station;

Whereas the Coast Guard needs a strong Federal funding commitment to ensure that all of its unexpected expenditures during its response to Katrina are reimbursed;

Whereas more than 700 Coast Guard personnel stationed in the Gulf region lost their homes and all personal property and are now living on overcrowded Coast Guard vessels and in makeshift shelters;

Whereas before, during, and after the landfall of Hurricane Katrina, Coast Guard personnel exhibited determination and a full commitment to their missions, and the Coast Guard has proven to be one of the most resourceful and capable services in the United States government;

Whereas before, during, and after the landfall of Hurricane Katrina, Coast Guard personnel performed their missions with the highest level of bravery and self-sacrifice, and their effectiveness in performing their missions is unparalleled in the United States government;

Whereas the Coast Guard has an operational and command structure that allowed it to quickly take a leadership role in saving lives, without waiting for instruction or permission to act;

Whereas the Coast Guard's operational and command structure continues to serve as a model for other agencies that need to respond quickly to large-scale natural and man-made disasters;

Whereas the Coast Guard's effective leadership in responding to the aftermath of Hurricane Katrina, and the appointment of Vice Admiral Thad Allen as the primary Federal officer in charge of this response, is helping to restore the public's confidence in the Federal response effort: Now, therefore, be it

Resolved, by the Senate That it is the sense of the Senate that—

(1) the United States Coast Guard should receive Congress's highest commendation for its tremendous and highly effective response to the events surrounding Hurricane Katrina;

(2) the United States Congress should commit to providing the Coast Guard with the resources it needs to modernize and maintain its fleet of vessels and aircraft; and

(3) the Administration should ensure that the Coast Guard receives sufficient funding to cover its unexpected operational and capital costs associated with Hurricane Katrina.

Ms. SNOWE. Mr. President, I rise today to commend and praise the extraordinary response of the U.S. Coast Guard to Hurricane Katrina, to demonstrate why that response exemplifies the imperative of providing that service with the modern assets required to carry out these lifesaving missions, and to submit a resolution recognizing the awe-inspiring efforts of the men and women of the U.S. Coast Guard.

I just visited the gulf coast region on Monday with the Commandant of the Coast Guard, Tom Collins, and we were guided by Eighth District Commander ADM Robert Duncan. What I saw and heard on that day is a story of heroism and a relentless can-do attitude that is nothing short of miraculous. The human spirit I witnessed was truly transcendental and a level I had never before experienced.

As we well know, Hurricane Katrina was the worst natural disaster ever to visit itself upon the United States, with an almost unimaginable magnitude of devastation and loss. The scale of the destruction has been most horrifically reflected in the faces of those we have seen over the past week, faces etched with an indelible and almost unimaginable sorrow, suffering, and burden. Their images have reverberated throughout a country in solidarity with their terrible plight. In Louisiana, Mississippi, and Alabama lives have been forever transformed along with the landscape, as we have witnessed untold scenes of homes that no longer exist, floods that ravaged entire neighborhoods and cities, fires that consumed what remains of buildings, and men, women, and children missing loved ones. We have also seen and heard the stories of those individuals who have rushed to the aid of our fellow man, demonstrating that no human or natural act can deprive us of our unyielding and singularly determined spirit. While the hurricane winds and rain have long since dissipated—and now we have anticipation of Hurricane Rita—we all have the collective concern and strength of this Nation that continues unabated, unbroken, undaunted, and unflagging.

We must now bring to bear all of our collective will and resources over what will undoubtedly be a long but ultimately victorious process of reclaiming the gulf coast towns and cities for the future. I extend my thoughts and prayers to my colleagues, Senators COCHRAN, LOTT, SESSIONS, SHELBY, LANDRIEU, and VITTER, as they work to guide their constituents and their families through these most difficult of times. I will certainly do everything I can to assist them and the citizens of their States.

Today, as chair of the Fisheries and Coast Guard Subcommittee, I believe it is entirely appropriate to focus the Nation's attention on the performance of the U.S. Coast Guard in response to Hurricane Katrina, as I believe it is an

exemplary model for future responses. As I do so, I also thank all of our military Active-Duty and Reserve for their heroic service in the gulf shore region. Their performance under these conditions has been outstanding and unprecedented on American soil.

As a result of the U.S. Coast Guard's unparalleled performance and operations responding to the unfathomable destruction along the Gulf of Mexico, the plans for which were put into motion even before the storm subsided, thousands of children, senior citizens, and entire families are sleeping safely tonight. Indeed, the heart-wrenching stories I heard during my visit to the Coast Guard—of crews rescuing families trapped in attics, of children separated from their parents, rescue swimmers tapping on roofs seeking signs of life in submerged houses—will be forever etched in my own mind. People waving towels from windows signifying the need for help, pregnant women about to go into labor being hoisted into awaiting helicopters, rescue crews busting into windows and roofs because there was no means of escape for the occupants—the stories are real, seemingly endless, and all faced with an unrelenting sense of duty and humanity by the men and women of the Coast Guard.

Indeed, over the past few weeks, as we see in this chart, we have witnessed time and time again from news sources and television stations the perilous helicopter rescues occurring each and every day. There is an outstanding example of one on this chart that shows exactly the kind of circumstance the Coast Guard has to perform in which to save life after life. Incredibly, the Coast Guard, as of September 20, has saved 33,544 lives. That is the equivalent of the number of rescues performed by the Coast Guard in 8 to 10 years. They accomplished those rescue missions in just the past 2 weeks. The Coast Guard air station in New Orleans, which I visited on Monday, under the incredible leadership of CAPT Bruce Jones, has saved 6,471 lives, almost double the 3,689 lives the station had saved over its previous 50 years of operation.

This chart shows the level of catastrophe to which the Coast Guard responded. I talked to a rescue swimmer who genuinely believed that if he had completed 15 rescues that day, it somehow wasn't enough. What is perhaps most remarkable is that the Coast Guard simply did not rescue these people and deliver them to a nearby field or highway overpass until they could get further help. Nor did they forget that other family members remained in peril, not yet rescued. Rather, the men and women of the Coast Guard took it upon themselves to ensure to the best of their ability that families would be kept intact and assisted those they rescued even after the rescue operation was complete. They actually returned to overpasses to follow up with those whom they had rescued. And if they still needed additional assistance or they hadn't been taken to where they should have been going with the medical rescue crews, they made that happen.

They got them water if they needed it. If they required food, they brought them food. As ADM Robert Duncan, District Commander for the gulf region, so eloquently expressed:

When the Coast Guard rescue teams touched a person, they owned them.

This meant the Coast Guard was making itself responsible for their continued well-being. I ask my colleagues, what could be a more touching or profound testament to the boundless will and compassion that the U.S. Coast Guard exhibited during this operation? The people of the Coast Guard have conducted themselves oblivious to the true level of their own personal sacrifice and seemingly without regard to the horrific conditions in which they serve. Seventy percent of them alone lost their houses; lost everything, that is, but their sense of duty to their fellow human beings in distress and despair.

The fact is, the Coast Guard has been, is, and will always remain a vital component of America's national security and disaster response. Coast Guard personnel risk their lives each and every day protecting our Nation and saving lives, no more so than during this national tragedy. Leadership, as we all know, starts from the top. For the U.S. Coast Guard, that individual is ADM Tom Collins. Admiral Collins has been a solid steady force in ensuring the rapid and safe execution of rescue operations.

In the midst of the storm and bureaucratic interagency chaos, the Coast Guard remained resolved, organized, focused, and responsive to those in desperate need.

The bottom line is that the members of the Coast Guard did not wait to be told to conduct their mission. They knew their mission. They refused to let anything, including redtape, get in their way. When they needed fuel for helicopters, they found fuel. When they needed water for their crews or for those they rescued, they found water. They did not ask if an operation was actually a State responsibility or local responsibility or another Federal agency's responsibility. They made it their responsibility. They took ownership of the life-and-death tasks at hand. Again, the can-do attitude of the Coast Guard is what allowed them to shine.

As Vice Admiral Allen, the principal Federal officer in charge of the relief operation, so simply stated:

The Coast Guard has a bias for action.

And from all I have seen, I could not agree more.

Indeed, the results are a living testament to the service's efficiency and organization and the superlative leadership of Admiral Collins.

The Coast Guard had the foresight and the wherewithal to pre-position its assets before the storm struck and to respond rapidly to its aftermath. Moreover, the Coast Guard's exceptional planning led to not a single loss of a Coast Guard plane or boat and enabled it to be on the scene immediately upon the passage of the storm. This planning expertise and management of assets should be the example for all Federal agencies to follow.

The Coast Guard also sent to the area personnel from Coast Guard stations from around the country to help with the effort as part of its well-conceived plan. These personnel specialize in different fields and had never previously worked together yet got the job done as if they had been on the same team forever.

I think of the 160 crew members attached to the Coast Guard cutter Harriet Lane, a 270-foot cutter I visited on Monday, docked in New Orleans, that normally berths just 100 crew members. Yet all of those aboard worked flawlessly together, overcoming obstacle after obstacle.

In one instance, due to the cutter's inability to make water from oil-polluted river water, the crew set out to procure water from wherever possible. This mission led them to the discovery of water held in tanks controlled by the Forest Service on the pier. Unable to simply give them the water due to bureaucratic hurdles, the Coast Guard found a contractor who was able to pump water from their tanks into the cutter.

This is a ridiculous hurdle that should never have existed in the first place. Yet, once again, the Coast Guard didn't waste time with bureaucratic paperwork; instead, they got the job done.

The bottom line is, from what we have seen to date, I believe that the Coast Guard's Herculean efforts provides a model for the proper planning and execution of a mission to respond to a national emergency or crisis. And on that note, I was certainly pleased that Vice Admiral Allen was selected to coordinate the Federal response to Katrina. He will bring that Coast Guard sensibility to the entire operation.

These astounding results, however, do not come without a cost. The Coast Guard has already used the funds allocated for search and rescue operations for the entire year and beyond. Furthermore, the extensive rate of use during the rescue mission is also degrading Coast Guard assets faster and delaying necessary maintenance.

Supplemental funding, which the Coast Guard has not yet received, is essential to ensure that cutters, small boats, and aircraft can operate and continue its heroic service in the coming months.

The Coast Guard has sustained damage to several small boat stations and air stations and to other facilities throughout the region. The Coast Guard station in Gulfport, MS, simply no longer exists.

The Coast Guard is actively assisting Americans, and we in the Congress must return the favor and start helping the Coast Guard by providing them with crucial supplemental funding to cover the entirety of their operational requirements and to provide the necessary funding to replace its lost infrastructure.

In that light, I have sent a letter to the Director of the Office of Management and Budget encouraging him to include a funding line in the next supplemental appropriations bill for the Coast Guard. I thank my many colleagues who have joined me in support of this request.

In addition, the Coast Guard is charged with maintaining all the aids to navigation within the region, including those of the Mississippi River. These aids were either totally lost or severely damaged.

Again, it shows on this chart that Congress has also mandated the Coast Guard to respond to marine environmental pollution, which is now reaching untold levels of hazardous contamination throughout the Mississippi and Gulf of Mexico, and I think it is an indication of all the responses to the contamination of oil spills in the region to which the Coast Guard has had to respond. More than 7 million gallons of oil has polluted the water in New Orleans.

The bottom line is, not only have the people of the Coast Guard been risking their own lives to save the 33,544 other individuals, but they have also responded to hazardous liquid spills in the region, conducted 4,688 sorties, carried out 11,548 small boat and cutter sorties, repaired vital aids to navigation to facilitate the flow of commerce in the Mississippi, and have assisted in the replenishment of critical supplies to thousands of displaced persons.

Yet, as capable and successful as the Coast Guard has been in carrying out all of its missions, including opening the ports and the waterways and drug interdiction—they are even doing that down there in combination with all of these other missions—this service was already stretched thin in the aftermath of 9/11. Unless Congress pledges to equip the service with modern equipment, we jeopardize the success of any future missions. The Coast Guard requires new cutters and aircraft now, and it can start this process only if Congress fully funds Deepwater, the service's recapitalization program for procuring new cutters, small boats, and aircraft.

The Senate version of the Coast Guard bill authorizes a total of $8.2 billion for the Coast Guard, $400 million over the administration's request. Within that request, Deepwater authorized $1.1 billion, $134 million over the administration's request. We must ensure our numbers, the Senate numbers, which are the higher numbers, are maintained in conference of this legislation.

By accomplishing this, it will allow for a targeted acceleration of required assets, those resources deemed most critical to the Coast Guard now.

The current situation can only be categorized as dire. It is a national disgrace that this service that is integral to search and rescue operations, integral to our homeland security, as we saw in the aftermath of September 11 when they immediately secured New York Harbor, integral to our fishing industry, would be operating the 40th oldest fleet out of 42 in the world. Only the Philippines and Mexico have older fleets. Deepwater is designed to remedy this situation, but in 20 to 25 years, rather than as I have insisted and I have requested, that Deepwater needs to be completed in 10 to 15 years at the outset.

If anyone questions the condition of the Coast Guard assets, I suggest they go out and sail on an aging cutter, go fly on an aging airframe, and you will witness firsthand the conditions that we continue to place upon the dedicated members of the Coast Guard. You only have to recall the graphic portrayals of what occurred during Hurricane Katrina, when these Coast Guard men and women performed under such perilous circumstances, when they were able to save so many thousands and thousands of men and women—in fact, more than 33,544 individuals under very hazardous circumstances and conditions.

At my subcommittee's June 21 hearing on the revised Deepwater implementation plan, we once again revisited the Coast Guard's current status of its legacy assets and the extremely high maintenance costs associated with them. The inescapable conclusion was the Coast Guard cannot continue on the path it is currently being forced to walk. It requires the additional money, the additional cutters and aircraft, and the latest technologies associated with command, control, and communications.

On my visit to the cutter Harriet Lane in New Orleans this last week, I was briefed on the extreme difficulties encountered in trying to establish effective communications among Federal, State, and local agencies. This cutter does not have the communications capabilities of what a new Deepwater cutter would be able to provide.

In fact, when cell phones didn't work and text messages were limited, they tried to find old satellite phones to use to communicate. We know that the new equipment on the new ships would provide this kind of capability that is absolutely essential. They would be paramount in streamlining and making these rescue efforts more efficient.

Yet, even without this new technology, the Coast Guard, as I said, made it work with the resources they had at their disposal. With an inadequate amount of satellite receivers, the cutters still prioritized and switched communication channels to effectively prosecute the mission.

Yet the undeniable truth is, such a workaround should not have to happen and would not happen on new Deepwater cutters.

The Coast Guard is a service clearly already populated with heroes. We should not ask them all to be MacGuivers, as well as jury-rigging and Rube Goldberging rescue operations already perilous enough.

Doesn't America deserve better? Don't the men and women of the Coast Guard who perform so heroically deserve more from us than fighting 21st century threats and the war on terrorism with equipment from World War II?

Think about it: Some of these ships were operating when Emperor Hirohito of Japan surrendered to the United States, operating through the Korean war, the Vietnam war, the Cold War, the fall of the Berlin Wall and the Soviet Union, and yet they remain as part of our U.S. Coast Guard in the year 2005. Some vessels are so old the Coast Guard has to go to maritime museums to find spare parts.

How can we relegate the Coast Guard to this fate? As you look on this chart, USA Today did a very indepth story on the Coast Guard and its aging assets of ships and aircraft. It says, and this was done July 6:

Aging Fleet Could Threaten Service's Anti-terror Mission.

That is what it is all about. We should have learned in the aftermath of September 11 what we need to accelerate, what we need to establish for priorities and making sure the agency we ask so much from, the Coast Guard, that we ask to do so much for so little, gets at least the equipment they deserve when they are performing these risky missions, as we have seen so graphically over the last few weeks.

How can we relegate the Coast Guard to this fate? How can a nation of such resources fail to provide them to this indispensable service?

While the people of the Coast Guard certainly go above and beyond the call of duty, the very equipment they sail and fly on has gone way beyond the call of duty, and it is time they were retired for good.

Yet the Coast Guard will continue to operate one of the oldest fleets for another 20 to 25 years with the current funding formula that is being made available for the Deepwater program. We are not just talking about ships. Under Deepwater, vital aircraft, including the outdated HH–65 Dolphin and the HH–60 Jayhawk helicopters we have all seen conducting the rescue hoists on television, would be reengined and reoutfitted with improved navigation and radar equipment. But if Deepwater is not fully funded, these crucial improvements will not occur on a timely basis, preventing the Coast Guard from being fully capable when the next tragedy strikes.

These are not exaggerated predictions. Pilots told me firsthand that with the new technology, they could have seen much more clearly in the

total darkness that loomed over New Orleans, allowing them to identify downed power lines, vertical obstructions, and citizens requiring assistance.

That is why I repeatedly urged the administration and the Congress, for the last 4 years, to increase the funding for this program immediately and why I successfully fought to include a report on the possibility of accelerating the Deepwater program from a 20-to-25-year program to a 10-year program in the Homeland Security bill.

The fact is, by reducing the duration of implementation for the program, the Coast Guard could receive these vital assets 10 to 15 years sooner, and not a moment too soon in my book. We cannot forget that ships are not constructed in weeks or months. They take years to design and fabricate.

Now, only one national security cutter is in fabrication. The offshore patrol cutter is not in production, and the fast response cutter remains in the design phase. So we must act now.

Moreover, the unequivocal findings of the report I required was acceleration of the Deepwater program is not only feasible, it would also save the American taxpayers a billion dollars in total acquisition costs.

