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Senate

The Senate met at 11 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 Lord our God, You are the fountain of all wisdom. We will praise Your mighty deeds and Your power to save. Teach us how to trust You completely, for You are our mighty protector. Help us to see that You know our hearts and plan to prosper us and to give us abundant life. Guide us along right paths, so that we depend upon Your providence and follow Your precepts. Make us a nation that acknowledges Your sovereignty and seeks You in all of life's seasons.

Today, strengthen the Members of this body. May people be attracted by the strength and beauty of their lives. Let those who watch their deliberations be impressed by their impartiality and by their desire to always do right. Empower them to administer the affairs of this Nation faithfully and wisely. We pray in Your strong Name.

Amen.

PLEDGE OF ALLEGIANCE

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

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

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today we are convening for this unusual Saturday session with the hope of finishing our work and adjourning the 108th Congress. We anticipate the omnibus conference report will arrive from the House of Representatives today. In all likelihood that would be early to mid-afternoon. I hope we will be able to have a short period of debate and then proceed to a vote on adoption of that conference report.

Once the report arrives officially from the House of Representatives—again, I think it is going to be early to midafternoon, possibly around 2 o'clock—we would like to go to that bill at that point in time. As you can see before me, we have the copies, both here and each of the cloakrooms have several copies at this point in time. I know people have been interested and have been looking through the copies of that report. But we will be prepared to go to it this afternoon.

One of the issues we will be checking with also, over the course of the rest of the morning and early afternoon, is to ask Members how much time they do want to spend on debate and how much debate time will be necessary in order that we can advise our colleagues with regard to their schedules.

In addition, over the night—which was a long night for many people, both staff as well as Members, in bringing to a close the 108th Congress—there was a lot of work on the intelligence reform bill, the 9/11 intelligence reform bill. Huge progress has been made over the last 24 hours under the leadership, from the Senate side, of Senator COLLINS, joined by Senator LIEBERMAN and, indeed, they have done yeoman's work in bringing us to this point. So if that conference report becomes available, we may also be considering intelligence reform over the course of the day.

A third issue that we have spent a lot of time with yesterday and through last night and over the course of the morning is the nominations. People do not realize that in our calendar right now there are over 200 nominations pending that we either need to wrap up today or it will be in the next Congress. It is not 10 or 20 or 50 or 100; it is almost 200 nominations that have been held up for various reasons. But they made it to the calendar and I am very hopeful that over the course of the next several hours we can reach an agreement to address all 200 or so of those pending nominations. Many people are working on that. I just encourage our Members to continue to work on that.

These individuals have accepted the call to public service in many different capacities. Yet because of inactivity on the floor of the Senate, they are going to be just a name in that book where if we can act on that, they will be allowed to proceed. They have gone through the entire process. I know it is incumbent upon us to act. We just have to find a way to confirm these noncontroversial executive nominations before we finish our work.

MIDDLE EAST PEACE

I want to comment on two things. First is a resolution we passed yesterday, last night, in support of democracy in the Middle East. On November 12, the President of the United States and the Prime Minister of England articulated their joint resolve to press for a peaceful resolution to the Palestinian-Israeli conflict. Specifically, they support the creation of a Palestinian State that is peaceful, that is democratic, that is free, and that is based and grounded on the rule of law, that will include free press and free speech and an open political process and religious tolerance.

Last night, here in the Senate, we voted unanimously to ratify this vision. It is our hope that both parties to the roadmap will follow it to a peaceful resolution. With courage and determination on both sides, we believe, in fact we know, that peace can be achieved.

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

POLITICS OF DECENCY

One final issue I want to spend a few minutes talking about is the people's expectation of how this body should function as we come together after what we know have been tough, competitive elections. Two days ago I had the opportunity to travel with Senator DASCHLE and a number of Senators and House Members to the opening of the Clinton Library, and it was remarkable, while I was there, the number of people from other countries—there was a huge delegation from other countries—who came forward and spoke about the remarkable flexibility, pliability, resilience of America in coming together after tough elections, aggressive elections. Within a week or 2 weeks, we come together. That is what the American people expect and that is characteristic of America.

To accomplish the people's work, the Senate and Senators, the Members of this body, must work together and do work together. They must work toward consensus. They must conduct their affairs with respect for each other and with civility. They must practice those politics of decency.

In my office, just down the hall, one of my predecessor Republican leaders, Everett Dirksen, has a portrait on the wall there. It reminds me that he was often an ardent antagonist of Democratic administrations. He broke with some in his party to lead the Nation's Republicans in support of the laws that ended legal racial discrimination in this country. He acted because he knew he was doing the right thing and the reasonable thing and the moral thing. He acted because the Nation needed, the Nation deserved, racial equality, and in acting he had to work with members of the other party. Indeed, he did, and he could. He had strong personal relationships with President Lyndon Johnson and the Democratic leader, Mike Mansfield. He worked alongside them to pass the historic 1964 Civil Rights Act and the groundbreaking 1965 Voting Rights Act. But without his will to cooperate, in all likelihood, neither would have become law.