So, I ask, what exactly is there not to get? By accelerating the Deepwater program, we would provide desperately-needed updated equipment to this premier security and search and rescue service, while saving taxpayer money, not to mention ultimately saving lives. Simply put, it defies the laws of common sense to not implement Deepwater as soon as possible.

That is why I have recently sent the appropriations committee a letter, urging them to increase the funding for Deepwater in this year's Homeland Security appropriations bill. Specifically, in the Senate version of the Coast Guard's authorization bill, we authorize $1.1 billion to be appropriated for Deepwater. This level will keep the Coast Guard on the proper road to guide them toward a modern maritime fleet of cutters and aircraft, able to perform their vital missions in the 21st century.

It is critically important we not only provide the level of funding but we also ensure that we accelerate the Deepwater acquisition program to 10 to 15 years as absolutely vital and essential.

So I hope we would be able to also release from the Senate the Coast Guard authorization legislation that allows for the increased funding, that allows for this process to continue and, in addition, to get the higher amount of the appropriations and to get the acceleration of the Deepwater program.

That is what I ask, that we release the Coast Guard authorization bill that is bottled up in the Senate. We need to remove all of the excuses and allow this process to go forward for the service that has conducted itself so courageously and heroically during the course of Hurricane Katrina.

In visiting with the men and women of the various Coast Guard stations, in New Orleans as well as the station in Gulfport, MS, I can tell you not one was complaining—not one. In fact, one admiral said, you know, we have just been telling you some of the obstacles we had to overcome to do our job, and we will do it no matter what, no matter the circumstance. We are asking you not to use it as a rationale to defer the needed repairs, maintenance, and the new equipment for the future because we don't know what is in the future when it comes to unforeseeable events. We cannot predict. We did not predict 9/11. We predicted Hurricane Katrina. Look what happened. It was the Coast Guard that performed that mission. But we have to make sure that the Coast Guard receives the funding it requires in the future in order to enable it to respond as it did during the course of Hurricane Katrina. We cannot build ships nor aircraft overnight. It takes several years to get these ships in the pipeline.

So unless we get the authorization bill out of the Senate and out of the entire Congress that we have been urging for months to get done, to have an accelerating program, to get the appropriations that are essential, that cannot happen. So I am pleading with the Senate, pleading with the Congress to do what is right for this magnificent agency that is, by the way, on the frontlines for protecting us and our homeland security, one of the greatest problems of which, as you know, is the transshipment of weapons of mass destruction.

The Coast Guard is also essential and a vital component in protecting our homeland.

They are a multimission agency. They are asked, as I said earlier, to do so much with so little. And even as they are performing down there in the gulf, they didn't ignore their other responsibilities—because of homeland security—for keeping the waterways open, which they have now done in the gulf, because it is important we continue the commerce, the interdiction of drugs; as a matter of fact, even over the weekend, providing the humanitarian assistance that is so vital, cleaning up the oil spills and the pollution that has occurred. As I showed you in a previous chart, as we have seen here in the active response that they have provided in so many areas, because of the spill of oil that is polluting the area and contaminating the water, that has complicated the task of the cleanup. You can't ask the Agency to do more in addition to the saving of 33,000 lives. When I talked to the rescue swimmers and the pilots, I asked them what was the greatest challenge and they said: You know, we were overwhelmed, we were overwhelmed because we had so many people to rescue, and we feel we are doing nothing in a day when we are rescuing 15 individuals—under, as you can imagine, some very difficult and dire circumstances.

I ask my colleagues, what more does the Coast Guard have to do to prove its immense value to America? After the service's heroic and well planned efforts in responding to Hurricane Katrina, they have clearly and convincingly shown that all Americans are well served by the United States Coast Guard.

Therefore, I am proud to send this resolution to the desk for consideration in the Senate, which gives recognition to the valiant work of the Coast Guard. The resolution also notes the necessity of improving the Coast Guard's aging fleet of ships and aircraft. I hope all of my colleagues can support this resolution.

Now is the time for us in the Congress to fully recognize the importance of the Coast Guard and provide the service with the assets it needs to do the job now and into the future. The time has come, it is now our responsibility and our solemn duty to ensure it has the resources needed in order to serve the citizens of the United States for decades to come and I hope my colleagues will join me in that effort.

It is vital because they are on the frontlines. They responded magnificently, and they should be recognized and rewarded and applauded for the job they have done and the job they will continue to do in the future. I thank the Chair.

Ms. MIKULSKI. Will the Senator yield to me for a request.

Ms. SNOWE. Yes, I am happy to yield.

Ms. MIKULSKI. Will the Senator allow me to be a cosponsor of her resolution?

Ms. SNOWE. Yes, I will be happy to.

Ms. MIKULSKI. I compliment her for her forceful words on the Coast Guard, and I wish to align myself with them, as I fully believe in the remarks of the Senator.

Ms. SNOWE. I am delighted to add my colleague, the Senator from Maryland, as a cosponsor. She has been an ardent advocate and supporter of the Coast Guard. I thank the Senator.

I ask unanimous consent to add the Senator from Maryland as a cosponsor of this resolution.

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

AMENDMENTS SUBMITTED AND PROPOSED

SA 1770. Mr. CRAPO submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table.

SA 1771. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1772. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1773. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra.

SA 1774. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1775. Mr. COBURN (for himself and Mr. ISAKSON) submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra.

SA 1776. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1777. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1778. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1779. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1780. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1781. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1782. Mr. CRAPO submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1783. Mr. BENNETT proposed an amendment to the bill H.R. 2744, supra.

SA 1784. Ms. MURKOWSKI submitted an amendment intended to be proposed by her to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1785. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra.

SA 1786. Mr. SMITH (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra.

SA 1787. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1788. Mr. FEINGOLD (for himself and Mr. ALLARD) submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1789. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1790. Mrs. CLINTON (for herself, Mrs. MURRAY, and Mr. CORZINE) submitted an amendment intended to be proposed by her to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1791. Ms. MURKOWSKI (for herself and Mr. STEVENS) submitted an amendment intended to be proposed by her to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1792. Mr. CRAIG (for himself and Mr. CRAPO) submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1793. Mr. BINGAMAN (for himself and Mr. LUGAR) submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1794. Mr. INOUYE submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1795. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1796. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra.

SA 1797. Mr. BINGAMAN (for himself, Mr. LUGAR, Ms. MURKOWSKI, and Mr. COBURN) submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra.

SA 1798. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1799. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1800. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra.

SA 1801. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1802. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1803. Mr. BENNETT proposed an amendment to the bill H.R. 2744, supra.

SA 1804. Mr. BENNETT proposed an amendment to the bill H.R. 2744, supra.

SA 1805. Mr. BENNETT proposed an amendment to the bill H.R. 2744, supra.

SA 1806. Mr. BENNETT (for Mr. KYL) proposed an amendment to the bill H.R. 2744, supra.

SA 1807. Mr. BENNETT (for Mr. LEAHY) proposed an amendment to the bill H.R. 2744, supra.

SA 1808. Mr. BENNETT (for Mr. FEINGOLD (for himself and Mr. ALLARD)) proposed an amendment to the bill H.R. 2744, supra.

SA 1809. Mr. BENNETT (for Mr. MCCONNELL) proposed an amendment to the bill H.R. 2744, supra.

SA 1810. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1811. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1812. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra.

SA 1813. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1814. Ms. MURKOWSKI submitted an amendment intended to be proposed by her to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1815. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1816. Mr. COCHRAN submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1817. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1818. Mr. DODD (for himself, Mr. HARKIN, Mr. REED, Mr. CARPER, Mr. BIDEN, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra.

SA 1819. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1820. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1821. Mr. BURNS submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1822. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1823. Mr. THOMAS submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1824. Ms. STABENOW (for herself, Mr. LEVIN, Mr. DEWINE, and Mr. VOINOVICH) submitted an amendment intended to be proposed by her to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1825. Ms. STABENOW (for herself, Mr. LEVIN, Mr. DEWINE, and Mr. VOINOVICH) submitted an amendment intended to be proposed by her to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1826. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1827. Mr. DOMENICI (for himself, Mr. BINGAMAN, Mr. CRAIG, Mr. CRAPO, and Mr. CORNYN) submitted an amendment intended to be proposed by him to the bill H.R. 2744 supra; which was ordered to lie on the table.

SA 1828. Mr. DOMENICI (for himself, Mr. BINGAMAN, Mr. CRAIG, Mr. CRAPO, and Mr. CORNYN) submitted an amendment intended to be proposed by him to the bill H.R. 2744 supra; which was ordered to lie on the table.

SA 1829. Mr. DOMENICI (for himself, Mr. BINGAMAN, Mr. CRAIG, Mr. CRAPO, and Mr. CORNYN) submitted an amendment intended to be proposed by him to the bill H.R. 2744 supra; which was ordered to lie on the table.

SA 1830. Mr. DOMENICI (for himself, Mr. BINGAMAN, Mr. CRAIG, Mr. CRAPO, and Mr. CORNYN) submitted an amendment intended to be proposed by him to the bill H.R. 2744 supra; which was ordered to lie on the table.

SA 1831. Mr. DOMENICI (for himself, Mr. BINGAMAN, Mr. CRAIG, Mr. CRAPO, and Mr. CORNYN) submitted an amendment intended to be proposed by him to the bill H.R. 2744 supra; which was ordered to lie on the table.

SA 1832. Mr. BURNS (for himself, Mr. GRASSLEY, Mr. ROBERTS, and Mr. THUNE) submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1833. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1834. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1835. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra.

SA 1836. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1837. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1838. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1839. Mr. HAGEL submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1840. Mrs. DOLE submitted an amendment intended to be proposed by her to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1841. Mr. ROBERTS submitted an amendment intended to be proposed by him

to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1842. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1843. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1844. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra.

SA 1845. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1846. Mr. MARTINEZ (for himself and Mr. NELSON of Florida) submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1847. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1848. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 1790 submitted by Mrs. CLINTON (for herself, Mrs. MURRAY, and Mr. CORZINE) and intended to be proposed to the bill H.R. 2744, supra; which was ordered to lie on the table.

SA 1849. Mr. KOHL (for Mr. DODD) proposed an amendment to amendment SA 1818 submitted by Mr. DODD (for himself, Mr. HARKIN, Mr. REED, Mr. CARPER, Mr. BIDEN, and Mr. LIEBERMAN) to the bill H.R. 2744, supra.

TEXT OF AMENDMENTS

SA 1770. Mr. CRAPO submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; as follows:

On page 85, line 15, strike ''$128,072,000'' and insert ''$127,072,000''.

On page 173, line 18, strike ''$2,000,000'' and insert ''$3,000,000''.

On page 173, line 19, insert '', Idaho,'' after ''Utah''.

SA 1771. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 93, line 26, strike ''$652,231,000'' and insert ''$545,500,000''.

SA 1772. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 173, after line 24, insert the following:

SEC. 7____. Each amount made available for discretionary programs under the heading ''COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE'' under the heading ''AGRICULTURAL PROGRAMS'' in title I shall be reduced on a pro rata basis by 10 percent.

SA 1773. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; as follows:

On page 122, line 24, strike ''$653,102,000'' and insert ''$610,754,560''.

SA 1774. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; as follows:

On page 93, line 19, strike ''$160,645,000'' and insert ''$64,800,000''.

SA 1775. Mr. COBURN (for himself and Mr. ISAKSON) submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ____. Any limitation, directive, or earmarking contained in either the House of Representatives or Senate report accompanying H.R. 2744 shall also be included in the conference report or joint statement accompanying H.R. 2744 in order to be considered as having been approved by both Houses of Congress.

SA 1776. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 134, line 17, strike ''$40,711,395,000'' and insert ''$38,887,524,504''.

SA 1777. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 173, after line 24, insert the following:

SEC. 7____. No Federal funds may be appropriated under this Act to the Department of Agriculture until the date on which a risk assessment process is initiated in accordance with the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note; Public Law 107–300) for—

(1) the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.);

(2) the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773);

(3) the special supplemental nutrition program for women, infants, and children established by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786); and

(4) the marketing assistance loan and loan deficiency payment program under subtitle B of title I of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7931 et seq.).

SA 1778. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 173, after line 24, insert the following:

SEC. 7____. No Federal funds may be appropriated under this Act to the Department of Agriculture until the date on which a risk assessment process is initiated in accordance with the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note; Public Law 107–300) for—

(1) the rural rental assistance program established under section 521 of the Housing Act of 1949 (42 U.S.C. 1490a); and

(2) each program established or funded under the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7901 et seq.).

SA 1779. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 173, after line 24, insert the following:

SEC. 7____. Notwithstanding any other provision of this Act, each amount provided by this Act for a discretionary program is reduced by 5 percent pro rata.

SA 1780. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 173, after line 24, insert the following:

SEC. 7____. Notwithstanding any other provision of this Act, each amount provided by this Act is reduced by 5 percent pro rata.

SA 1781. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 173, after line 24, insert the following:

SEC. 7____. No Federal funds may be appropriated under this Act to the Department of Agriculture until the date on which a risk assessment process is initiated in accordance with the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note; Public Law 107–300) for—

(1) the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.);

(2) the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773);

(3) the special supplemental nutrition program for women, infants, and children established by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786);

(4) the rural rental assistance program established under section 521 of the Housing Act of 1949 (42 U.S.C. 1490a); and

(5) each program established or funded under the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7901 et seq.).

SA 1782. Mr. CRAPO submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table, as follows:

On page 85, line 15, strike ''$128,072,000'' and insert ''$118,072,000''.

On page 132, between lines 9 and 10, insert the following:

SEARCH GRANTS

For the SEARCH grant program established under section 6302(a) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 2009 ee–1), $10,000,000.

SA 1783. Mr. BENNETT proposed an amendment to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; as follows:

On page 173, at the end of the page, insert the following:

''SEC. 7___. (a) Notwithstanding subtitles B and C of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4501 et seq.), during fiscal year 2006, the National Dairy Promotion and Research Board may obligate and expend funds for any activity to improve the environment and public health.

''(b) The Secretary of Agriculture shall review the impact of any expenditures under subsection (a) and include the review in the 2007 report of the Secretary to Congress on the dairy promotion program established under subtitle B of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4501 et seq.).''.

SA 1784. Ms. MURKOWSKI submitted an amendment intended to be proposed by her to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 162, lines 1 and 2, strike ''Alaska Department of Community and Economic Development'' and insert ''Alaska Department of Commerce, Community, and Economic Development''.

On page 162, line 2, strike ''be eligible to''.

On page 162, lines 10 and 11, strike ''Alaska Department of Community and Economic Development'' and insert ''Alaska Department of Commerce, Community, and Economic Development''.

SA 1785. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; as follows:

On page 173, after line 24, insert the following:

SEC. 7___. SENSE OF THE SENATE.

(a) FINDINGS.—The Senate finds the following:

(1) In a time of national catastrophe, it is the responsibility of Congress and the Executive Branch to take quick and decisive action to help those in need.

(2) The size, scope, and complexity of Hurricane Katrina are unprecedented, and the emergency response and long-term recovery efforts will be extensive and require significant resources.

(3) It is the responsibility of Congress and the Executive Branch to ensure the financial stability of the nation by being good stewards of Americans' hard-earned tax dollars.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that any funding directive contained in this Act, or its accompanying report, that is not specifically authorized in any Federal law as of the date of enactment of this section, or Act or resolution passed by the Senate during the 1st Session of the 109th Congress prior to such date, or proposed in pursuance to an estimate submitted in accordance with law, that is for the benefit of an identifiable program, project, activity, entity, or jurisdiction and is not directly related to the impact of Hurricane Katrina, may be redirected to recovery efforts if the appropriate head of an agency or department determines, after consultation with appropriate Congressional Committees, that the funding directive is not of national significance or is not in the public interest.

SA 1786. Mr. SMITH (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; as follows:

On page 173, after line 24, insert the following:

SEC. 7___. With respect to the sale of the Thermo Pressed Laminates building in Klamath Falls, Oregon, the Secretary of Agriculture may allow the Klamath County Economic Development Corporation to establish a revolving economic development loan fund with the funds that otherwise would be required to be repaid to the Secretary in accordance with the rural business enterprise grant under section 310B(c)(1)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(c)).

SA 1787. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 85, line 15, strike ''$128,072,000'' and insert ''$118,072,000''.

On page 120, line 24, strike ''$90,000,000 for section 515 rental housing'' and insert ''$100,000,000 for section 515 rental housing, of which $30,000,000 shall be for new construction of rural housing units''.

On page 123, line 9, insert after ''Act:'' the following: ''*Provided further*, That of this amount, not less than $4,000,000 shall be available for new construction of rural housing units under section 515:''.

SA 1788. Mr. FEINGOLD (for himself and Mr. ALLARD) submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 173, after line 24, insert the following:

SEC. 7___.(a) Not later than 90 days after the date of enactment of this Act, the Administrator of the Animal and Plant Health Inspection Service (referred to in this section as the ''Administrator'') shall publish in the Federal Register uniform methods and rules for addressing chronic wasting disease.

(b) If the Administrator does not publish the uniform methods and rules by the deadline specified in subsection (a), not later than 30 days after the deadline and every 30 days thereafter until the uniform methods and rules are published in accordance with that subsection, the Administrator shall submit to Congress a report that—

(1) describes the status of the uniform methods and rules; and

(2) provides an estimated completion date for the uniform methods and rules.