And Dirksen cared about keeping a civil atmosphere in Washington, DC. In 1969, he even rode in that Presidential inauguration with President-elect Nixon and President Johnson in an effort to smooth the troubled relationship between those two statesmen.

In the last 4 years, with civility and the will to work together, we set tough new standards in fields such as education, with No Child Left Behind. We created the Department of Homeland Security, again coming together and working on the issue with great civility. I have been proud to work with numerous colleagues on issues important to me—with Senator KERRY aggressively, over a period of about a year, on issues surrounding AIDS and malaria and tuberculosis. I was deeply proud to work with my distinguished colleague from Louisiana, JOHN BREAUX, as we fashioned over the last several years, culminating last year, a Medicare modernization package that extended, for the first time in the history of Medicare, prescription drug coverage to seniors; and with Senator RON WYDEN on flexibility and accountability in education, and Senator KENNEDY on issues surrounding public health and bioterrorism.

Throughout our history, indeed, America has been governed best when the women and men of the Senate—and I should also add the House of Representatives—and the Executive have treated each other with respect and with civility and with decency. A lot of it comes down to personal relationships, which a lot of people don't see but really is the heart of this body. Rule XIX says—I don't need to remind my colleagues of the clear message of rule XIX of this body:

No Senator in debate shall, directly or indirectly, by any form of words impute to another Senator or to Senators any conduct or motive unworthy or unbecoming a Senator.

The American people have sent us a clear message as well. They want to move America forward, but they want to make sure we do it in a way that shows respect for one another. They reelected a Republican President, chose significant Republican majorities in both the House of Representatives and the Senate, but regardless of whether we are Republicans or whether we are Democrats, we all take the same pledge, which our new Senators will be doing in early January, to defend the same Constitution. It is our duty to represent all Americans. The American people expect us to work together, the American people want us to work together, and they deserve to have us work together.

I know that all of my colleagues on both sides of the aisle share the same ultimate goal of a safer America, a more prosperous America, and a healthier America, and that none of us want to be thought of as blanket obstructionists to accomplishing this goal. We want to move with civility, with cooperation, working toward consensus. But all too often, as we all know—we have seen it in this body and outside the body and in committees—people tend to lean to partisan bickering. We need to move away from that because we have all seen that it does get in the way of our genuine, our shared desire to move America forward.

Many believe things have worsened over time here in comparison to the way it may have been 15 years ago or 30 years ago. It is true that Senators of different parties rarely get together, or clearly don't get together as much as they did in more distant times. We come together for floor votes and we come together for occasional Senate dinners and we come together for weekly prayer breakfasts, many of us, but clearly we haven't generated those opportunities nearly as much as they were in the past.

Every year, more and more people are commenting on the partisan divide and the bickering and the sniping back and forth. As my distinguished colleague, Senator DASCHLE, has said, it is not enough to say that society has become divided and throw up your hands. We have a higher responsibility, he says, and I quote his words, ''to try to bridge the divide, not simply mirror or exploit it.'' I simply could not agree with that more.

At the Clinton Library opening 2 days ago we had the opportunity to spend a couple of hours together. It was a tremendous ceremony, the opening of that library. But as we sat there, we very specifically talked about how best this institution can be served by moving toward greater civility, more opportunities for us to come together. Civility in this body has eroded over time, and it will take time and a renewed commitment, maybe a new commitment for many, but a renewed commitment to regain it. But we have got to begin.

I think we have a great opportunity to begin in the coming weeks. We have had other Members of this Chamber who have already begun much of this task. I want to highlight the recent bipartisan orientation sessions that the Senator from Delaware, Mr. CARPER, along with my colleague from Tennessee, Senator ALEXANDER, along with Senator MARK PRYOR and Senator GEORGE VOINOVICH, put together. When they first brought this idea to us, both Senator DASCHLE and I said: Yes, absolutely, let's do it. Indeed, over 4 days this past week, starting Sunday, Monday, Tuesday, Wednesday, the nine newly elected Senators from both parties were together for the better part of each and every one of those days addressing how they can best serve their constituents and, indeed, the American people. They were joined by their spouses. They had lively discussions. They had meals together. They had dinner and conversation well into the night each of these evenings. I think it is a tremendous foundation for what we all need to make a renewed commitment to do in the coming weeks and months in this body.

Tip O'Neill, who would sit and swap stories with President Reagan after hard days fighting on everything from appropriations to welfare reform, liked saying, in a quotation we all hear again and again, ''We should all be friends after 6 p.m.''

At the same time, we all know that in this body, we have two parties and we have two very different views of how to get to that common goal. So we don't expect Senators to compromise their principles in any way. We don't expect Republicans to stop being Republicans or Democrats to stop being Democrats, and it takes effective spokesmen on both sides of the aisle to articulate those principles. The principles we stand for both as parties and as caucuses do reflect some very different visions. In some cases, they can

be serious and in some ways quite fundamental, but when it comes to the details of policy, we can and should move together and have discussions with civility to move toward consensus.

We face an imperative to reduce the deficit by keeping spending in check, but without raising taxes and stifling job growth.

We must transform our health care system into one that puts people and their doctors first and puts the doctor-patient relationship in charge.

We do need to confirm judges who justly and independently interpret the law.

We can't move America forward unless we do these things, and we can't do these things unless we do work together. Doing this and improving the environment and the tenor of this body is going to require a lot of hard work. We will need more good ideas devised by Senators ALEXANDER, CARPER, PRYOR, and VOINOVICH.

We should give strong consideration to the proposals my colleague Senator DASCHLE made several months ago such as all-Senate policy forums to discuss the issues of the day, and bipartisan leadership meetings which bring leadership together. These are all great suggestions, fruitful suggestions, and great starting points and productive ideas.

Senator REID and I have already begun to discuss ideas on how to achieve this, again working together to make my ideas and his ideas a reality.

Senators on both sides of the aisle should know that as we approach these issues, accomplish this, and their ideas we ask them to bring forward.

In closing, the traditions, rules, and customs of the Senate rest on a foundation of civility. That is why we have rules that are in print, a body of rules. Then we have this whole element of tradition and precedent which is so important to this body.

We have essential work ahead of us as we all begin to plan and look at the next Congress. We are stewards of rich Senate traditions and stewards of constitutional principles that simply must not be undone. We are leaders elected by the American people for one simple purpose; that is, to move America forward. Doing it is going to require a lot of work. It will require a lot of consensus building, and above all it will require civility.

I look forward to working with our leadership and working jointly with the Democratic leadership to make that our goal and to implement and incorporate whatever we need to do in this body so we indeed can achieve that goal.

I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Ms. MURKOWSKI). Under the previous order, leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will be a period of morning business with Senators permitted to speak for up to 10 minutes each.

ORDER OF PROCEDURE

Mrs. HUTCHISON. Madam President, I wanted to ask if we could put an order in place, that Senator ALLARD speak first, then myself, and Senator ALLEN. I would like to protect our places, if that would be possible. I ask unanimous consent that Senator ALLARD be recognized, after which I would be recognized, after which Senator BOND would be recognized, then Senator ALLEN and Senator STEVENS.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Colorado.

COMMENDING THE MAJORITY LEADER

Mr. ALLARD. Madam President, first of all I would like to recognize the strong leadership that we receive from the majority leader. I think he needs to be complimented for his inclusive leadership. We have accomplished a lot this session because of his efforts.

TRIBUTES TO RETIRING SENATORS

BEN NIGHTHORSE CAMPBELL

Mr. ALLARD. Madam President, I take a moment to talk about 4 colleagues whom I have had an opportunity to serve with in the Senate.

First of all, I want to talk about my colleague from the State of Colorado, who is not going to be with us as we go into the waning days of the 108th Congress.

I had an opportunity to get to know BEN CAMPBELL in the Colorado General Assembly. In 1982, he was elected to the State house and I was elected to the State senate. It was not long before the buzz in the Capitol was all about this great Native American whom we had serving in the State house who brought to the Capitol some common sense from western Colorado, an individual who in his own right had already gained some national notoriety.

Senator CAMPBELL came from a family that was somewhat dysfunctional. It was a poor family. He joined the Air Force. While he was serving in the Air Force, he had an opportunity to get his GED. He served in Korea. While serving in the Air Force, he also spent some time in Japan where he received some judo training. He became a member of the first Olympic judo team representing the United States. He had the distinction of carrying the flag representing the whole United States entourage that was there participating in the Olympics.

This individual brought a considerable amount of national notoriety to the Colorado General Assembly. But he became even more respected because of his firm conviction, his hard work, and his commitment to small business, and to water issues of the western slope in the State house district he represented. In fact, having finished his first term, he was recognized as one of the 10 best legislators in the Colorado General Assembly. He had an opportunity to serve for about three terms and took on an incumbent congressman. He won that particular race and ended up in the U.S. House of Representatives in 1986; then got elected to the U.S. Senate in 1992, and reelected in 1998.

During this period of time, I had an opportunity to be able to establish a personal relationship with Senator CAMPBELL in the State legislature. I respect a lot of the values he brought to the legislature. I had an opportunity to work with him for a short period of time in the U.S. House of Representatives. He certainly was a team player and somebody whom I felt I could work with. I looked forward to the opportunity when I could serve with him in the Senate. While serving here in the Senate, we became known as a team representing the interests of Colorado, which has been pretty effective. A lot of the issues that are important to the State of Colorado we were able to accomplish. A lot of it was because he was willing to take on the responsibilities of the Appropriations Committee. Representatives from Colorado ordinarily didn't seek out these committees, but he made a big difference.