SA 1789. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 143, line 10, after ''for these offices:'', insert ''*Provided further*, That of the amounts appropriated for salaries and expenses for the Office of Regulatory Affairs, such sums as are necessary shall be used to study and prepare a report to Congress examining the prevalence of unsafe levels of pesticide chemical residue, as such term defined in section 201(q)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(q)(2)), in ginseng and products containing ginseng, which study shall include a comparison of the pesticide chemical residue in ginseng that is known to be foreign grown with such residue in ginseng that is known to be domestically grown, the sampling and testing of retail and wholesale samples of raw ginseng and products containing ginseng for pesticide chemical residue, and a determination, if possible, of the prevalence of ginseng and ginseng-containing products that are misbranded as containing ginseng grown in the United States or in Wisconsin, and shall be designed in such a manner that the ginseng samples collected from retail and wholesale establishments for the study can be used as part of potential enforcement actions if the Commissioner of Food and Drugs determines that the level of pesticide chemical residue is unsafe;''.

SA 1790. Mrs. CLINTON (for herself, Mrs. MURRAY, and Mr. CORZINE) submitted an amendment intended to be proposed by her to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for

the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 143, line 13, strike the period and insert the following: '': *Provided further*, that, if by January 21, 2006, the Food and Drug Administration has not approved or denied the Barr Pharmaceutical application for over the counter status for the drug Plan B, $10,000,000 of the amount provided for under this heading for the Office of the Commissioner shall not be expended until the Food and Drug Administration makes such a decision.''.

SA 1791. Ms. MURKOWSKI (for herself and Mr. STEVENS) submitted an amendment intended to be proposed by her to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 173, after line 24, insert the following:

SEC. 7___. COUNTRY OF ORIGIN LABELING FOR FISH.

The Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.) is amended—

(1) in section 281 (7 U.S.C. 1638)—

(A) in paragraph (2)(A)—

(i) by striking clauses (iii) and (iv); and

(ii) by redesignating clauses (v) and (vi) as clauses (iii) and (iv), respectively;

(B) by striking paragraphs (3) and (9); and

(C) by redesignating paragraphs (4) through (8) as paragraphs (3) through (7), respectively;

(2) in section 282(a) (7 U.S.C. 1638a(a))—

(A) in paragraph (2)—

(i) in subparagraph (B), by inserting ''and'' after the semi-colon;

(ii) by striking subparagraphs (C) and (D); and

(iii) by redesignating subparagraph (E) as subparagraph (C); and

(B) by striking paragraph (3);

(3) in section 285 (7 U.S.C. 1638d), by striking ''2006'' and all that follows and inserting ''2006.''; and

(4) by adding at the end the following:

''Subtitle E—Country of Origin Labeling for Fish

''SEC. 291. DEFINITIONS.

''In this subtitle:

''(1) FISH.—

''(A) IN GENERAL.—The term 'fish' means all fish and shellfish, including—

''(i) fresh or frozen fillets, steaks, nuggets, and any other flesh from fish or shellfish; and

''(ii) fish that have been canned, smoked, cured, or salted.

''(B) EXCLUSIONS.—The term 'fish' does not include—

''(i) seafood that has been processed; or

''(ii) canned tuna.

''(2) FOOD SERVICE ESTABLISHMENT.—The term 'food service establishment' means a restaurant, cafeteria, deli, lunch room, food stand, catering business, saloon, salad bar, tavern, bar, lounge, or other similar facility operated as an enterprise engaged in the business of selling food to the public.

''(3) METHOD OF PRODUCTION.—

''(A) IN GENERAL.—The term 'method of production' means whether fish is—

''(i) farm-raised; or

''(ii) wild.

''(B) DEFINITIONS.—In this paragraph:

''(i) FARM-RAISED.—The term 'farm-raised' means fish that are reared and harvested in an aquaculture facility (including a netpen aquaculture facility).

''(ii) WILD.—The term 'wild' means fish (whether hatched naturally or artificially) that spend the majority of their lives, and are harvested, in the wild.

''(4) PLACE OF ORIGIN.—The term 'place of origin' means—

''(A) the country from which a fish derives; or

''(B) in accordance with section 292(d)(2), the State or region from which a fish derives.

''(5) PROCESSED.—The term 'processed', with respect to a retail item derived from fish, means that the item—

''(A) has undergone specific processing, such as cooking, resulting in a change in the character of the fish; or

''(B) has been combined with at least 1 other substantive food component.

''(6) RETAILER.—

''(A) IN GENERAL.—The term 'retailer' means—

''(i) a retailer (as defined in section 1(b) of the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499a(b))); or

''(ii) a business the annual sales of fish of which account for at least 50 percent of the total annual sales of the business.

''(B) EXCLUSION.—The term 'retailer' does not include any person engaged in the business of selling fish through a food service establishment, including a food service establishment operated by a retailer.

''(7) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture, acting through the Agricultural Marketing Service.

''(8) SUPPLIER.—The term 'supplier' means any person engaged in the business of producing, buying, or selling fish that are ultimately offered for sale by a retailer.

''SEC. 292. NOTICE OF PLACE OF ORIGIN AND METHOD OF PRODUCTION.

''(a) IN GENERAL.—In accordance with regulations promulgated by the Secretary under section 294(a)—

''(1) a supplier of fish that will be sold or transferred to a consumer by a retailer shall provide to each subsequent buyer (including a retailer) a statement describing the place of origin and method of production of the fish (including repackaged or further processed fish), along with any other information required under subsection (c); and

''(2) a retailer of fish shall inform consumers of the place of origin and method of production of fish based on the information provided by the supplier under paragraph (1).

''(b) SUPPLIER AS PURCHASER.—A supplier that obtains fish that is not accompanied by a statement required under subsection (a)(1) shall provide such a statement to a buyer of any fish that will be sold or transferred to a consumer by a retailer.

''(c) LABELING REQUIREMENTS.—

''(1) RESPONSIBILITY OF SUPPLIER.—

''(A) IN GENERAL.—A statement of a supplier under subsection (a)(1) shall be prepared in accordance with this paragraph.

''(B) CONSUMER-SIZED PACKAGES.—With respect to fish transferred to a retailer for sale to consumers in consumer-sized packages (including cans and bags)—

''(i) the place of origin and method of production of the fish shall be indicated on the label affixed to the product by the supplier; and

''(ii) any information required under paragraph (2) that does not appear on a label under clause (i) shall be indicated on a label or labeling that is affixed to, or otherwise accompanies, the bulk container in which the consumer-sized package is shipped.

''(C) BULK TRANSFERS.—With respect to fish transferred to a retailer in bulk, the information required under paragraph (2) shall be indicated on a label or labeling that is affixed to, or otherwise accompanies, the bulk container.

''(2) LABEL INFORMATION.—The information required under paragraph (1) shall include, with respect to the fish being shipped under the label—

''(A) the common name and scientific name for the species of fish;

''(B) the place of origin of the fish, as determined under subsection (d);

''(C) the method of production of the fish;

''(D) the name, address, and telephone number of the supplier that provided the statement required under subsection (b); and

''(E) any other information that the Secretary determines to be necessary.

''(3) LABEL AS GUARANTEE.—For purposes of section 293(e), a label under paragraph (1) shall be considered to be a guaranty.

''(d) PLACE OF ORIGIN.—

''(1) UNITED STATES COUNTRY OF ORIGIN.—Fish may be designated as having a United States country of origin only if—

''(A) in the case of farm-raised fish, the fish are hatched, raised, harvested, and processed in the United States; and

''(B) in the case of wild fish, the fish are—

''(i) harvested in the United States, a territory of the United States, or a State, or by a vessel that is documented under chapter 121 of title 46, United States Code, or registered in the United States; and

''(ii) processed in the United States, a territory of the United States, or a State, including the waters thereof, or aboard a vessel that is documented under chapter 121 of title 46, United States Code, or registered in the United States.

''(2) STATE OR REGION OF ORIGIN.—Fish that meet the requirements of paragraph (1) for United States country of origin designation may be identified by the State or region of origin in lieu of the country of origin, under such regulations as the Secretary may promulgate.

''(3) NON-UNITED STATES COUNTRY OF ORIGIN.—Fish that do not meet the requirements of paragraph (1) for United States country of origin designation shall be designated as originating in the country—

''(A) in the waters of which the fish were caught; or

''(B) if the national designation of the waters is unknown or if the waters are designated as international, in which the vessel that caught the fish was flagged.

''(4) ORIGIN OF COMMINGLED FISH.—Fish that are derived from 2 or more countries shall be designated as having originated in each source country, listed alphabetically, without regard to proportional quantities of fish from each country.

''(e) METHOD OF NOTIFICATION.—

''(1) IN GENERAL.—The information required under subsection (a)(2) may be provided to consumers by means of a label, stamp, mark, placard, or other conspicuous, clear, and visible sign on the package, display, holding unit, or bin containing the fish.

''(2) LABELED BY SUPPLIER.—

''(A) IN GENERAL.—If the fish are individually labeled for retail sale by the supplier in a manner that meets the requirements of paragraph (1), the retailer shall not be required to provide any additional information to comply with this section.

''(B) GUARANTY.—A statement of the place of origin and method of production that appears on a label described in subparagraph (A) shall be considered to be a supplier guaranty of the place of origin and method of production of the fish.

''(f) AUDIT VERIFICATION SYSTEM.—

''(1) IN GENERAL.—To the maximum extent practicable, the Secretary shall permit existing records to be used to substantiate the place of origin and method of production of the fish.

''(2) MANDATORY IDENTIFICATION.—The Secretary shall not use a mandatory identification system, including a lot code tracking system, to track or verify the place of origin or method of production of fish.

''(3) SUPPLIER RECORDS.—

''(A) IN GENERAL.—A supplier that provides a statement under subsection (b) shall keep records to document the place of origin and method of production of the fish for such a period as the Secretary determines to be reasonable to ensure that the records will be available until the fish is sold or otherwise transferred to a consumer.

''(B) OTHER SUPPLIERS.—A supplier that is not responsible for providing a statement under subsection (b) shall keep records sufficient to identify the previous supplier of the fish.

''(4) RETAILER RECORDS.—A retailer shall retain any label or labeling received under subsection (c) until the fish that is the subject of the label is sold or otherwise transferred to a consumer.

''(5) GUARANTY.—A guaranty provided in accordance with section 293(e) that is received from the immediate supplier of a retailer or a supplier shall be a record sufficient to document the place of origin and method of production of fish.

''SEC. 293. ENFORCEMENT.

''(a) WARNINGS.—If the Secretary determines that a supplier or retailer is in violation of section 292, the Secretary shall—

''(1) notify the supplier or retailer of the determination of the Secretary; and

''(2) provide the supplier or retailer a 30-day period, beginning on the date on which notice is received under paragraph (1) from the Secretary, during which the supplier or retailer may take necessary steps to comply with section 292.

''(b) FINES.—If, on completion of the 30-day period described in subsection (a)(2), the Secretary determines that the retailer or supplier has knowingly and willfully violated section 292, after providing notice and an opportunity for a hearing before the Secretary with respect to the violation, the Secretary may fine the supplier or retailer in an amount of not more than $1,000 for each violation.

''(c) MEMORANDUM OF AGREEMENT.—

''(1) IN GENERAL.—The Secretary may execute a memorandum of agreement with any appropriate State agency, as determined by the Secretary, to assist in the administration of this subtitle.

''(2) PROCEDURES.—A memorandum of agreement under paragraph (1) shall describe any procedure a State agency shall follow to assist in the administration of this subtitle.

''(3) ENFORCEMENT ACTIONS.—Notwithstanding paragraphs (1) and (2), only the Secretary may bring an enforcement action under this subtitle.

''(d) NO OTHER LAWS.—A violation of this subtitle shall not be considered to be a violation of any other Federal law, including the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) and the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

''(e) GUARANTY.—

''(1) IN GENERAL.—A retailer or supplier shall not be in violation of, or subject to penalties under, this subtitle if the retailer or supplier provides a guaranty of the place of origin and method of production of the fish that is signed by and contains the name and address of the person from which the retailer or supplier received the fish.

''(2) FALSE GUARANTY.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the provision of a guaranty that is false shall be a violation of this subtitle.

''(B) RELIANCE.—The provision of a false guaranty shall not be a violation if the retailer or supplier providing the false guaranty relied upon a guaranty to the same effect signed by and containing the name and address of the person from which the retailer or supplier received the fish.

''(f) KNOWLEDGE OF VIOLATION REQUIRED.—No person shall be held liable for a violation of this subtitle by reason of the conduct of another if the person did not have actual knowledge of the violation.

''SEC. 294. IMPLEMENTATION.

''(a) REGULATIONS.—Not later than April 1, 2006, the Secretary shall promulgate such regulations as are necessary to implement this subtitle.

''(b) PREEMPTION.—This subtitle preempts any State labeling requirement that requires a supplier or retailer to provide place of origin or method of production information for fish.

''(c) EFFECTIVE DATE.—Regulations promulgated under subsection (a) take effect on the date that is 180 days after the date of promulgation of the regulations.''.

SA 1792. Mr. CRAIG (for himself and Mr. CRAPO) submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 173, after line 24, insert the following:

SEC. 7_____. Section 1231(f)(1) of the Food Security Act of 1985 (16 U.S.C. 3831(f)(1)) is amended by inserting ''the Eastern Snake Plain Aquifer (Idaho),'' after ''Long Island Sound Region,''.

SA 1793. Mr. BINGAMAN (for himself and Mr. LUGAR) submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 85, line 15, strike ''$128,072,000'' and insert ''$118,072,000''.

On page 132, line 24, strike ''$12,412,027,000'' and insert ''$12,422,027,000''.

On page 132, line 26, strike ''$7,224,406,000'' and insert ''$7,234,406,000''.

On page 133, line 6, before the period, insert the following: '': *Provided further*, That not less than $20,025,000 shall be available to implement and administer Team Nutrition programs of the Department of Agriculture''.

SA 1794. Mr. INOUYE submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 85, line 15, strike ''$128,072,000'' and insert ''$127,822,000''.

On page 112, line 11, strike ''$819,561,000'' and insert ''$819,811,000''.

On page 113, line 7, before the period at the end, insert the following: '': *Provided further*, That not less than $250,000 shall be used for sustainable agriculture development and resource conservation projects in the Native Hawaiian community of Molokai''.

SA 1795. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 85, line 15, strike ''$128,072,000'' and insert ''$128,022,000''.

On page 112, line 11, strike ''$819,561,000'' and insert ''$819,611,000''.

On page 113, line 7, before the period at the end, insert the following: '': *Provided further*, That not to exceed $50,000 is available for the upgrade of the dairy farm manure management system at Vermont Technical College in Randolph, Vermont''.

SA 1796. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; as follows:

On page 85, line 15, strike ''$128,072,000'' and insert ''$126,072,000''.

On page 126, between lines 3 and 4, insert the following:

HISTORIC BARN PRESERVATION PROGRAM

For the historic barn preservation program established under section 379A of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008o), $2,000,000.

SA 1797. Mr. BINGAMAN (for himself, Mr. LUGAR, Ms. MURKOWSKI, and Mr. COBURN) submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; as follows:

On page 85, line 15, strike ''$128,072,000'' and insert ''$118,072,000''.

On page 132, line 24, strike ''$12,412,027,000'' and insert ''$12,422,027,000''.

On page 132, line 26, strike ''$7,224,406,000'' and insert ''$7,234,406,000''.

On page 133, line 6, before the period, insert the following: '': *Provided further*, That not less than $20,025,000 shall be available to implement and administer Team Nutrition programs of the Department of Agriculture''.

SA 1798. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 85, line 15, strike ''$128,072,000'' and insert ''$125,072,000''.

On page 173, after line 24, add the following:

SEC. 7___. INUNDATED CROP AND GRAZING LAND.

(a) IN GENERAL.—The Secretary of Agriculture shall compensate owners of crop and grazing land that meets the requirements under subsection (b) in—

(1) the Devils Lake basin; and

(2) the McHugh, Lake Laretta, and Rose Lake closed drainage areas of the State of North Dakota.

(b) ELIGIBILITY.—

(1) IN GENERAL.—To be eligible to receive compensation under this section, an owner shall own land described in subsection (a) that, during the 2 crop years preceding receipt of compensation, was rendered incapable of use for the production of an agricultural commodity or for grazing purposes (in a manner consistent with the historical use of the land) as the result of the natural overflow of the closed basins described in subsection (a), as determined by the Secretary.

(2) INCLUSIONS.—Land described in paragraph (1) shall include—

(A) land that has been inundated;

(B) land that has been rendered inaccessible due to the overflow of the closed basins; and

(C) a reasonable buffer strip adjoining the land, as determined by the Secretary.

(3) ADMINISTRATION.—The Secretary may establish—

(A) reasonable minimum acreage levels for individual parcels of land for which owners may receive compensation under this section; and

(B) the location and area of adjoining land for which owners may receive compensation under this section.

(c) SIGN-UP.—Not later than 120 days after the date of enactment of this Act, the Secretary shall carry out a sign-up program for eligible owners to apply for compensation from the Secretary under this section.

(d) COMPENSATION PAYMENTS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the rate of an annual compensation payment under this section shall be equal to 90 percent of the average annual per acre rental payment rate (at the time of entry into the contract) for comparable crop or grazing land that has remained in production in the county where the land is located, as determined by the Secretary.

(2) REDUCTION.—An annual compensation payment under this section shall be reduced by the amount of any conservation program rental payments or Federal agricultural commodity program payments received by the owner for the land during any crop year for which compensation is received under this section.

(3) EXCLUSION.—During any year in which an owner receives compensation for inundated land under this section, the owner shall not be eligible to participate in or receive benefits for the land under—

(A) the Federal crop insurance program established under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.);

(B) the noninsured crop assistance program established under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333); or

(C) any Federal agricultural crop disaster assistance program.

(e) RELATIONSHIP TO AGRICULTURAL COMMODITY PROGRAMS.—The Secretary, by regulation, shall provide for the preservation of cropland base, allotment history, and payment yields applicable to land described in subsection (a) that was rendered incapable of use for the production of an agricultural commodity or for grazing purposes.

(f) USE OF LAND.—

(1) IN GENERAL.—An owner that receives compensation under this section shall take such actions as are necessary to not degrade any wildlife habitat that has naturally developed on the land.

(2) RECREATIONAL ACTIVITIES.—To encourage owners that receive compensation under this section to allow public access to and use of the land for recreational activities, as determined by the Secretary, the Secretary may—

(A) offer an eligible owner additional compensation; and

(B) provide compensation for additional acreage under this section.

(g) FUNDING.—

(1) IN GENERAL.—There is appropriated, out of any money in the Treasury not otherwise appropriated, to carry out this section $3,000,000 for fiscal year 2006, to remain available until expended.

(2) PRO-RATED PAYMENTS.—In a case in which the amount made available under paragraph (1) for a fiscal year is insufficient to compensate all eligible owners under this section, the Secretary shall pro-rate payments for that fiscal year on a per acre basis.

(3) PAYMENT DATES.—

(A) IN GENERAL.—Not later than June 30, 2006, the Secretary shall make payments to eligible owners in an amount equal to 50 percent of the total annual payment amount for fiscal year 2006 as calculated under subsection (d).

(B) REMAINING PAYMENT.—During the period beginning on October 1, 2006, and ending on October 15, 2006, the Secretary shall make the remaining payments to eligible owners in an amount equal to 50 percent of the total annual payment amount for fiscal year 2006 as calculated under subsection (d).

SA 1799. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 173, after line 24, insert the following:

SEC. 7____. It is the sense of the Senate that—

(1) agricultural producers throughout the United States are exploring new direct marketing opportunities to improve farm income;

(2) the Farmers' Market Promotion Program established under section 6 of the Farmer-to-Consumer Direct Marketing Act of 1976 (7 U.S.C. 3005) funds competitive grants to local governments, chambers of commerce, farmers' market alliances, co-ops, and economic development organizations to aid in the development of new farmers' markets, community-supported agricultural enterprises, and other direct producer-to-consumer marketing initiatives; and

(3) the Senate should support funding for the Farmers' Market Promotion Program at a level equal to or greater than that contained in the House committee report.

SA 1800. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; as follows:

On page 173, after line 24, insert the following:

SEC. 7____.(a) The Senate finds the following:

(1) Research and development have been critical components of the prosperity of the United States.

(2) The United States is entering an increasingly competitive world in the 21st century.

(3) The National Academy of Sciences has found that public agricultural research and development expenditures in the United States were the lowest of any developed country in the world.

(4) The Nation needs to ensure that public spending for agricultural research is commensurate with the importance of agriculture to the long-term economic health of the Nation.

(5) Research and development is critical to ensuring that American agriculture remains strong and vital in the coming decades.

(b) It is the sense of the Senate that, in order for the United States to remain competitive, the President and the Department of Agriculture should increase public sector funding of agricultural research and development.

SA 1801. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 85, line 15, strike ''$128,072,000'' and insert ''$127,972,000''.

On page 93, line 26, strike ''$652,231,000'' and insert ''$652,331,000''.

On page 94, line 9, strike ''$110,281,000'' and insert ''$110,381,000, of which, an additional $100,000 shall be made available for the Center for Agricultural and Trade Policies at North Dakota State University''.

SA 1802. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 173, after line 24, add the following:

SEC. ___. EMERGENCY NUTRITIONAL SUPPLEMENTAL ASSISTANCE.

(a) DEFINITION OF ELIGIBLE RECIPIENT.—In this section, the term ''eligible recipient'' means an individual or household that, as determined by the Secretary of Agriculture, in consultation with the Secretary of Homeland Security—

(1) is a victim of Hurricane Katrina or a related condition;

(2) has been displaced by Hurricane Katrina or a related condition; or

(3) is temporarily housing 1 or more individuals displaced by Hurricane Katrina or a related condition.

(b) ASSISTANCE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, in addition to funds otherwise made available for fiscal year 2005 or 2006 to carry out the emergency food assistance program established under the Emergency Food Assistance Act of 1983 (7 U.S.C. 7501 et seq.), out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture, to remain available until expended—

(A) $200,000,000 to carry out that program;

(B) $51,000,000 to make grants to the several States and the Commonwealth of Puerto Rico under that program in accordance with paragraph (2); and

(C) $200,000,000 to provide a variety of food to eligible recipient agencies for providing food assistance to eligible recipients, including—

(i) special supplemental foods for pregnant women and infants or for other individuals with special needs;

(ii) infant formula;

(iii) bottled water; and

(iv) fruit juices.

(2) AMOUNT OF GRANTS.—Funds made available under paragraph (1)(B) shall be used to provide grants in the amount of—

(A) $1,000,000 to each of the several States; and

(B) $500,000 to each of the Commonwealth of Puerto Rico and the District of Columbia.

(3) USE OF FUNDS.—Funds made available under paragraph (1)(C) may be used to provide commodities in accordance with—

(A) section 27 of the Food Stamp Act of 1977 (7 U.S.C. 2036);

(B) section 203A of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7504); and

(C) section 204 of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7508).

(4) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under paragraph (1), without further appropriation.

(5) EMERGENCY DESIGNATION.—The amounts made available by the transfer of funds in or pursuant to this section are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress).

SA 1803. Mr. BENNETT proposed an amendment to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; as follows:

At the appropriate place in the bill, insert the following new paragraph:

''SEC. . Section 274(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1324(a)(1) is amended by adding at the end the following: ''(C) It is not violation of clauses (ii) or (iii) of subparagraph (A), or of clause (iv) of subparagraph (A) except where a person encourages or induces an alien to come to or enter the United States, for a religious denomination having a bona fide nonprofit, religious organization in the United States, or the agents or officers of such denomination or organization, to encourage, invite, call, allow, or enable an alien who is present in the United States to perform the vocation of a minister or missionary for the denomination or organization in the United States as a volunteer who is not compensated as an employee, notwithstanding the provision of room, board, travel, medical assistance, and other basic living expenses, provided the minister or missionary has been a member of the denomination for at least one year.''

SA 1804. Mr. BENNETT proposed an amendment to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; as follows:

On page 170 strike Section 767 and replace it with the following new paragraph:

''SEC. . Notwithstanding any other provision of law, none of the funds provided for in this or any other Act may be used in this and each fiscal year hereafter for the review, clearance, or approval for sale in the United States of any contact lens unless the manufacturer certifies that it makes any contact lens it produces, markets, distributes, or sells available in a commercially reasonable and non-discriminatory manner directly to and generally within all alternative channels of distribution: *Provided*, That for the purposes of this section, the term 'manufacturer' includes the manufacturer and its parents, subsidiaries, affiliates, successors and assigns, and 'alternative channels of distribution' means any mail order company, Internet retailer, pharmacy, buying club, department store, mass merchandise outlet or other appropriate distribution alternative without regard to whether it is associated with a prescriber: *Provided further*, That nothing in this section shall be interpreted as waiving any obligation of a seller under 15 USC 7603: *Provided further*, That to facilitate compliance with this section, 15 USC 7605 is amended by inserting after the period: ''A manufacturer shall make any contact lens it produces, markets, distributes or sells available in a commercially reasonable and non-discriminatory manner directly to and generally within all alternative channels of distribution; provided that, for the purposes of this section, the term 'alternative channels of distribution' means any mail order company, Internet retailer, pharmacy, buying club, department store, mass merchandise outlet or other appropriate distribution alternative without regard to whether it is associated with a prescriber; the term 'manufacturer' includes the manufacturer and its parents, subsidiaries, affiliates, successors and assigns; and any rule prescribed under this section shall take effect not later than 60 days after the date of enactment.''

SA 1805. Mr. BENNETT proposed an amendment to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; as follows:

At the appropriate place in the bill, insert the following new paragraph:

''SEC. ___. The federal facility located at the South Mississippi Branch Experiment Station in Poplarville, Mississippi, and known as the ''Southern Horticultural Laboratory'', shall be known and designated as the ''Thad Cochran Southern Horticultural Laboratory'': *Provided*, That any reference in law, map, regulation, document, paper, or other record of the United States to such federal facility shall be deemed to be a reference to the ''Thad Cochran Southern Horticultural Laboratory''.

SA 1806. Mr. BENNETT (for Mr. KYL) proposed an amendment to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; as follows:

On page 173, after line 24, insert the following:

SEC. 7___. As soon as practicable after the Agricultural Research Service operations at the Western Cotton Research Laboratory located at 4135 East Broadway Road in Phoenix, Arizona, have ceased, the Secretary of Agriculture may convey, without consideration, to the Arizona Cotton Growers Association and Supima all right, title, and interest of the United States in and to the real property at that location, including improvements.

SA 1807. Mr. BENNETT (for Mr. LEAHY) proposed an amendment to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; as follows:

On page 173, after line 24, insert the following:

SEC. 7___. The Secretary of Agriculture shall—

(1) as soon as practicable after the date of enactment of this Act, conduct an evaluation of any impacts of the court decision in Harvey v. Veneman, 396 F.3d 28 (1st Cir. Me. 2005); and

(2) not later than 90 days after the date of enactment of this Act, submit to Congress a report that—

(A) describes the results of the evaluation conducted under paragraph (1);

(B) includes a determination by the Secretary on whether restoring the National Organic Program, as in effect on the day before the date of the court decision described in paragraph (1), would adversely affect organic farmers, organic food processors, and consumers;

(C) analyzes issues regarding the use of synthetic ingredients in processing and handling;

(D) analyzes the utility of expedited petitions for commercially unavailable agricultural commodities and products; and

(E) considers the use of crops and forage from land included in the organic system plan of dairy farms that are in the third year of organic management.

SA 1808. Mr. BENNETT (for Mr. FEINGOLD (for himself and Mr. ALLARD) proposed an amendment to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; as follows:

On page 173, after line 24, insert the following:

SEC. 7___.(a) Not later than 90 days after the date of enactment of this Act, the Administrator of the Animal and Plant Health Inspection Service (referred to in this section as the ''Administrator'') shall publish in the Federal Register uniform methods and rules for addressing chronic wasting disease.

(b) If the Administrator does not publish the uniform methods and rules by the deadline specified in subsection (a), not later than 30 days after the deadline and every 30 days thereafter until the uniform methods and rules are published in accordance with that subsection, the Administrator shall submit to Congress a report that—

(1) describes the status of the uniform methods and rules; and

(2) provides an estimated completion date for the uniform methods and rules.

SA 1809. Mr. BENNETT (for Mr. MCCONNELL) proposed an amendment to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; as follows:

On page 173, after line 24, insert the following:

SEC. 7___.(a) In carrying out a livestock assistance, compensation, or feed program, the Secretary of Agriculture shall include horses within the definition of ''livestock'' covered by the program.

(b)(1) Section 602(2) of the Agricultural Act of 1949 (7 U.S.C. 1471(2)) is amended—

(A) by inserting ''horses'', after ''bison''; and

(B) by striking ''equine animals used for food or in the production of food,''.

(2) Section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations

Act, 2001 (Public Law 106-387; 114 Stat. 1549A–51) is amended by inserting ''(including losses to elk, reindeer, bison, and horses)'' after ''livestock losses''.

(3) Section 10104(a) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 1472(a)) is amended by striking ''and bison'' and inserting ''bison, and horses''.

(4) Section 203(d)(2) of the Agricultural Assistance Act of 2003 (Public Law 108-7; 117 Stat. 541) is amended by striking ''and bison'' and inserting ''bison, and horses''.

(c)(1) This section and the amendments made by this section apply to losses resulting from a disaster that occurs on or after July 28, 2005.

(2) This section and the amendments made by this section do not apply to losses resulting from a disaster that occurred before July 28, 2005.

SA 1810. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 173, after line 24, insert the following:

SEC. 7____. Notwithstanding any other provision of this Act, none of the funds appropriated or otherwise made available under this Act may be used to carry out activities of the Oncologic Drugs Advisory Committee of the Food and Drug Administration whose committee membership consists of less than 2 patient representatives who are voting members of the committee.

SA 1811. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 173, after line 24, insert the following:

SEC. 7____. Notwithstanding any other provision of this Act, none of the funds appropriated or otherwise made available under this Act may be used to carry out activities, including the review or approval of clinical trial protocols or special protocol assessments that would permit placebo-only or no-treatment-only concurrent controls, in any clinical investigation conducted with respect to any serious or life-threatening condition or disease, where reasonably effective alternative therapies that have been approved or cleared by the Secretary of Health and Human Services for the specific indications under investigation exist.

SA 1812. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ____. Amounts made available for the Plant Materials Center in Fallon, Nevada, under the heading ''CONSERVATION OPERATIONS'' under the heading ''NATURAL RESOURCES CONSERVATION SERVICE'' of title II of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 2823) shall remain available until expended.

SA 1813. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. Amounts made available for the Plant Materials Center in Fallon, Nevada, under the heading ''CONSERVATION OPERATIONS'' under the heading ''NATURAL RESOURCES CONSERVATION SERVICE'' of title II of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 2823) shall remain available until July 31, 2007.

SA 1814. Ms. MURKOWSKI submitted an amendment intended to be proposed by her to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. BOTTLED DRINKING WATER STANDARDS.

Section 410 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 349) is amended by adding at the end the following:

''(c) OUT-OF STATE REGISTRATION OR LICENSING REQUIREMENTS.—

''(1) IN GENERAL.—A bottled water product that is manufactured or processed outside the State into which it is sold shall be deemed to meet any and all of the registration or licensing requirements of the State into which it is sold so long as the following requirements are complied with:

''(A) The company that manufactures, processes, or distributes the bottled water product, upon written request, makes available to any appropriate State agency in the State into which the bottled water is sold, a copy of any license or permit from the agency having jurisdiction in the State or country where the bottled water production facility is located, or in lieu of such registration, a statement certifying that the product meets all bottled water requirements, including bottled drinking water quality and safety standards, of the State or country of origin and any applicable regulations of the Food and Drug Administration, and a copy of the annual finished product water quality testing results demonstrating compliance with section 165.110(b) of title 21, Code of Federal Regulations.

''(B) The company that manufactures, processes, or distributes the bottled water product complies with the bottled drinking water quality and safety standards of the State into which it is sold.

''(C) The company that manufactures, processes, or distributes the bottled water product maintains legally required food and bottled water records, and remains subject to on-site inspections of its facilities by the State of origin, the State into which the bottled water product is sold, and the Food and Drug Administration.

''(D) The company that manufactures, processes, or distributes the bottled water product pays all applicable State fees related to the sale and distribution of the product imposed by the State into which the product is sold.

''(2) LIMITATION.—No State or political subdivision of a State may directly or indirectly establish or continue in effect, any requirement that conflicts with or interferes with the requirements of paragraph (1).''.

SA 1815. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 173, after line 24, insert the following:

SEC. 7____. Notwithstanding any other provision of this Act, each amount provided by this Act is reduced by the pro rata percentage required to reduce the total amount provided by this Act by $1,103,000,000.

SA 1816. Mr. COCHRAN submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 173, after line 24, insert the following:

SEC. 7____. Notwithstanding any other provision of law, beginning in fiscal year 2006 and thereafter, individuals employed in 400 series personnel classification positions at the Natural Resources Conservation Service as of March 30, 2005, shall be considered to be eligible for continued employment in 400 series personnel classification positions within the Natural Resources Conservation Service.

SA 1817. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 143, line 10, after the colon, insert the following:

''*Provided further,* That of the funds provided herein for other activities, $5,853,000 may not be obligated until the Commissioner or Acting Commissioner has presented public testimony before the Senate Committee on Appropriations on the President's 2006 budget request and the date on which the Food and Drug Administration submitted its official written response to the Citizen Petition and Request for Administrative Stay, Docket No. 02P–0377 of the Food and Drug Administration:''

SA 1818. Mr. DODD (for himself, Mr. HARKIN, Mr. REED, Mr. CARPER, Mr. BIDEN, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; as follows:

On page 173, after line 24, insert the following:

SEC. 7____. (a) Congress makes the following findings:

(1) Consumers need clear and consistent information about the risks associated with exposure to the sun, and the protection offered by over-the-counter sunscreen products.

(2) The Food and Drug Administration (referred to in this section as the ''FDA'') began developing a monograph for over-the-counter sunscreen products in 1978.

(3) In 2002, after 23 years, the FDA issued the final monograph for such sunscreen products.

(4) One of the most critical aspects of sunscreen is how to measure protection against UVA rays, which cause skin cancer.

(5) The final sunscreen monograph failed to address this critical aspect and, accordingly, the monograph was stayed shortly after being issued until issuance of a comprehensive monograph.

(6) Skin cancer rates continue to rise, especially in younger adults and women.

(7) Pursuant to section 751 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379r), a Federal rule on sunscreen labeling would preempt any related State labeling requirements.

(8) The absence of a Federal rule could lead to a patchwork of State labeling requirements that would be confusing to consumers and unnecessarily burdensome to manufacturers.

(b) Not later than one year after the date of enactment of this Act, the FDA shall issue a comprehensive final monograph for over-the-counter sunscreen products, which shall include UVA and UVB labeling requirements.