I consider it a great pleasure to be able to serve with him. I consider him family. Not only are we close friends, but my niece married his son. I have the greatest respect for the Campbell family. They are great Americans and I am pleased to be considered part of his family.

DON NICKLES

Mr. ALLARD. Madam President, I also want to take a moment to talk about another colleague, DON NICKLES, who has had a long and distinguished career as we move into the waning days of the 108th Congress.

He brought to this Congress a perspective from the private sector. I am a small businessman. I grew up in the private sector. In my view, too few of us have had to meet the challenges and meet a payroll. I think it affects how you view rules and regulations and taxes.

Senator NICKLES from Oklahoma became a strong advocate of small business issues and worked hard to hold down the tax burden and regulatory burden.

I had an opportunity to serve with him when he was chairman of the Budget Committee, and I very much appreciated his leadership on that committee.

I also appreciated the opportunity to be able to work with him in holding down and actually eliminating the death tax which has such devastating effects on small business.

During his many years here in the Congress, he has been an individual who maintained integrity in the process.

PETER FITZGERALD

Mr. ALLARD. Madam President, I want to express my appreciation for the hard work of PETER FITZGERALD. I am disappointed he is only serving one term in the Senate. It is a voluntary decision that he made to step down after one term.

His family has business interests in Colorado. I have enjoyed working with him, particularly when we served on the Agriculture Committee, and I began to respect his values as well as his work ethic.

ZELL MILLER

Mr. ALLARD. Madam President, I wish to take a moment to recognize ZELL MILLER, who replaced Paul Coverdell. He is someone I have grown to admire during my service here in the Senate. He is a principled individual and truly represents his great State of Georgia.

With each day of this session, I continue to admire his strength and tenacity and ability to stand up for what he believes is right.

I view these four individuals as four individuals who have distinguished themselves in my mind and four individuals whom I have appreciated having the opportunity to serve with in the Senate and whom I hold in great esteem. I wish them the very best as they pursue life's journey, having served in a distinguished way in the Senate. I wish them the very best and Godspeed.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Madam President, I rise to say goodbye to several of my colleagues, dear friends and colleagues with whom I have had the pleasure to work in the Senate.

DON NICKLES

I start with Senator DON NICKLES. We say goodbye to DON NICKLES of Oklahoma who leaves after spending 24 years in the Senate, but not spending much else. As chairman of the Budget Committee, his philosophy of smaller government and fiscal prudence often reminded this Chamber of our duty to be good stewards of the taxpayer dollars. DON did not back down but always held his ground, demonstrating his perseverance and conviction.

He was first chosen by his colleagues for a leadership position in 1988 as the chairman of the National Republican Senatorial Committee. He was next elected to the first of three terms as chairman of the Republican Policy Committee, and in 1996, 1998, and 2000, he was elected unanimously to be assistant Republican leader.

He was the principal sponsor of the 2003 economic growth package which cut the tax on dividends, reduced the capital gains rate, raised the child tax credit to $1,000 per child, and reduced the marriage penalty. My friend also led efforts to reform the Internal Revenue Service. He helped enact the Nation's first balanced budget in three decades and passed laws to make Members of Congress accountable to the same laws as everyone else.

On a personal note, he worked with me on the marriage penalty. I could not have passed my bill to reduce the marriage penalty on married couples in our country without DON NICKLES' strong backing and leadership.

I will never forget the first time I met DON. It was at the Republican National Convention in Dallas, TX. DON was a young man and he had just been elected to the Senate, and everyone was referring to him as Senator. I assumed, because he was so young, that he must be a State senator. As I left, I said to him, you must have a long and great career ahead of you. I am sure you will run for higher office some day, thinking he was a State senator. But, in fact, he was a U.S. Senator already and was the youngest Member at the time.

He is the gold standard for principled conservatives who stand tall for their beliefs and work hard for their constituents.

As a Texan I may say there are times I am not fond of certain Oklahoma college football teams, I have always been proud of Oklahoma's DON NICKLES and honored to call him a neighbor.

BEN NIGHTHORSE CAMPBELL

Senator BEN NIGHTHORSE CAMPBELL is one of the best friends I have in the Senate. I am particularly going to miss him. He commands more attention than a Harley Davidson with straight pipes.

He brought a wealth of experience and perspective to the Senate that enriched all of our deliberations. Let me list, in no particular order, some of these experiences. He was a fruit picker, a deputy sheriff, the captain of the U.S. judo team in the 1964 Tokyo Olympics. He is a horse trainer, a rancher, a fabulous jewelry artist, and chief of the Northern Cheyenne tribe.