SA 1819. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 173, after line 24, insert the following:

SEC. 7____. Not later than 30 days after the date of enactment of this Act, the Secretary of Agriculture shall issue a rule that makes final the proposed rule published in the Federal Register on March 18, 2003 (68 Fed. Reg. 12881; relating to terminating the definition of ''substantial activity'' in the Hass Avocado Promotion, Research, and Information Order).

SA 1820. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On pg. 143, line 10, after the colon, insert the following:

''Provided further, That of the funds provided herein for other activities, $5,853,000 may not be obligated until the Commissioner or Acting Commissioner has presented public testimony before the Senate Committee on Appropriations on the date on which the Food and Drug Administration submitted its official written response to the Citizen Petition and Request for Administrative Stay, Docket No. 02P–0377 of the Food and Drug Administration:''

SA 1821. Mr. BURNS submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 107, line 3, before the period, insert the following: '': *Provided further*, That the Secretary of Agriculture, acting through the National Tribal Development Association, shall use not less than $1,500,000 of the amount made available under this heading to carry out the American Indian credit outreach initiative''.

SA 1822. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

Sec. (a) Notwithstanding the termination of authority provided in section 1307(a)(6) of Public Law 107–171, the Secretary shall use this authority for the 2007 crop.

(b) The authority provided by section 1307(a)(6) of Public Law 107–171 shall terminate beginning with the 2008 crop and shall be considered to have terminated notwithstanding section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 907).

SA 1823. Mr. THOMAS submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 120, line 2, strike ''$164,773,000'' and insert ''$164,423,000''.

On page 120, line 24, strike ''$90,000,000'' and insert ''$89,500,000''.

On page 128, line 1, strike ''$500,000'' and insert ''$350,000''.

On page 129, line 7, strike ''$23,000,000'' and insert ''$22,500,000''.

On page 132, between lines 9 and 10, insert the following:

NATIONAL RURAL DEVELOPMENT PARTNERSHIP

For the National Rural Development Partnership authorized under section 378 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008m) to provide technical assistance and programmatic guidance for rural development at the State and local levels and to provide financial assistance to the 37 federally recognized State Rural Development Councils, $1,500,000.

SA 1824. Ms. STABENOW (for herself, Mr. LEVIN, Mr. DEWINE, and Mr. VOINOVICH) submitted an amendment intended to be proposed by her to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 85, line 15, strike ''$128,072,000'' and insert ''$123,572,000''.

On page 100, line 1, strike ''$807,768,000'' and insert ''$812,268,000''.

On page 100, line 9, before the colon insert the following: ''; of which not less than $10,440,000 shall be used for the eradication of the emerald ash borer in the States of Michigan, Ohio, and Indiana''.

SA 1825. Ms. STABENOW (for herself, Mr. LEVIN, Mr. DEWINE, and Mr. VOINOVICH) submitted an amendment intended to be proposed by her to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 85, line 15, strike ''$128,072,000'' and insert ''$123,572,000''.

On page 100, line 1, strike ''$807,768,000'' and insert ''$815,807,000''.

On page 100, line 9, before the colon insert the following: ''; of which not less than $14,000,000 shall be used for the eradication of the emerald ash borer in the States of Michigan, Ohio, and Indiana''.

SA 1826. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On Page 173, after line 24, insert the following:

SEC. 7 . None of the funds appropriated or otherwise made available by this Act for the Food and Drug Administration may be used under Section 801 of the Federal Food, Drug, and Cosmetic Act to allow the importation of a prescription drug that does not comply with sections 501, 502, and 505 of such Act from a communist country (as defined in section 406(e)(1) of the Trade Act of 1974 (19 U.S.C. 2436)), a socialist country or a country with a system of socialized healthcare, or a country that supports terrorism as determined by the Secretary of State under section 6(j)(1)(A) of the Export Administration Act of 1979.

SA 1827. Mr. DOMENICI (for himself, Mr. BINGAMAN, Mr. CRAIG, Mr. CRAPO, and Mr. CORNYN) submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 173, after line 24, insert the following:

SEC. 7____. Section 1502(d)(2) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7982(d)(2)) is amended by striking ''2,400,000 pounds'' and inserting ''800,000 pounds''.

SA 1828. Mr. DOMENICI (for himself, Mr. BINGAMAN, Mr. CRAIG, Mr. CRAPO, and Mr. CORNYN) submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal

year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 173, after line 24, insert the following:

SEC. 7____. Section 1502(d)(2) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7982(d)(2)) is amended by striking ''2,400,000 pounds'' and inserting ''700,000 pounds''.

SA 1829. Mr. DOMENICI (for himself, Mr. BINGAMAN, Mr. CRAIG, Mr. CRAPO, and Mr. CORNYN) submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 173, after line 24, insert the following:

SEC. 7____. Section 1502(d)(2) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7982(d)(2)) is amended by striking ''2,400,000 pounds'' and inserting ''600,000 pounds''.

SA 1830. Mr. DOMENICI (for himself, Mr. BINGAMAN, Mr. CRAIG, Mr. CRAPO, and Mr. CORNYN) submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 173, after line 24, insert the following:

SEC. 7____. Section 1502(d)(2) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7982(d)(2)) is amended by striking ''2,400,000 pounds'' and inserting ''500,000 pounds''.

SA 1831. Mr. DOMENICI (for himself, Mr. BINGAMAN, Mr. CRAIG, Mr. CRAPO, and Mr. CORNYN) submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 173, after line 24, insert the following:

SEC. 7____. Section 1502(d) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7982(d)) is amended—

(1) by striking paragraph (2); and

(2) by redesignating paragraph (3) as paragraph (2).

SA 1832. Mr. BURNS (for himself, Mr. GRASSLEY, Mr. ROBERTS, and Mr. THUNE) submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 173, after line 24, insert the following:

SEC. 7____. Notwithstanding any other provision of this Act, none of the funds made available by this Act or any other Act shall be used to pay salaries and expenses and other costs associated with implementing or administering section 508(e)(3) of the Federal Crop Insurance Act (7 U.S.C. 1508(e)(3)) (except with respect to policies under that section in effect as of the date of enactment of this Act).

SA 1833. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 85, line 15, strike ''$128,072,000'' and insert ''$93,320,000''.

On page 100, line 1, strike ''$807,768,000'' and insert ''$842,520,000''.

On page 173, after line 24, insert the following:

SEC. 7____. None of the funds made available under this Act may be used for treatment of wood, wood products, or wood packing material with methyl bromide.

SA 1834. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 173, after line 24, insert the following:

SEC. 7_____. Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture, in coordination with the Secretary of Energy, shall submit to Congress and make available to the public on the Internet a report that shall—

(1) include a current, consolidated list and explanation of opportunities to develop renewable energy in rural America under programs administered by the Department of Agriculture and the Department of Energy;

(2) serve as an aid to develop renewable energy and renewable fuels in rural and agricultural communities, including information on grants, loan guarantees, tax deductions, and tax credits; and

(3) be updated at least annually.

SA 1835. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; as follows:

On page 160, line 10, before the period at the end insert the following: ''or for reimbursement of administrative costs under section 16(a) of the Food Stamp Act of 1977 (7 U.S.C. 2025(a)) to a State agency for which more than 10 percent of the costs (other than costs for issuance of benefits or nutrition education) are obtained under contract''.

SA 1836. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 85, line 15, strike ''$128,072,000'' and insert ''$123,072,000''.

On page 99, line 10, strike ''$5,888,000'' and insert ''$10,888,000''.

SA 1837. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 132, strike line 4 and insert the following: ''1974: *Provided further*, That communities with populations of not more than 40,000 shall be eligible to apply for loans under the broadband loan program.''.

SA 1838. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 85, line 15, strike ''$128,072,000'' and insert ''$93,320,000''.

On page 100, line 1, strike ''$807,768,000'' and insert ''$842,520,000''.

On page 173, after line 24, insert the following:

SEC. 7____. The Comptroller General of the United States shall—

(1) conduct a study on—

(A) the efficacy of methyl bromide for treatment of invasive insects and plants;

(B) any negative environmental and health effects methyl bromide may have on humans and animals; and

(C) other practicable methods that exist to prevent invasive insects from entering areas under the jurisdiction of the United States; and

(2) not later than 180 days after the date of enactment of this Act, submit to Congress a report describing the results of the study.

SA 1839. Mr. HAGEL submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 173, after line 24, insert the following:

SEC. 7____. (a) There is appropriated $200,000 to the Institute of Agriculture and Natural Resources of the University of Nebraska-Lincoln, for use in accordance with subsection (b).

(b)(1) Amounts made available under subsection (a) shall be used only for—

(A) start-up costs for the 4-year hospitality, restaurant, and tourism management baccalaureate degree program of the Institute; and

(B) the design and implementation of course preparation and delivery relating to the program described in subparagraph (A).

(2) Funds made available under subsection (a) shall not be used for—

(A) construction of new facilities or brick and mortar facilities for the program described in paragraph (1)(A); or

(B) operational overhead funding of the University of Nebraska-Lincoln.

SA 1840. Mrs. DOLE submitted an amendment intended to be proposed by her to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 173, after line 24, insert the following:

SEC. 7____. (a) Subject to subsection (b), during the school year beginning July 2005, the Secretary of Agriculture shall use funds made available under subsection (c) to provide for direct certification of children that are adversely affected by hurricanes in accordance with the terms and conditions of section 9(b)(4) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)(4)) (without regard to section 9(b)(4)(D) of that Act), as determined by the Secretary.

(b) This section applies to any local educational agency that—

(1) is located in a county subject to a major disaster designation by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), between August 24, 2005 and September 18, 2005; and

(2) submits a petition to the Secretary.

(c) The Secretary shall use to carry out this section $29,000,000 of funds made available under section 32 of the Act of August 24, 1935.

SA 1841. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 173, after line 24, insert the following:

SEC. 7____. None of the funds made available by this Act may be used to pay the salaries or expenses of any officer or employee to carry out the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) in a manner that for the purpose of determining the eligibility of a child who is a member of the household of a member of a uniformed service, includes in household income the amount of a basic allowance provided under section 403 of title 37, United States Code, on behalf of the member of a uniformed service for housing that is acquired or constructed under subchapter IV of chapter 169 of title 10, United States Code.

SA 1842. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 143, line 10, strike the colon and insert the following: '': *Provided further*, That of the funds provided under this heading for other activities, $5,853,000 shall not be obligated until the Commissioner of Food and Drugs or Acting Commissioner of Food and Drugs has presented public testimony before the Committee on Appropriations of the Senate regarding the date on which the Food and Drug Administration submitted an official written response to the Citizen Petition and Request for Administrative Stay, Docket No. 02P–0377 of the Food and Drug Administration:''.

SA 1843. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 143, line 10, strike the colon and insert the following: '': *Provided further*, That of the funds provided under this heading for other activities, $5,853,000 shall not be obligated until the Commissioner of Food and Drugs or Acting Commissioner of Food and Drugs has presented public testimony before the Committee on Appropriations of the Senate on the President's fiscal year 2006 budget request and regarding the date on which the Food and Drug Administration submitted an official written response to the Citizen Petition and Request for Administrative Stay, Docket No. 02P–0377 of the Food and Drug Administration:''.

SA 1844. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; as follows:

On page 88, line 16, strike ''$23,103,000'' and insert ''$21,103,000''.

On page 109, line 21, before the period at the end, insert the following: '': *Provided further*, That none of the funds made available by this Act may be used to carry out section 508A(c)(1)(B)(i) of the Federal Crop Insurance Act (7 U.S.C. 1508A(c)) in a manner that, for purposes of counties declared to be disaster areas in calendar year 2005 by the Secretary under section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)) or by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), applies the phrase 'in the same crop year' to have a meaning other than not later than October 15 of the year after the year in which the first crop was prevented from being planted''.

SA 1845. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 88, line 16, strike ''$23,103,000'' and insert ''$21,103,000''.

On page 109, line 21, before the period at the end, insert the following: '': *Provided further*, That notwithstanding any other provision of law (including regulations), none of the funds made available by this Act may be used to carry out section 508A(c)(1)(B)(i) of the Federal Crop Insurance Act (7 U.S.C. 1508A(c)) in a manner that applies the term 'crop year' in a manner that fails to take into account the varying climates of different regions of the United States''.

SA 1846. Mr. MARTINEZ (for himself and Mr. NELSON of Florida) submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 173, after line 24, insert the following:

SEC. 7 _____. The Secretary of Agriculture shall use $450,000,000 of the funds of the Commodity Credit Corporation, to remain available until expended, to compensate commercial citrus and lime growers in the State of Florida for tree replacement and for lost production with respect to trees removed to control citrus canker, and with respect to certified citrus nursery stocks within the citrus canker quarantine areas, as determined by the Secretary. For a grower to receive assistance for a tree under this section, the tree must have been removed after September 30, 2001.

SA 1847. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 143, line 13, strike the period and insert the follow: '': *Provided further* that, if by December 21, 2005, the Food and Drug Administration has not complied with the provisions of Public Law 106–554 related to the labeling of condoms to ensure that such labels are medically accurate in regard to the lack of effectiveness in preventing human papillomavirus infection, $10,000,000 of the amount provided under this heading for the office of the Commissioner shall not be expended until the Food and Drug Administration complies with such law.

SA 1848. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 1790 submitted by Mrs. CLINTON (for herself, Mrs. MURRAY, and Mr. CORZINE) and intended to be proposed to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 1, line 8 of the amendment, strike the period and insert the following: '', *Provided further*, That if by December 21, 2005, the Food and Drug Administration has not complied with the provisions of section 516(b) of Public Law 106-554, related to the labeling of condoms to ensure such labels are medically accurate in regard to the lack of effectiveness in preventing human papillomavirus, $10,000,000 of the amount provided under this heading for the Office of the Commissioner shall not be expended until the Food and Drug Administration complies with such section.''.

SA 1849. Mr. KOHL (for Mr. DODD) proposed an amendment to amendment SA 1818 submitted by Mr. DODD (for himself, Mr. HARKIN, Mr. REED, Mr. CARPER, Mr. BIDEN, and Mr. LIEBERMAN) to the bill H.R. 2744, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for

the fiscal year ending September 30, 2006, and for other purposes; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. 7_____. (a) Congress makes the following findings:

(1) Consumers need clear and consistent information about the risks associated with exposure to the sun, and the protection offered by over-the-counter sunscreen products.

(2) The Food and Drug Administration (referred to in this section as the ''FDA'') began developing a monograph for over-the-counter sunscreen products in 1978.

(3) In 2002, after 23 years, the FDA issued the final monograph for such sunscreen products.

(4) One of the most critical aspects of sunscreen is how to measure protection against UVA rays, which cause skin cancer.

(5) The final sunscreen monograph failed to address this critical aspect and, accordingly, the monograph was stayed shortly after being issued until issuance of a comprehensive monograph.

(6) Skin cancer rates continue to rise, especially in younger adults and women.

(7) Pursuant to section 751 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379r), a Federal rule on sunscreen labeling would preempt any related State labeling requirements.

(8) The absence of a Federal rule could lead to a patchwork of State labeling requirements that would be confusing to consumers and unnecessarily burdensome to manufacturers.

(b) It is the sense of Congress that the FDA should, not later than one year after the date of enactment of this Act, issue a comprehensive final monograph for over-the-counter sunscreen products, including UVA and UVB labeling requirements, in order to provide consumers with all the necessary information regarding the dangers of skin cancer and the importance of wearing sunscreen.

NOTICES OF HEARINGS/MEETINGS

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. CRAIG. Mr. President, I would like to announce for the information of the Senate and the public that an oversight hearing has been scheduled before the Subcommittee on Public Lands and Forests of the Committee on Energy and Natural Resources.

The hearing will be held on Wednesday, September 28, 2005, at 2 p.m. in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to review the grazing programs of the Bureau of Land Management and the Forest Service, including proposed changes to grazing regulations, and the status of grazing permit renewals, monitoring programs and allotment restocking plans.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150.

For further information, please contact Dick Bouts at 202–224–7545 or Amy Millet at 202–224–8276.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition and Forestry be authorized to conduct a hearing during the session of the Senate on Wednesday September 21, 2005 at 9 a.m. in 328A, Senate Russell Office Building. The purpose of this committee hearing will be to review the status of the World Trade Organization negotiations on agriculture.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BENNETT. Mr. President. I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, September 21, 2005, 10 a.m. and 2:30 p.m., on Energy Pricing, in SD 562.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, September 21, 2005, at 2:30 p.m. to hold a hearing on Nominations.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet on Wednesday, September 21, 2005, at 10 a.m. for a hearing titled, ''After the London Attacks: What Lessons Have Been Learned to Secure U.S. Transit Systems?''

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

COMMITTEE ON INDIAN AFFAIRS

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, September 21, 2005, at 9:30 a.m. in Room 385 of the Russell Senate Office Building to conduct an oversight hearing on Indian Gaming: Regulation of Class III Gaming. Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

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

COMMITTEE ON THE JUDICIARY

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on ''Able Danger and Intelligence Information Sharing'' on Wednesday, September 21, 2005 at 9:30 a.m. in the Dirksen Senate Office Building Room 226.

Witness List

Panel I: The Honorable Curt Weldon, United States Representative, R–PA, 7th District; the Honorable Slade Gorton, former United States Senator, [R-WA], Preston, Gates & Ellis, Seattle, WA.

Panel II: Mark Zaid, Esq., Attorney at Law, Washington, DC; Erik Kleinsmith, former Army Major and Chief of Intelligence of the Land Information Warfare Analysis LIWA, Project Manager for Intelligence Analytical Training, Lockheed Martin, Newington, VA.