He also has served the people of Colorado as their Senator, both as a Democrat and a Republican. He is a renaissance man in every sense of the word. He can ride a Harley Davidson like a genuine biker because he is the real thing. On his motorcycle or on the Senate floor in his pony tail and sunglasses or in his business suit, he has unabashedly defended the values and interests of Americans of all incomes and backgrounds. This stems from his pride in our great country.

I remember when he decided it was time for the Capitol Police to buy American and trade in their Japanese-made motorcycles for Harleys. He said in his typical upfront style that the Japanese bikes made the police look like ''pizza delivery boys'' and they are not fast enough to catch crooks. Needless to say, the Capitol Hill motorcycle police are now equipped with Harleys.

One of BEN's most prominent contributions is now visible on our mall, the National Museum of the American Indian. He initiated the legislation to found this museum within the Smithsonian, and the beautiful building housing priceless collections of American Indian artifacts and art work is a tremendous legacy of BEN NIGHTHORSE CAMPBELL: my friend, my colleague, and biker buddy.

PETER FITZGERALD

It is often an uphill battle for a freshman Senator to make an impact, but Senator PETER FITZGERALD, a former commercial banking attorney, has chaired or led investigations of corporate accounting fraud, mutual fund industry abuses, chronic underfunding of employee pensions and waste, fraud and mismanagement in Federal agencies.

In 2004, he proposed comprehensive, bipartisan mutual fund reform legislation to protect the household, college, and retirement savings of 95 million Americans. This bill, endorsed by consumer groups and reform-minded industry leaders, points the way for future legislation on this subject.

The Senator also focused on consumer safety issues. In 2000 he led a successful drive to modernize outdated Federal testing and safety standards for child car seats. In 2002, he drafted and President Bush signed into law a followup measure known as Anton's Law, to upgrade Federal testing and standards for child booster seats and to require automakers to improve car safety features.

I wish him well in his future endeavors.

TOM DASCHLE

I wish Senator TOM DASCHLE well as he moves on to new challenges. As his party's leader in the Senate he was smart and determined. TOM is an exemplar of the American story. He grew up as the eldest of four brothers and became the first in his family to graduate from college, with a political science degree from South Dakota State University.

He then served 3 years as an intelligence officer for the U.S. Air Force Strategic Air Command.

He secured a job as an aide to South Dakota Senator James Abourezk. From there, he rose to the highest job in the Senate, Senate majority leader.

TOM DASCHLE married Linda Hall and they are the parents of three children. He is proof that hard-working Americans can make a difference.

FRITZ HOLLINGS

From the day I first arrived in the Senate, until today, Senator HOLLINGS has been a force in the Senate. His institutional memory, his command of the issues, and his speaking style are recognized from both sides of the aisle.

He has been a tireless advocate of his State and his political beliefs, earning him a role as one of the Senate's elder statesmen.

Senator HOLLINGS fought in World War II, won his first election at age 26, served as the youngest Governor of his

State, and was elected to seven terms in the Senate. Incredibly, FRITZ HOLLINGS was in public service since 1948 and somehow managed to be his State's junior Senator until 2 years ago. It must be something in the water in South Carolina.

During his career, Senator HOLLINGS has had an impact on a wide range of legislation, including measures to protect the environment, balance the budget, and update telecommunications law.

I am very appreciative of his initiation of a nationwide effort to combat breast and cervical cancer by utilizing his seat on the Appropriations Committee to secure funding for a pilot screening program. This will be one of the many lasting legacies of FRITZ HOLLINGS.

BOB GRAHAM

Senator BOB GRAHAM, a former two-term Governor of the sunshine State, has compiled a record of achievement in the Senate which included portions of the PATRIOT Act. When it comes to environmental, tax, energy, and education issues, he has been a strong voice in Congress.

One of the greatest legacies of Senator GRAHAM is the Florida Everglades. The rich flora and fauna of the Everglades were threatened by development, but then-Governor GRAHAM pushed through legislation to protect it. Future generations of Americans who visit the Everglades should remember his contribution to saving this national heritage.

JOHN BREAUX

Madam President, Senator JOHN BREAUX is a voice of moderation and bipartisanship. He helped pass landmark welfare reform under a previous administration, and has consistently been able to work with Members of the other side of the aisle whether his party has been in the majority or minority.

His commonsense approach to energy legislation and many other issues will certainly be missed. He helped defeat the Btu tax which was so injurious to the energy industry in both my State of Texas and his State of Louisiana.

Senator BREAUX was the youngest Member of the House of Representatives when he was elected, at age 28, in 1972. He served in the House for 14 years before being elected to fill the legendary Senator Russell Long seat in 1986. You would think Washington would change someone after all that time, but John is still a Cajun through and through and sees the world with a sense of humor that keeps everything in perspective.

I will miss JOHN BREAUX. He was often an ally on transportation, energy, and telecommunications issues. Even when we were on opposite sides in a debate, he brought wisdom, experience, and a willingness to work in a bipartisan fashion to the Senate.

And no, JOHN, Louisiana cannot annex Texas.

JOHN EDWARDS

Madam President, we must also say farewell to a freshman Senator who is now a household name in the United States. No one who has met JOHN EDWARDS can fail to like him and respect him.

Senator EDWARDS rose from humble beginnings to come close to being elected Vice President of the United States. The first member of his family to gain a college education, he went on to earn a law degree from the University of North Carolina at Chapel Hill. He built a hugely successful law practice before he entered public service.

Senator EDWARDS was a chief sponsor of the bipartisan Patient Protection Act, strong and far-reaching patient protection legislation that passed the Senate in 2001. He has a long career ahead of him and will do well on whatever path he takes.

Finally, I want to let Senator EDWARDS know that he and his wife Elizabeth are in my prayers every day.

ZELL MILLER

Madam President, it is hard to say how much I appreciate ZELL MILLER, a proud Democrat and a great American. Senator MILLER's early life was not easy. He grew up in the hills of Georgia where people may not have had much but they worked hard and had strong families and solid values. He pulled a stint in the U.S. Marines, which he said put him on the right path in life. His colorful career in Georgia politics included two terms as Governor. When U.S. Senator Paul Coverdell, my great friend, died unexpectedly, ZELL MILLER was appointed until a special election could be held, which he won handily.

After he arrived in Washington, Senator MILLER was one of the few who not only talked the talk of bipartisanship but walked the walk. During the war on terror, he advised bipartisan action on the Homeland Security bill. He called for bipartisan support for traditional American values, a lower tax burden, and a strong American defense.

I think the verdict on Senator MILLER's stand for old-time Democratic values has been vindicated, first in the 2002 elections and lastly in the 2004 elections. Someone who is being friendly tells you things you want to hear, but a true friend is one who tells you things he thinks you should hear. ZELL MILLER is that kind of friend to both Democrats and Republicans. He will be missed in this August body, as one of those who told it like it is, straight from the heart.

Madam President, I will miss all of my colleagues. As we take the opportunity to go forward in a new Congress, we will make new friends, but we will never forget the old ones.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

INDIVIDUALS WITH DISABILITIES EDUCATION ACT

Mr. BOND. Madam President, I begin today on a happy note to say, after a lot of hard work in the Health, Education, Labor, and Pensions Committee, we have brought forth an excellent product. Thanks to the leadership of Senator GREGG and Senator KENNEDY, we have produced a solid, bipartisan conference report which protects the educational rights of children with special needs while at the same time making the Individuals With Disabilities Education Act more workable for parents, teachers, school administrators, and school districts.

While IDEA, as the bill is known, has helped to open the doors to many children with special needs since it was enacted in 1975, there is no question about problems existing.

Over the last half dozen years, I have traveled around the State of Missouri and met, in over 50 different communities, with teachers, school principals, school board members, and parents to find out what the challenges are in education. No surprise that you would come to hear that it is not just that they want more Federal money, they want sense in the Federal regulations. They told me horror stories about the regulatory hurdles they had to overcome to administer some of the Federal programs, especially IDEA. The IDEA was more focused on complex rules than on producing the results that children with disabilities and their families deserve.

I have heard story after story about frustrated special education teachers just throwing up their hands and saying: I can't take it anymore. I came to serve special needs children, not a bureaucracy, and not to be involved in litigation all the time. I have hared about crushing paperwork burdens, children misidentified for special education, that the Federal Government is not paying its fair share of the cost.

The conference report we adopted yesterday is a very important step to address these concerns, to strengthen and improve IDEA for both children and the educational system. We believe it will strengthen the accountability and results for children with disabilities, reduce IDEA paperwork burdens, provide greater flexibility for school districts, reduce the number of children wrongly placed in special education classes, reduce litigation, and restore trust between parents and school districts.

I am particularly pleased to tell you that many of the ideas contained in this legislation were developed in Missouri. When I heard the complaints of Missouri educators, I met and talked with the Missouri School Board Association, which put together a multimonth planning conference with representatives of the teachers, of the special needs community, and others to come up with specific ideas and reforms. The Missouri School Board Association's Special Education Advocacy Council and the Missouri Council of Administrators of Special Education came forward with proposals that I took to the committee, and the committee was able to include most, if not

all, of those in the final legislation. So once again, the best ideas we get here come from home. I thank all of the committed education professionals and friends of special education who worked on it.

I am particularly pleased with the significant reforms which will focus special education on educating children with special needs, not simply complying with a system composed of intricate and complex regulatory and mountainous paperwork burdens.

Special education teachers, as I indicated, are leaving the profession out of frustration because of the unnecessary burden, and that is causing a chronic shortage. More time on paperwork means less time spent with students or preparing lessons for students. It is as simple as that. The numerous reforms in the bill will go a long way to free our time of special educators.