Panel III: Gary Bald, Executive Assistant Director, Counter Terrorism/Counter Intelligence, Federal Bureau of Investigation, United States Department of Justice, Washington, DC; William Dugan, Assistant to the Secretary of Defense for Intelligence Oversight, United States Department of Defense, Washington, DC.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. BENNETT. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on September 21, 2005 at 2:30 p.m. to hold a briefing.

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

SUBCOMMITTEE ON FISHERIES, WILDLIFE, AND WATER

Mr. BENNETT. Mr. President, I ask unanimous consent that the Subcommittee on Fisheries, Wildlife, and Water be authorized to meet Wednesday, September 21, 2005 to conduct a hearing to discuss the Endangered Species Act and the roles of States, Tribes and local governments. The hearing will be in SD 406.

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

PRIVILEGE OF THE FLOOR

Mr. BINGAMAN. I ask unanimous consent John Smeltzer, a fellow in my office, be granted privilege of the floor during the pendency of this bill.

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

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore and upon the recommendation of the Democratic Leader, pursuant to Public Law 98–183, as amended by Public Law 103–419, appoints Arlan D. Melendez, of Nevada, to the United States Commission on Civil Rights.

PROVIDING FOR ACCEPTANCE OF A STATUE OF PO'PAY

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 242, which was received from the House.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 242) providing for acceptance of a statue of Po'Pay, presented by the State of New Mexico, for placement in National Statuary Hall, and for other purposes.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. BENNETT. Mr. President, I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be printed in the RECORD.

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

The concurrent resolution (H. Con. Res. 242) was agreed to.

DISASTER RELIEF EMPLOYMENT

Mr. BENNETT. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of H.R. 3761, which was received from the House.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3761) to provide special rules for disaster relief employment under the Workforce Investment Act of 1998 for individuals displaced by Hurricane Katrina.

There being no objection, the Senate proceeded to consider the bill.

Mr. BENNETT. Mr. President, I ask unanimous consent the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (H.R. 3761) was read the third time and passed.

KATRINA EMERGENCY TAX RELIEF ACT OF 2005

Mr. BENNETT. I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3768, which was received from the House.

There being no objection, the Presiding officer laid before the Senate the following message from the House of Representatives:

H.R. 3768

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 3768) entitled ''An Act to provide emergency tax relief for persons affected by Hurricane Katrina'', with the following House amendment to Senate amendment:

In lieu of the matter proposed to be inserted by the amendment of the Senate, insert the following:

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the ''Katrina Emergency Tax Relief Act of 2005''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. HURRICANE KATRINA DISASTER AREA.

For purposes of this Act—

(1) HURRICANE KATRINA DISASTER AREA.—The term ''Hurricane Katrina disaster area'' means an area with respect to which a major disaster has been declared by the President before September 14, 2005, under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Katrina.

(2) CORE DISASTER AREA.—The term ''core disaster area'' means that portion of the Hurricane Katrina disaster area determined by the President to warrant individual or individual and public assistance from the Federal Government under such Act.

TITLE I—SPECIAL RULES FOR USE OF RETIREMENT FUNDS FOR RELIEF RELATING TO HURRICANE KATRINA

SEC. 101. TAX-FAVORED WITHDRAWALS FROM RETIREMENT PLANS FOR RELIEF RELATING TO HURRICANE KATRINA.

(a) IN GENERAL.—Section 72(t) of the Internal Revenue Code of 1986 shall not apply to any qualified Hurricane Katrina distribution.

(b) AGGREGATE DOLLAR LIMITATION.—

(1) IN GENERAL.—For purposes of this section, the aggregate amount of distributions received by an individual which may be treated as qualified Hurricane Katrina distributions for any taxable year shall not exceed the excess (if any) of—

(A) $100,000, over

(B) the aggregate amounts treated as qualified Hurricane Katrina distributions received by such individual for all prior taxable years.

(2) TREATMENT OF PLAN DISTRIBUTIONS.—If a distribution to an individual would (without regard to paragraph (1)) be a qualified Hurricane Katrina distribution, a plan shall not be treated as violating any requirement of the Internal Revenue Code of 1986 merely because the plan treats such distribution as a qualified Hurricane Katrina distribution, unless the aggregate amount of such distributions from all plans maintained by the employer (and any member of any controlled group which includes the employer) to such individual exceeds $100,000.

(3) CONTROLLED GROUP.—For purposes of paragraph (2), the term ''controlled group'' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of such Code.

(c) AMOUNT DISTRIBUTED MAY BE REPAID.—

(1) IN GENERAL.—Any individual who receives a qualified Hurricane Katrina distribution may, at any time during the 3-year period beginning on the day after the date on which such distribution was received, make one or more contributions in an aggregate amount not to exceed the amount of such distribution to an eligible retirement plan of which such individual is a beneficiary and to which a rollover contribution of such distribution could be made under section 402(c), 403(a)(4), 403(b)(8), 408(d)(3), or 457(e)(16) of such Code, as the case may be.

(2) TREATMENT OF REPAYMENTS OF DISTRIBUTIONS FROM ELIGIBLE RETIREMENT PLANS OTHER THAN IRAS.—For purposes of such Code, if a contribution is made pursuant to paragraph (1) with respect to a qualified Hurricane Katrina distribution from an eligible retirement plan other than an individual retirement plan, then the taxpayer shall, to the extent of the amount of the contribution, be treated as having received the qualified Hurricane Katrina distribution in an eligible rollover distribution (as defined in section 402(c)(4) of such Code) and as having transferred the amount to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution.

(3) TREATMENT OF REPAYMENTS FOR DISTRIBUTIONS FROM IRAS.—For purposes of such Code, if a contribution is made pursuant to paragraph (1) with respect to a qualified Hurricane Katrina distribution from an individual retirement plan (as defined by section 7701(a)(37) of such Code), then, to the extent of the amount of the contribution, the qualified Hurricane Katrina distribution shall be treated as a distribution described in section 408(d)(3) of such Code and as having been transferred to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution.

(d) DEFINITIONS.—For purposes of this section—

(1) QUALIFIED HURRICANE KATRINA DISTRIBUTION.—Except as provided in subsection (b), the term ''qualified Hurricane Katrina distribution'' means any distribution from an eligible retirement plan made on or after August 25, 2005, and before January 1, 2007, to an individual whose principal place of abode on August 28, 2005, is located in the Hurricane Katrina disaster area and who has sustained an economic loss by reason of Hurricane Katrina.

(2) ELIGIBLE RETIREMENT PLAN.—The term ''eligible retirement plan'' shall have the meaning given such term by section 402(c)(8)(B) of such Code.

(e) INCOME INCLUSION SPREAD OVER 3 YEAR PERIOD FOR QUALIFIED HURRICANE KATRINA DISTRIBUTIONS.—

(1) IN GENERAL.—In the case of any qualified Hurricane Katrina distribution, unless the taxpayer elects not to have this subsection apply for any taxable year, any amount required to be included in gross income for such taxable year shall be so included ratably over the 3-taxable year period beginning with such taxable year.

(2) SPECIAL RULE.—For purposes of paragraph (1), rules similar to the rules of subparagraph (E) of section 408A(d)(3) of such Code shall apply.

(f) SPECIAL RULES.—

(1) EXEMPTION OF DISTRIBUTIONS FROM TRUSTEE TO TRUSTEE TRANSFER AND WITHHOLDING RULES.—For purposes of sections 401(a)(31), 402(f), and 3405 of such Code, qualified Hurricane Katrina distributions shall not be treated as eligible rollover distributions.

(2) QUALIFIED HURRICANE KATRINA DISTRIBUTIONS TREATED AS MEETING PLAN DISTRIBUTION REQUIREMENTS.—For purposes of such Code, a qualified Hurricane Katrina distribution shall be treated as meeting the requirements of sections 401(k)(2)(B)(i), 403(b)(7)(A)(ii), 403(b)(11), and 457(d)(1)(A) of such Code.

SEC. 102. RECONTRIBUTIONS OF WITHDRAWALS FOR HOME PURCHASES CANCELLED DUE TO HURRICANE KATRINA.

(a) RECONTRIBUTIONS.—

(1) IN GENERAL.—Any individual who received a qualified distribution may, during the period beginning on August 25, 2005, and ending on February 28, 2006, make one or more contributions in an aggregate amount not to exceed the amount of such qualified distribution to an eligible retirement plan (as defined in section 402(c)(8)(B) of the Internal Revenue Code of 1986) of which such individual is a beneficiary and to which a rollover contribution of such distribution could be made under section 402(c), 403(a)(4), 403(b)(8), or 408(d)(3) of such Code, as the case may be.

(2) TREATMENT OF REPAYMENTS.—Rules similar to the rules of paragraphs (2) and (3) of section 101(c) of this Act shall apply for purposes of this section.

(b) QUALIFIED DISTRIBUTION DEFINED.—For purposes of this section, the term ''qualified distribution'' means any distribution—

(1) described in section 401(k)(2)(B)(i)(IV), 403(b)(7)(A)(ii) (but only to the extent such distribution relates to financial hardship), 403(b)(11)(B), or 72(t)(2)(F) of such Code,

(2) received after February 28, 2005, and before August 29, 2005, and

(3) which was to be used to purchase or construct a principal residence in the Hurricane Katrina disaster area, but which was not so purchased or constructed on account of Hurricane Katrina.

SEC. 103. LOANS FROM QUALIFIED PLANS FOR RELIEF RELATING TO HURRICANE KATRINA.

(a) INCREASE IN LIMIT ON LOANS NOT TREATED AS DISTRIBUTIONS.—In the case of any loan from a qualified employer plan (as defined under section 72(p)(4) of the Internal Revenue Code of 1986) to a qualified individual made after the date of enactment of this Act and before January 1, 2007—

(1) clause (i) of section 72(p)(2)(A) of such Code shall be applied by substituting ''$100,000'' for ''$50,000'', and

(2) clause (ii) of such section shall be applied by substituting ''the present value of the nonforfeitable accrued benefit of the employee under the plan'' for ''one-half of the present value of the nonforfeitable accrued benefit of the employee under the plan''.

(b) DELAY OF REPAYMENT.—In the case of a qualified individual with an outstanding loan on or after August 25, 2005, from a qualified employer plan (as defined in section 72(p)(4) of such Code)—

(1) if the due date pursuant to subparagraph (B) or (C) of section 72(p)(2) of such Code for any repayment with respect to such loan occurs during the period beginning on August 25, 2005, and ending on December 31, 2006, such due date shall be delayed for 1 year,

(2) any subsequent repayments with respect to any such loan shall be appropriately adjusted to reflect the delay in the due date under paragraph (1) and any interest accruing during such delay, and

(3) in determining the 5-year period and the term of a loan under subparagraph (B) or (C) of section 72(p)(2) of such Code, the period described in paragraph (1) shall be disregarded.

(c) QUALIFIED INDIVIDUAL.—For purposes of this section, the term ''qualified individual'' means an individual whose principal place of abode on August 28, 2005, is located in the Hurricane Katrina disaster area and who has sustained an economic loss by reason of Hurricane Katrina.

SEC. 104. PROVISIONS RELATING TO PLAN AMENDMENTS.

(a) IN GENERAL.—If this section applies to any amendment to any plan or annuity contract, such plan or contract shall be treated as being operated in accordance with the terms of the plan during the period described in subsection (b)(2)(A).

(b) AMENDMENTS TO WHICH SECTION APPLIES.—

(1) IN GENERAL.—This section shall apply to any amendment to any plan or annuity contract which is made—

(A) pursuant to any amendment made by this title, or pursuant to any regulation issued by the Secretary of the Treasury or the Secretary of Labor under this title, and

(B) on or before the last day of the first plan year beginning on or after January 1, 2007, or such later date as the Secretary of the Treasury may prescribe.

In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), subparagraph (B) shall be applied by substituting the date which is 2 years after the date otherwise applied under subparagraph (B).

(2) CONDITIONS.—This section shall not apply to any amendment unless—

(A) during the period—

(i) beginning on the date the legislative or regulatory amendment described in paragraph (1)(A) takes effect (or in the case of a plan or contract amendment not required by such legislative or regulatory amendment, the effective date specified by the plan), and

(ii) ending on the date described in paragraph (1)(B) (or, if earlier, the date the plan or contract amendment is adopted),

the plan or contract is operated as if such plan or contract amendment were in effect; and

(B) such plan or contract amendment applies retroactively for such period.

TITLE II—EMPLOYMENT RELIEF

SEC. 201. WORK OPPORTUNITY TAX CREDIT FOR HURRICANE KATRINA EMPLOYEES.

(a) IN GENERAL.—For purposes of section 51 of the Internal Revenue Code of 1986, a Hurricane Katrina employee shall be treated as a member of a targeted group.

(b) HURRICANE KATRINA EMPLOYEE.—For purposes of this section, the term ''Hurricane Katrina employee'' means—

(1) any individual who on August 28, 2005, had a principal place of abode in the core disaster area and who is hired during the 2-year period beginning on such date for a position the principal place of employment of which is located in the core disaster area, and

(2) any individual who on such date had a principal place of abode in the core disaster area, who is displaced from such abode by reason of Hurricane Katrina, and who is hired during the period beginning on such date and ending on December 31, 2005.

(c) REASONABLE IDENTIFICATION ACCEPTABLE.—In lieu of the certification requirement under subparagraph (A) of section 51(d)(12) of such Code, an individual may provide to the employer reasonable evidence that the individual is a Hurricane Katrina employee, and subparagraph (B) of such section shall be applied as if such evidence were a certification described in such subparagraph.

(d) SPECIAL RULES FOR DETERMINING CREDIT.—For purposes of applying subpart F of part IV of subchapter A of chapter 1 of such Code to wages paid or incurred to any Hurricane Katrina employee—

(1) section 51(c)(4) of such Code shall not apply, and

(2) section 51(i)(2) of such Code shall not apply with respect to the first hire of such employee as a Hurricane Katrina employee, unless such employee was an employee of the employer on August 28, 2005.

SEC. 202. EMPLOYEE RETENTION CREDIT FOR EMPLOYERS AFFECTED BY HURRICANE KATRINA.

(a) IN GENERAL.—In the case of an eligible employer, there shall be allowed as a credit against the tax imposed by chapter 1 of the Internal Revenue Code of 1986 for the taxable year an amount equal to 40 percent of the qualified wages with respect to each eligible employee of such employer for such taxable year. For purposes of the preceding sentence, the amount of qualified wages which may be taken into account with respect to any individual shall not exceed $6,000.

(b) DEFINITIONS.—For purposes of this section—

(1) ELIGIBLE EMPLOYER.—The term ''eligible employer'' means any employer—

(A) which conducted an active trade or business on August 28, 2005, in a core disaster area, and

(B) with respect to whom the trade or business described in subparagraph (A) is inoperable on any day after August 28, 2005, and before January 1, 2006, as a result of damage sustained by reason of Hurricane Katrina.

(2) ELIGIBLE EMPLOYEE.—The term ''eligible employee'' means with respect to an eligible employer an employee whose principal place of employment on August 28, 2005, with such eligible employer was in a core disaster area.

(3) QUALIFIED WAGES.—The term ''qualified wages'' means wages (as defined in section 51(c)(1) of such Code, but without regard to section 3306(b)(2)(B) of such Code) paid or incurred by an eligible employer with respect to an eligible employee on any day after August 28, 2005, and before January 1, 2006, which occurs during the period—

(A) beginning on the date on which the trade or business described in paragraph (1) first became inoperable at the principal place of employment of the employee immediately before Hurricane Katrina, and

(B) ending on the date on which such trade or business has resumed significant operations at such principal place of employment.

Such term shall include wages paid without regard to whether the employee performs no services, performs services at a different place of employment than such principal place of employment, or performs services at such principal place of employment before significant operations have resumed.

(c) CREDIT NOT ALLOWED FOR LARGE BUSINESSES.—The term ''eligible employer'' shall not include any trade or business for any taxable year if such trade or business employed an average of more than 200 employees on business days during the taxable year.

(d) CERTAIN RULES TO APPLY.—For purposes of this section, rules similar to the rules of sections 51(i)(1), 52, and 280C(a) of such Code shall apply.

(e) EMPLOYEE NOT TAKEN INTO ACCOUNT MORE THAN ONCE.—An employee shall not be treated as an eligible employee for purposes of this section for any period with respect to any employer if such employer is allowed a credit under section 51 of such Code with respect to such employee for such period.

(f) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—The credit allowed under this section shall be added to the current year business credit under section 38(b) of such Code and shall be treated as a credit allowed under subpart D of part IV of subchapter A of chapter 1 of such Code.

TITLE III—CHARITABLE GIVING INCENTIVES

SEC. 301. TEMPORARY SUSPENSION OF LIMITATIONS ON CHARITABLE CONTRIBUTIONS.

(a) IN GENERAL.—Except as otherwise provided in subsection (b), section 170(b) of the Internal Revenue Code of 1986 shall not apply to qualified contributions and such contributions shall not be taken into account for purposes of applying subsections (b) and (d) of section 170 of such Code to other contributions.

(b) TREATMENT OF EXCESS CONTRIBUTIONS.—For purposes of section 170 of such Code—

(1) INDIVIDUALS.—In the case of an individual—

(A) LIMITATION.—Any qualified contribution shall be allowed only to the extent that the aggregate of such contributions does not exceed the excess of the taxpayer's contribution base (as defined in subparagraph (F) of section 170(b)(1) of such Code) over the amount of all other charitable contributions allowed under such section 170(b)(1).