Again, my thanks to Senator GREGG and Senator KENNEDY, and on my on staff, Kara Vlasaty and Julie Jolly for helping us come up with an excellent product.

TRIBUTE TO KOMNINOS ''GUS'' KARELLAS

Mr. BOND. Mr. President, the other matter I need to speak to today is a very sad note. There is a funeral going on in my hometown of Mexico, MO, today, as we speak, for a very good friend of mine, Komninos ''Gus'' Karellas. There is a celebration of his life in a community which has mourned him in the last several days.

You heard on the floor from my colleague, Senator TALENT, words about Gus, a tremendous American success story. He was an immigrant from Greece. He came here with nothing 40 years ago. He started out working for others. He started out in California, came to Iowa, then Columbia, MO, and then moved with his wife to Mexico, MO, in 1970, to work in a steakhouse. A year later, they bought that steakhouse.

For the last 33 years, Gus Karellas's G&D Steakhouse has been the place to go for good steaks. I know it because I have been one of the frequent visitors there.

I came to know Gus as the community of Mexico, MO, came to know Gus. What a warm, genuine human being Gus Karellas was. He was a leader in his community. He helped charities like Boys Town. But he also did a wonderful thing in the community because he reached out to young people with difficulties, gave them opportunities as busboys and other jobs in his restaurant.

Unfortunately, the allegation in the police report was that it was one of those, or maybe several of those, who murdered him several nights ago to take the receipts from his business. We do not know what was in their troubled minds, but I can tell you that the community has lost a man of great dedication, great service.

Gus was a wonderful father. One of his sons, Nick Karellas, serves as a legislative assistant in my office. Another son, Andy, serves as a legislative assistant to Senator TALENT. JIM TALENT and I see every day the work ethic, the commitment, the dedication that Gus instilled in his children. He is a man who has left a very large mark on his community, and he has left a legacy that all of us can admire and recognize.

In the Omnibus appropriations bill that we will be passing today, there is a grant for a trail at Lakeview Park in Missouri. I suggest that the city fathers of my hometown consider naming that in honor of Gus Karellas to recognize not only his accomplishments but his contributions to the community and to his family.

I can only say that our thoughts and prayers are with the Karellas family. We join with the community in saluting his life, the great role model he was, the good he did for the community, and we will miss him sorely. They will also be in our thoughts and prayers.

I yield the floor.

The PRESIDING OFFICER (Mr. ROBERTS). The Senator from Virginia is recognized.

Mr. ALLEN. Mr. President, I ask unanimous consent to speak in morning business for as much time as I may consume.

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

TRIBUTES TO RETIRING SENATORS

Mr. ALLEN. Mr. President, I want to share my views, as did Senator HUTCHISON and others, about our colleagues who are leaving for new adventures in life.

I wish all the best to Senator HOLLINGS. We will miss his booming voice. We will miss Senator EDWARDS, Senator GRAHAM of Florida, and Senator DASCHLE. We will also miss JOHN BREAUX, a man we know will enjoy life with his good common sense and sense of humor. He is a good friend.

I want to speak about four others, though, including PETER FITZGERALD, whom I will miss. He will always be known for two ideas and principles of life—honesty and integrity. He has certainly fought hard for what he believed was right, and you can always trust his word.

BEN NIGHTHORSE CAMPBELL is a unique, proud leader of heritage. He is a man of principle. I look at BEN NIGHTHORSE CAMPBELL as one who runs on his own gear ratio. He is a character with character, whom I will certainly miss.

DON NICKLES—gosh, what a smart, principled leader. He will be missed. He is a taxpayer's hero. Last night, my wife and I enjoyed the Allen Jackson concert in DC. And that makes me think of country music. DON NICKLES is one of the reasons God made Oklahoma. We will miss DON NICKLES.

ZELL MILLER is probably the colleague that I have known the longest. He and I served at the same time as Governors of our respective States. He was always one of my role models. We got to know each other very well in the Southern Governors Association. Before I came to the Senate, one of the people who motivated me to go to the Senate was Paul Coverdell. ZELL took his seat and his office. When I came in, ZELL gave up that office, and now I am in ZELL MILLER's and Paul Coverdell's former office. I will think of ZELL a lot in the future. Two years ago, when ZELL announced his retirement, or that he was not going to run again, some were saying ZELL MILLER is a lame duck. Well, on this floor, at our convention in New York City, and throughout this fall, ZELL MILLER was anything but a lame duck. ZELL MILLER leaves office as a ''mighty duck.'' We are going to certainly miss ZELL. We know he will stay active.

TELECOMMUNICATIONS REFORM

Mr. ALLEN. Mr. President, I want to discuss two important ideas and issues that are essential, I think, for America's future and our opportunities. First, I thank my colleagues in the House and the Senate for support of S. 150, the Internet Tax Nondiscrimination Act.