(B) CARRYOVER.—If the aggregate amount of qualified contributions made in the contribution year (within the meaning of section 170(d)(1) of such Code) exceeds the limitation of subparagraph (A), such excess shall be added to the excess described in the portion of subparagraph (A) of such section which precedes clause (i) thereof for purposes of applying such section.

(2) CORPORATIONS.—In the case of a corporation—

(A) LIMITATION.—Any qualified contribution shall be allowed only to the extent that the aggregate of such contributions does not exceed the excess of the taxpayer's taxable income (as determined under paragraph (2) of section 170(b) of such Code) over the amount of all other charitable contributions allowed under such paragraph.

(B) CARRYOVER.—Rules similar to the rules of paragraph (1)(B) shall apply for purposes of this paragraph.

(c) EXCEPTION TO OVERALL LIMITATION ON ITEMIZED DEDUCTIONS.—So much of any deduction allowed under section 170 of such Code as does not exceed the qualified contributions paid during the taxable year shall not be treated as an itemized deduction for purposes of section 68 of such Code.

(d) QUALIFIED CONTRIBUTIONS.—

(1) IN GENERAL.—For purposes of this section, the term ''qualified contribution'' means any charitable contribution (as defined in section 170(c) of such Code)—

(A) paid during the period beginning on August 28, 2005, and ending on December 31, 2005, in cash to an organization described in section 170(b)(1)(A) of such Code (other than an organization described in section 509(a)(3) of such Code),

(B) in the case of a contribution paid by a corporation, such contribution is for relief efforts related to Hurricane Katrina, and

(C) with respect to which the taxpayer has elected the application of this section.

(2) EXCEPTION.—Such term shall not include a contribution if the contribution is for establishment of a new, or maintenance in an existing, segregated fund or account with respect to which the donor (or any person appointed or designated by such donor) has, or reasonably expects to have, advisory privileges with respect to distributions or investments by reason of the donor's status as a donor.

(3) APPLICATION OF ELECTION TO PARTNERSHIPS AND S CORPORATIONS.—In the case of a partnership or S corporation, the election under paragraph (1)(C) shall be made separately by each partner or shareholder.

SEC. 302. ADDITIONAL EXEMPTION FOR HOUSING HURRICANE KATRINA DISPLACED INDIVIDUALS.

(a) IN GENERAL.—In the case of taxable years of a natural person beginning in 2005 or 2006, for purposes of the Internal Revenue Code of 1986, taxable income shall be reduced by $500 for each Hurricane Katrina displaced individual of the taxpayer for the taxable year.

(b) LIMITATIONS.—

(1) DOLLAR LIMITATION.—The reduction under subsection (a) shall not exceed $2,000, reduced by the amount of the reduction under this section for all prior taxable years.

(2) INDIVIDUALS TAKEN INTO ACCOUNT ONLY ONCE.—An individual shall not be taken into account under subsection (a) if such individual was taken into account under such subsection by the taxpayer for any prior taxable year.

(3) IDENTIFYING INFORMATION REQUIRED.—An individual shall not be taken into account under subsection (a) for a taxable year unless the taxpayer identification number of such individual is included on the return of the taxpayer for such taxable year.

(c) HURRICANE KATRINA DISPLACED INDIVIDUAL.—For purposes of this section, the term ''Hurricane Katrina displaced individual'' means, with respect to any taxpayer for any taxable year, any natural person if—

(1) such person's principal place of abode on August 28, 2005, was in the Hurricane Katrina disaster area,

(2)(A) in the case of such an abode located in the core disaster area, such person is displaced from such abode, or

(B) in the case of such an abode located outside of the core disaster area, such person is displaced from such abode, and

(i) such abode was damaged by Hurricane Katrina, or

(ii) such person was evacuated from such abode by reason of Hurricane Katrina, and

(3) such person is provided housing free of charge by the taxpayer in the principal residence of the taxpayer for a period of 60 consecutive days which ends in such taxable year.

Such term shall not include the spouse or any dependent of the taxpayer.

(d) COMPENSATION FOR HOUSING.—No deduction shall be allowed under this section if the taxpayer receives any rent or other amount (from any source) in connection with the providing of such housing.

SEC. 303. INCREASE IN STANDARD MILEAGE RATE FOR CHARITABLE USE OF VEHICLES.

Notwithstanding section 170(i) of the Internal Revenue Code of 1986, for purposes of computing the deduction under section 170 of such Code for use of a vehicle described in subsection (f)(12)(E)(i) of such section for provision of relief related to Hurricane Katrina during the period beginning on August 25, 2005, and ending on December 31, 2006, the standard mileage rate shall be 70 percent of the standard mileage rate in effect under section 162(a) of such Code at the time of such use. Any increase under this section shall be rounded to the next highest cent.

SEC. 304. MILEAGE REIMBURSEMENTS TO CHARITABLE VOLUNTEERS EXCLUDED FROM GROSS INCOME.

(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1986, gross income of an individual for taxable years ending on or after August 25, 2005, does not include amounts received, from an organization described in section 170(c) of such Code, as reimbursement of operating expenses with respect to use of a passenger automobile for the benefit of such organization in connection with providing relief relating to Hurricane Katrina during the period beginning on August 25, 2005, and ending on December 31, 2006. The preceding sentence shall apply only to the extent that the expenses which are reimbursed would be deductible under chapter 1 of such Code if section 274(d) of such Code were applied—

(1) by using the standard business mileage rate in effect under section 162(a) at the time of such use, and

(2) as if the individual were an employee of an organization not described in section 170(c) of such Code.

(b) APPLICATION TO VOLUNTEER SERVICES ONLY.—Subsection (a) shall not apply with respect to any expenses relating to the performance of services for compensation.

(c) NO DOUBLE BENEFIT.—No deduction or credit shall be allowed under any other provision of such Code with respect to the expenses excludable from gross income under subsection (a).

SEC. 305. CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF FOOD INVENTORY.

(a) IN GENERAL.—Paragraph (3) of section 170(e) of the Internal Revenue Code of 1986 (relating to special rule for certain contributions of inventory and other property) is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

''(C) SPECIAL RULE FOR CONTRIBUTIONS OF FOOD INVENTORY.—

''(i) GENERAL RULE.—In the case of a charitable contribution of food from any trade or business of the taxpayer, this paragraph shall be applied—

''(I) without regard to whether the contribution is made by a C corporation, and

''(II) only to food that is apparently wholesome food.

''(ii) LIMITATION.—In the case of a taxpayer other than a C corporation, the aggregate amount of such contributions for any taxable year which may be taken into account under this section shall not exceed 10 percent of the taxpayer's aggregate net income for such taxable year from all trades or businesses from which such contributions were made for such year, computed without regard to this section.

''(iii) APPARENTLY WHOLESOME FOOD.—For purposes of this subparagraph, the term 'apparently wholesome food' has the meaning given to such term by section 22(b)(2) of the Bill Emerson Good Samaritan Food Donation Act (42 U.S.C. 1791(b)(2)), as in effect on the date of the enactment of this subparagraph.

''(iv) TERMINATION.—This subparagraph shall not apply to contributions made after December 31, 2005.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made on or after August 28, 2005, in taxable years ending after such date.

SEC. 306. CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF BOOK INVENTORIES TO PUBLIC SCHOOLS.

(a) IN GENERAL.—Paragraph (3) of section 170(e) of the Internal Revenue Code of 1986 (relating to certain contributions of ordinary income and capital gain property), as amended by section 305, is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

''(D) SPECIAL RULE FOR CONTRIBUTIONS OF BOOK INVENTORY TO PUBLIC SCHOOLS.—

''(i) CONTRIBUTIONS OF BOOK INVENTORY.—In determining whether a qualified book contribution is a qualified contribution, subparagraph (A) shall be applied without regard to whether the donee is an organization described in the matter preceding clause (i) of subparagraph (A).

''(ii) QUALIFIED BOOK CONTRIBUTION.—For purposes of this paragraph, the term 'qualified book contribution' means a charitable contribution of books to a public school which is an educational organization described in subsection (b)(1)(A)(ii) and which provides elementary education or secondary education (kindergarten through grade 12).

''(iii) CERTIFICATION BY DONEE.—Subparagraph (A) shall not apply to any contribution unless (in addition to the certifications required by subparagraph (A) (as modified by this subparagraph)), the donee certifies in writing that—

''(I) the books are suitable, in terms of currency, content, and quantity, for use in the donee's educational programs, and

''(II) the donee will use the books in its educational programs.

''(iv) TERMINATION.—This subparagraph shall not apply to contributions made after December 31, 2005.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made on or after August 28, 2005, in taxable years ending after such date.

TITLE IV—ADDITIONAL TAX RELIEF PROVISIONS

SEC. 401. EXCLUSIONS OF CERTAIN CANCELLATIONS OF INDEBTEDNESS BY REASON OF HURRICANE KATRINA.

(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1986, gross income shall not include any amount which (but for this section) would be includible in gross income by reason of the discharge (in whole or in part) of indebtedness of a natural person described in subsection (b) by an applicable entity (as defined in section 6050P(c)(1) of such Code).

(b) PERSONS DESCRIBED.—A natural person is described in this subsection if the principal place of abode of such person on August 25, 2005, was located—

(1) in the core disaster area, or

(2) in the Hurricane Katrina disaster area (but outside the core disaster area) and such person suffered economic loss by reason of Hurricane Katrina.

(c) EXCEPTIONS.—

(1) BUSINESS INDEBTEDNESS.—Subsection (a) shall not apply to any indebtedness incurred in connection with a trade or business.

(2) REAL PROPERTY OUTSIDE CORE DISASTER AREA.—Subsection (a) shall not apply to any discharge of indebtedness to the extent that real property constituting security for such indebtedness is located outside of the Hurricane Katrina disaster area.

(d) DENIAL OF DOUBLE BENEFIT.—For purposes of the Internal Revenue Code of 1986, the amount excluded from gross income under subsection (a) shall be treated in the same manner as an amount excluded under section 108(a) of such Code.

(e) EFFECTIVE DATE.—This section shall apply to discharges made on or after August 25, 2005, and before January 1, 2007.

SEC. 402. SUSPENSION OF CERTAIN LIMITATIONS ON PERSONAL CASUALTY LOSSES.

Paragraphs (1) and (2)(A) of section 165(h) of the Internal Revenue Code of 1986 shall not apply to losses described in section 165(c)(3) of such Code which arise in the Hurricane Katrina disaster area on or after August 25, 2005, and which are attributable to Hurricane Katrina. In the case of any other losses, section 165(h)(2)(A) of such Code shall be applied without regard to the losses referred to in the preceding sentence.

SEC. 403. REQUIRED EXERCISE OF AUTHORITY UNDER SECTION 7508A FOR TAX RELIEF RELATING TO HURRICANE KATRINA.

(a) AUTHORITY INCLUDES SUSPENSION OF PAYMENT OF EMPLOYMENT AND EXCISE TAXES.—Subparagraphs (A) and (B) of section 7508(a)(1) of the Internal Revenue Code of 1986 are amended to read as follows:

''(A) Filing any return of income, estate, gift, employment, or excise tax;

''(B) Payment of any income, estate, gift, employment, or excise tax or any installment thereof or of any other liability to the United States in respect thereof;''.

(b) APPLICATION WITH RESPECT TO HURRICANE KATRINA.—In the case of any taxpayer determined by the Secretary of the Treasury to be affected by the Presidentially declared disaster relating to Hurricane Katrina, any relief provided by the Secretary of the Treasury under section 7508A of the Internal Revenue Code of 1986 shall be for a period ending not earlier than February 28, 2006, and shall be treated as applying to the filing of returns relating to, and the payment of, employment and excise taxes.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply for any period for performing an act which has not expired before August 25, 2005.

SEC. 404. SPECIAL RULES FOR MORTGAGE REVENUE BONDS.

(a) IN GENERAL.—In the case of financing provided with respect to a qualified Hurricane Katrina recovery residence, subsection (d) of section 143 of the Internal Revenue Code of 1986 shall be applied as if such residence were a targeted area residence.

(b) QUALIFIED HURRICANE KATRINA RECOVERY RESIDENCE.—For purposes of this section, the term ''qualified Hurricane Katrina recovery residence'' means—

(1) any residence in the core disaster area, and

(2) any other residence if—

(A) such other residence is located in the same State as the principal residence referred to in subparagraph (B), and

(B) the mortgagor with respect to such other residence owned a principal residence on August 28, 2005, which—

(i) was located in the Hurricane Katrina disaster area, and

(ii) was rendered uninhabitable by reason of Hurricane Katrina.

(c) SPECIAL RULE FOR HOME IMPROVEMENT LOANS.—In the case of any loan with respect to a residence in the Hurricane Katrina disaster area, section 143(k)(4) of such Code shall be applied by substituting $150,000 for the dollar amount contained therein to the extent such loan is for the repair of damage by reason of Hurricane Katrina.

(d) APPLICATION.—Subsection (a) shall not apply to financing provided after December 31, 2007.

SEC. 405. EXTENSION OF REPLACEMENT PERIOD FOR NONRECOGNITION OF GAIN FOR PROPERTY LOCATED IN HURRICANE KATRINA DISASTER AREA.

Clause (i) of section 1033(a)(2)(B) of the Internal Revenue Code of 1986 shall be applied by substituting ''5 years'' for ''2 years'' with respect to property in the Hurricane Katrina disaster area which is compulsorily or involuntarily converted on or after August 25, 2005, by reason of Hurricane Katrina, but only if substantially all of the use of the replacement property is in such area.

SEC. 406. SPECIAL RULE FOR DETERMINING EARNED INCOME.

(a) IN GENERAL.—In the case of a qualified individual, if the earned income of the taxpayer for the taxable year which includes August 25, 2005, is less than the earned income of the taxpayer for the preceding taxable year, the credits allowed under sections 24(d) and 32 of the Internal Revenue Code of 1986 may, at the election of the taxpayer, be determined by substituting—

(1) such earned income for the preceding taxable year, for

(2) such earned income for the taxable year which includes August 25, 2005.

(b) QUALIFIED INDIVIDUAL.—For purposes of this section, the term ''qualified individual'' means any individual whose principal place of abode on August 25, 2005, was located—

(1) in the core disaster area, or

(2) in the Hurricane Katrina disaster area (but outside the core disaster area) and such individual was displaced from such principal place of abode by reason of Hurricane Katrina.

(c) EARNED INCOME.—For purposes of this section, the term ''earned income'' has the meaning given such term under section 32(c) of such Code.

(d) SPECIAL RULES.—

(1) APPLICATION TO JOINT RETURNS.—For purpose of subsection (a), in the case of a joint return for a taxable year which includes August 25, 2005—

(A) such subsection shall apply if either spouse is a qualified individual, and

(B) the earned income of the taxpayer for the preceding taxable year shall be the sum of the earned income of each spouse for such preceding taxable year.

(2) UNIFORM APPLICATION OF ELECTION.—Any election made under subsection (a) shall apply with respect to both section 24(d) and section 32 of such Code.

(3) ERRORS TREATED AS MATHEMATICAL ERROR.—For purposes of section 6213 of such Code, an incorrect use on a return of earned income pursuant to subsection (a) shall be treated as a mathematical or clerical error.

(4) NO EFFECT ON DETERMINATION OF GROSS INCOME, ETC.—Except as otherwise provided in this section, the Internal Revenue Code of 1986 shall be applied without regard to any substitution under subsection (a).

SEC. 407. SECRETARIAL AUTHORITY TO MAKE ADJUSTMENTS REGARDING TAXPAYER AND DEPENDENCY STATUS.

With respect to taxable years beginning in 2005 or 2006, the Secretary of the Treasury or the Secretary's delegate may make such adjustments in the application of the internal revenue laws as may be necessary to ensure that taxpayers do not lose any deduction or credit or experience a change of filing status by reason of temporary relocations by reason of Hurricane Katrina. Any adjustments made under the preceding sentence shall ensure that an individual is not taken into account by more than one taxpayer with respect to the same tax benefit.

TITLE V—EMERGENCY REQUIREMENT

SEC. 501. EMERGENCY REQUIREMENT.

Any provision of this Act causing an effect on receipts, budget authority, or outlays is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress).

Mr. GRASSLEY. Mr. President, so far, the Finance Committee has put forth two Hurricane Katrina relief bills. One is the emergency tax relief bill passed today.

The second is the health and welfare bill introduced last Thursday.

And we're working on a third bill to help rebuild and rejuvenate the Gulf region.

Today I met with Mississippi Governor Haley Barbour to hear about the needs of people in the Katrina area, both now and in the future.

In addition to Senator BAUCUS, I've been working with my colleagues from Mississippi, Louisiana, and Alabama, including the cosponsors of this tax bill—Senators LOTT, LANDRIEU, VITTER, COCHRAN and SHELBY.

For the next package, we're taking ideas from these senators.

I've talked with Senator VITTER, Senator LOTT and Senator LANDRIEU about tax incentives and expect to talk with the rest of the group in the coming days.

We've had the biggest natural disaster in history. People are hurting, and we're getting them help.

We know that tax incentives helped to revitalize New York after 9/11. They can do the same for New Orleans, Gulfport and the other hurricane-hit areas.

The immediate relief package will help get short-term aid to hurricane victims by encouraging food donations and the employment of displaced individuals, for example.

For those who've suffered casualty losses, we've liberalized the tax rules to permit affected taxpayers to deduct losses from damaged property.

We also want to help protect Katrina victims from undeserved IRS harassment.

It's good that the House and Senate quickly worked out minor differences in our respective versions of the bill.

We need to get these tax incentives on the books and help Katrina victims make a fresh start.

The President is working to restore a high quality of life to the people of the gulf region, and today we're contributing a solid piece of legislation to his effort.

After this package is completed, our focus will be on longer-term tax incentives to help rebuild homes and businesses.

We're looking at depreciation changes, tax-exempt bond authority, tax-exempt bond refunding, and enterprise-zone initiatives.

In the coming days and weeks, the Finance Committee will be examining these ideas with an eye toward the most effective and efficient use of the taxpayer's dollar.

The more thoughtful we are, and the more expeditiously we act, the sooner the people of the gulf region can return home, earn a living, and rebuild their communities.

Mr. BAUCUS. Mr. President, traveling down to the gulf coast region last week, I saw firsthand the havoc that Hurricane Katrina had wreaked. As colleagues who have been down there know, in many places, it is stunning. It is like a war zone. It is worse than the pictures.

At one stop, we went into what was left of a library. Muck and ruin covered books and other library materials. One shiny object caught my eye and I picked up. It was a DVD of the film, ''The Perfect Storm.''

The victims of Katrina have many immediate needs. The legislation that we pass today will address four of them.

One, they need cash. And they need it fast. Two, they need jobs. Three, they need housing. And four, charities need help from Congress so they can help the victims of the hurricane.

I am pleased that Congress could come together and act quickly on this emergency tax relief to address those needs.

First, victims of Katrina need immediate access to cash. The working poor should not lose government benefits that they currently receive. These benefits are an important supplement to low-income working families. A prolonged change in their living situation could affect their eligibility for these benefits, such as the earned income credit and the child tax credit. This bill will allow displaced individuals to use their 2004 income to calculate benefits on their 2005 tax return. It will further ensure that these working families do not lose deductions, credits or filing status because the family is displaced from their home.

We also allow victims of Katrina access to retirement accounts for immediate cash assistance. Under current law, there is a 10 percent penalty for early distributions of money in these accounts. We waive that penalty and allow displaced persons to recontribute to the retirement account over a 3-year period.

Victims also need tax relief if a commercial lender forgives their debt. When a commercial lender discharges debt—such as a cancellation of a mortgage—this amount is included as income for tax purposes. This legislation ensures that individuals affected by the hurricane are not taxed on this personal debt relief.

Second, victims of Katrina want to get back in the workforce. We provide businesses with the tools that they need to hire displaced workers. The Work Opportunity Tax Credit allows employers to claim a credit against wages paid to new workers that face barriers to employment. It applies to veterans, low-income families, and other targeted groups. We expand the Work Opportunity Tax Credit to cover all survivors of Hurricane Katrina who lived in the disaster zone no matter where they seek a job.

We also allow employers located in the disaster zone to take a $2,400 tax credit on wages paid to employees during the period the business was shut down. These employees have tapped into their savings to help out their employees.

Third, we address the housing needs of people dislocated by the hurricane. Many folks across the country have opened up their hearts and opened up their homes. These generous individuals now face increased living expenses—higher water, electric, and grocery bills. This is a considerable burden. We help defray these costs.

We create a special tax deduction for individuals who provide rent-free housing to dislocated persons for at least 60 days. The deduction is $500 for each dislocated person up to a maximum of $2,000.

Finally, the victims need the generosity of individuals and businesses across this country. There has been a surge in giving to charitable organizations. We should encourage this activity. Our bill provides incentives for corporations to increase gifts of cash, food, books, and other items sorely needed in the affected areas and communities.

We didn't get everything we wanted in this bill. I regret that my House colleagues did not accept our provision supporting ''pay protection'' for military reservists and guards and I will continue to work with my colleagues, Senators LANDRIEU and KERRY, to get this enacted. As passed by the Senate, employers in the disaster zone who continued to pay employees that were activated by the reserves or the National Guard would also be entitled to the employee retention credit. Over a third of the Guard members in Mississippi and Louisiana are currently serving in Iraq, and in Alabama, all major Guard units who have been activated for the disaster have already served in Iraq or are there currently. Around 500 of the 3,700 Louisiana National Guard members serving in Iraq lost their homes or their families were displaced due to Hurricane Katrina. If their loyal employers, who despite being hit by Hurricane Katrina, were continuing to help out these military families, why shouldn't Congress at a minimum extend this $2,400 employee retention credit? I am disappointed, but resolved to keep fighting on this matter.

In the coming weeks, I plan to work with my colleagues to draft a long-term tax relief package. We will draft legislation that will help rebuild homes and businesses, pump money into local economies, and help distressed working families.

I thank all Senators for allowing this emergency legislation to move forward today. Today, we have taken real steps, concrete steps, that will make a difference in the lives of people who can use the help. This is what we came here to government service to do. And I am glad that we have been able to do it.

Mr. KERRY. Mr. President, today, we are passing legislation which will provide immediate tax relief to those directly affected by this incredible disaster. This tax relief will help put cash in the hands of victims and encourage charitable giving. This legislation is needed, but I am deeply disappointed that this legislation is missing an extremely important component—relief for military reservists.

We have rightfully focused on rescuing, reuniting and rebuilding, but we must also make sure to take care of our strained military families. The first and best definition of patriotism is keeping faith with those who wear our uniform. That means giving our troops the resources they need to keep safe while they are keeping us safe. And it means supporting our troops at home as well as abroad.

The Senate passed Hurricane Katrina tax relief legislation which looked out for our military reservists. More than 40 percent of military reservists and National Guard members suffer a pay cut when they are called to defend our nation, including those serving in the gulf coast today. These citizens serve nobly. They are much more than weekend warriors. Currently, there are over 140,000 reservists called up for active duty in the war against terrorism and over ten thousand of these reservists and guardsman are from Louisiana, Alabama, and Mississippi. Over 50,000 National Guard members have been called up to assist with Hurricane Katrina.

Many of these reservists are being hit with a double-whammy. After recent service in Iraq or Afghanistan, they are coming home to an area that has been devastated. The all-volunteer army depends on these reservists. They have been serving our country with distinction and pride for many years, and should not be penalized financially for their honorable service.

The Senate passed bill included an employee retention credit which provides a 40 percent tax credit for wages paid up to $6,000 after August 28, 2005 and before December 31, 2005. This credit would help employers in the gulf coast who pay employees that are not able to work because the business was either damaged or destroyed and pay reservists and guardsmen that worked for them right up to the time before they were deployed.

Giving employers' incentives to pay reservist employees is the right thing to do. We have read about the Louisiana reservists who have come home from Iraq and found that they have lost everything. According to the Washington Post, nearly 550 of the Louisiana brigade's troops lost homes or loved ones or were otherwise affected by Katrina. The brigade is coming to the end of its rotation in Baghdad. This is exactly why we must provide a tax incentive that helps employers pay wages to these reservists. Businesses on the gulf coast want to do the right thing for their employees. But in the wake of this disaster, most just cannot afford it.

During negotiations between the House and the Senate on a final Hurricane Katrina tax package, the employee retention credit was scaled back. Wages paid to reservists are no longer eligible for the credit. This is the wrong message to be sending to our reservists who put their lives on the line defending our country.

Due to Operations Iraqi Freedom and Enduring Freedom in Afghanistan, the military has placed greater training and participation demands on reservists, taking them away from their families and jobs. We should be doing all we can to help these reservists, and this includes providing tax incentives to their employers who provide extended pay coverage.

Providing tax incentives to help employers in the gulf coast impacted by Hurricane Katrina was a step in the right direction in helping reservists. For the last couple of years, Senator LANDRIEU and I have worked on legislation to provide assistance to businesses that employ reservists who have been called up to active duty. That legislation would provide tax credits to employers who pay reservists wages that are above their military pay and to help with the costs of hiring replacement workers. This provision passed the Senate twice last year, unfortunately, it was not enacted into law.

This past Monday, I chaired a field hearing of the Committee on Small Business and Entrepreneurship entitled ''Military Reservists and Small Business: Supporting our Military Families and their Patriotic Small Business Employers.'' The hearing focused on the financial difficulties reservists who work for small businesses and their families face when they are called up to active duty.

Lieutenant Colonel Sam Poulten told his compelling story. He was a partner in a real estate firm and he received a three-day notice that he was being called-up to serve as a medical Army reservist in Iraq. Lieutenant Colonel Poulten spent 13 months away from his business, which saw a loss in sales due to his absence. His wife had to resort to using credit cards to pay for basic necessities. Lieutenant Colonel Poulten is one of the many examples of a reservist whose family and business faced financial struggles due to long mobilization.

Captain Marshall Hanson, USNR (Ret), Legislative Director of the Reserve Officers Association, discussed the consequences of mobilization and demobilization on military families and employers. He stated:

Families and employers play a large role in a citizen-warrior's decision on whether or not to enlist and to remain in the military. Employer pressure is cited as one of the top reasons why reservists quit military service.

We left military reservists who were personally impacted by Katrina out of this tax bill and this is wrong. After Monday's field hearing, I am convinced more than ever that we need to provide tax credits to small employers who pay reservists above their military wages and to help with the cost of a temporary replacement employee.

I thank Chairman GRASSLEY and Ranking Member BAUCUS for working with me to include wages paid to eligible reservists and guardsman as part of the employee retention tax credit. Unfortunately, we were not able to have this provision included in the final package.

I will continue to work on providing tax incentives for small business employers who have military reservists as employees. We must pass these tax incentives. If we do not make it easier for small businesses to employ military reservists, we will see a substantial decline in our reserve forces. According to published reports, the Army National Guard has missed its recruiting targets every month this year and appears certain to miss its third straight annual recruiting goal. Our military depends on these civilian-warriors. We need to recognize that the needs of our reserve forces are different than the needs of the career military. Our reservists did not sign-up for active duty, and they have been faced with long-term call ups and multiple call ups.

I do not understand why we cannot pass legislation which provides tax incentive to help employer's of civilian-warriors when we continue to pass tax cuts that just benefit the wealthy.

We need to do all that we can to help our reservists and the businesses that employ them to ensure that our great tradition of citizen soldiers does not fade or end because of the effect service can have on work and family in this time of crisis.

Mr. BENNETT. I ask unanimous consent the Senate concur in the House amendment to the Senate amendment and that the motion to reconsider be laid upon the table.

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

UNITED STATES COAST GUARD RESPONSE TO HURRICANE KATRINA

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 246, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 246) to express the sense of the Senate regarding the missions and performance of the United States Coast Guard in responding to Hurricane Katrina.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BENNETT. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 246) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 246

Whereas the United States Coast Guard has been charged by Congress with missions central to protecting the lives and well-being

of individuals and communities in the United States, including protecting homeland security, conducting search and rescue of lives in danger, protecting marine environments from pollution, maintaining maritime safety and aids to navigation, enforcing Federal fishing laws, and intercepting illegal drugs and migrants before they reach our shores;

Whereas the Coast Guard anticipated the potential for significant loss of life and property as Hurricane Katrina approached Louisiana, Mississippi, and Alabama and made landfall on August 29, 2005 and, in advance of the storm, relocated its personnel, vessels, and aircraft out of harm's way;

Whereas Hurricane Katrina made landfall as a Category 4 hurricane with winds reaching 175 miles per hour and massive storm surges, the combination of which left a trail of devastation unprecedented on United States soil, as it leveled countless homes, businesses, and other structures, displaced millions of people from their communities, and otherwise made coastal urban and rural areas unliveable;

Whereas the Coast Guard immediately deployed nearly 1,000 personnel, including captains, crew, pilots, rescue swimmers, pollution response teams, and other specialists and reservists, from stations all over the country, to coastal areas affected by the hurricane, for a total regional force size of approximately 3,619 personnel;

Whereas Coast Guard personnel who had never personally worked together before began to work as teams to conduct and coordinate search and rescue operations while Hurricane Katrina continued to bear down on the central Gulf of Mexico shoreline;

Whereas the Coast Guard rescued or evacuated 33,544 individuals as of September 21, 2005, a number that represents eight times the number of lives saved by the Coast Guard in an average year;

Whereas three Coast Guard pollution response Strike Teams responded to 1,129 pollution incidents as of September 20, 2005, which include total discharges of more than 7 million gallons of oil, unknown amounts of sewage, and unknown quantities of other toxic chemicals, and the Coast Guard has contained or otherwise closed 426 of these cases;

Whereas Coast Guard buoy tenders have responded to 964 discrepancies in buoys and other aids to navigation and have restored 39 of 48 critical aids to navigation as of September 21, 2005;

Whereas the costs of responding to Hurricane Katrina have depleted the Coast Guard's operations and maintenance budget for fiscal year 2005 and are rapidly depleting its budget for fiscal year 2006, and the Coast Guard's costs associated with this hurricane are anticipated to exceed $500 million;

Whereas the Coast Guard performed its hurricane response missions largely with outdated legacy assets, increasing the wear and tear on these assets while foregoing regularly scheduled maintenance activities in the interest of sustaining its surge in life-saving operations;

Whereas the Coast Guard already conducts its missions with the 40th oldest fleet of the 42 nations with Coast Guard or naval fleets;

Whereas the Coast Guard's program, known as Deepwater, for modernizing its fleet of vessels and aircraft, is vital for increasing the capabilities in performing its missions in the face of ever-increasing natural and human threats;

Whereas the Deepwater program requires sustained Federal funding commitments in order for the citizens of the United States to realize the benefits of the Coast Guard having state-of-the-art vessels, aircraft, technologies, and interoperable communication equipment;

Whereas in addition to covering operation and maintenance costs of a rapidly aging fleet, the Coast Guard needs to rebuild several Coast Guard facilities in Louisiana, Mississippi, and Alabama, including Station Gulfport which was completely destroyed and where personnel are now working in trailers amidst the ruins of that station;

Whereas the Coast Guard needs a strong Federal funding commitment to ensure that all of its unexpected expenditures during its response to Katrina are reimbursed;

Whereas more than 700 Coast Guard personnel stationed in the Gulf region lost their homes and all personal property and are now living on overcrowded Coast Guard vessels and in makeshift shelters;

Whereas before, during, and after the landfall of Hurricane Katrina, Coast Guard personnel exhibited determination and a full commitment to their missions, and the Coast Guard has proven to be one of the most resourceful and capable services in the United States government;

Whereas before, during, and after the landfall of Hurricane Katrina, Coast Guard personnel performed their missions with the highest level of bravery and self-sacrifice, and their effectiveness in performing their missions is unparalleled in the United States government;

Whereas the Coast Guard has an operational and command structure that allowed it to quickly take a leadership role in saving lives, without waiting for instruction or permission to act;

Whereas the Coast Guard's operational and command structure continues to serve as a model for other agencies that need to respond quickly to large-scale natural and man-made disasters;

Whereas the Coast Guard's effective leadership in responding to the aftermath of Hurricane Katrina, and the appointment of Vice Admiral Thad Allen as the primary Federal officer in charge of this response, is helping to restore the public's confidence in the Federal response effort: Now, therefore, be it

Resolved, by the Senate That it is the sense of the Senate that—

(1) the United States Coast Guard should receive Congress's highest commendation for its tremendous and highly effective response to the events surrounding Hurricane Katrina;

(2) the United States Congress should commit to providing the Coast Guard with the resources it needs to modernize and maintain its fleet of vessels and aircraft; and

(3) the Administration should ensure that the Coast Guard receives sufficient funding to cover its unexpected operational and capital costs associated with Hurricane Katrina.

MEASURES READ THE FIRST TIME—S. 1745 AND S. 1748

Mr. BENNETT. Mr. President, I understand there are two bills at the desk, and I ask for their first reading en bloc.

The PRESIDING OFFICER. The clerk will read the titles of the bills.

The legislative clerk read as follows:

A bill (S. 1745) to expand the availability of resources under the Community Services Block Grant Act for individuals affected by Hurricane Katrina.

A bill (S. 1748) to establish a congressional commission to examine the Federal, State, and local response to the devastation wrought by Hurricane Katrina in the Gulf Region of the United States especially in the States of Louisiana, Mississippi, Alabama, and other areas impacted in the aftermath and make immediate corrective measures to improve such responses in the future.

Mr. BENNETT. Mr. President, I now ask for their second reading and, in order to place the bills on the calendar under the provisions of rule XIV, I object to my own request, all en bloc.

The PRESIDING OFFICER. Objection is heard.

ORDERS FOR THURSDAY, SEPTEMBER 22, 2005

Mr. BENNETT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Thursday, September 22. I further ask consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then resume consideration of H.R. 2744, the Agriculture appropriations bill; provided further that the Senate proceed to a vote in relation to the Dayton amendment No. 1844, to be followed by a vote in relation to the Jeffords amendment No. 1796, with no amendments in order to the amendments prior to the vote. I further ask consent that following those votes, the bill be read a third time and the Senate proceed to a vote on passage of the bill, with no intervening action or debate. I also ask consent that following the vote, the Senate insist on its amendment, request a conference with the House, and the Chair then be authorized to appoint conferees on the part of the Senate.

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

PROGRAM

Mr. BENNETT. Mr. President, tomorrow, the Senate will return to the consideration of the Agriculture appropriations bill. Under a previous order, we will start voting shortly after 9:30, with the final vote on passage. There could be as many as three votes in the morning. Following those votes, the majority leader has indicated that we will proceed to the Military Construction bill. Additional votes will occur on Thursday as we try to finish that appropriations bill as well. Again, Senators are to be reminded that a series of rollcall votes will begin tomorrow morning shortly after 9:30 a.m.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. BENNETT. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:36 p.m., adjourned until Thursday, September 22, 2005, at 9:30 a.m.