Second, I want to discuss the significant advances in broadband Internet technologies over the past 8 years, particularly since the passage of the 1996 Telecommunications Act.

I thank the chairman of the Commerce Committee, Senator MCCAIN, and the Senator from Oregon, Mr. WYDEN, for their continued leadership on the Internet tax moratorium. I have enjoyed working both with Chairman MCCAIN and Senator WYDEN over the years on numerous technology-related projects, such as nanotechnology, WiFi, unsolicited commercial e-mail, or SPAM and SPYWARE. They are great teammates on these telecommunications and technology issues, and I thank them.

Yesterday afternoon, the House of Representatives passed S. 150, the Internet Tax Nondiscrimination Act, which cleared this important legislation for the President's signature later this year. As colleagues have heard me say on many occasions, the moratorium on Internet taxation has been one of my top legislative priorities since coming to the Senate. I have held this position since 1997, in my days as Governor of Virginia, when I was one of only four Governors to share the view in support of the visionary leadership of Congressman CHRIS COX and Senator WYDEN on this issue of Internet taxation.

I have consistently advocated policies and ideas that promote freedom and opportunity for all Americans. This legislation, S. 150, authored with Senator WYDEN, protects every American from harmful, regressive taxes on

Internet access, as well as from duplicative and predatory taxes on Internet transactions.

Today, the winners are the American people. I am very pleased to see that this measure was a victory for those of us who stand for freedom, opportunity, and prosperity, rather than more taxation and burdensome regulations of the Internet. This legislation is a real victory for American consumers, small businesses, rural Americans and, most important, low-income families. It is the result of a hard-fought success that extends the tax moratorium for another 4 years, from the time the last one expired until October 31, 2007.

Additionally, this legislation updates the previous moratorium to protect all types of Internet access platforms, including dial-up, satellite, cable modem service, DSL, wireless technology, and even next generation broadband networks, such as broadband over power lines.

Basic economics indicate that for every dollar of taxation added to the cost of Internet access, we can expect to see lost utilization of opportunities for the Internet for thousands of American families, especially those in rural areas and those of lower income.

With clear tax protection at the Federal level, S. 150 ensures that a complex, costly, and outdated telephone-like tax regime, which averages about 15 percent to 18 percent nationally, will not be imposed on Internet consumers. The guiding principle of the Internet tax moratorium has always been that the Internet should remain as accessible as possible to all people in all parts of the country forever. The Internet is one of our country's greatest innovations for individual empowerment, economic growth, and jobs.

So extending the tax moratorium and protecting all types of broadband technology platforms puts this country one step closer to closing the economic digital divide. The fact of the matter is—there are more Americans empowered by the Internet today, primarily because the Federal policy of the United States has consciously allowed Internet innovators, entrepreneurs, and consumers to remain free from burdensome, onerous taxation and unnecessary regulation.

I am honored that the majority of my colleagues in the Senate and the House have agreed to preserve this policy for another 4 years with the passage of S. 150. I thank all for their support.

BROADBAND AND TELECOMMUNICATIONS REFORM

Mr. ALLEN. Mr. President, I would now like to discuss the exciting changes that have taken place over the last 8 years in the telecommunications industry, in particular with regard to broadband Internet technologies.

As many of us know, the 1996 Telecommunications Act was the first major overhaul of the communications policy in over 60 years. Since the passage of that law, remarkable changes have occurred in the technologies used to deliver telecommunications services. Some of these changes may be products of the 1996 act. However, many are due to the tremendous explosion of new and advanced broadband technologies.

Specifically, the Internet or digital technologies are replacing the slower legacy communications networks with multiple high-speed broadband platforms. For example, DSL, cable modems, 3G wireless, WiFi, ultrawide band, satellites, broadband over power lines, are all advanced communications networks delivering the same services and many more services, not just data, not just voice, but also video.

Broadband is widely considered the future of communications because it enhances the consumers' experience on the Internet and will have a tremendous impact on our country's economy.

By 2006, economists at the Brookings Institution estimate that widespread high-speed broadband Internet access would increase our national gross domestic product by $500 billion annually.

The Internet and the broadband revolution are opening up a whole new world of opportunity that did not exist prior to the Telecommunications Act of 1996. By almost any measure, consumers are better off and have more choices now than ever before. These advancements have actually outpaced the laws and especially outpaced the economic regulations governing the communications industry because new Internet-enabled services do not easily fit into the stovepipe regulatory model of the 1996 act.

Unfortunately, the regulatory treatment of a given broadband provider depends on the particular platform that provider uses to offer their service. DSL providers are regulated entirely different from wireless broadband providers or cable modem service providers. All of these platforms deliver the same service—broadband Internet access. Yet all are regulated completely different from the other.

This type of regulatory regime picks technology winners and losers, creating, in my view, a competitive advantage for certain technology platforms over others. A number of my colleagues have called to revisit and potentially rewrite the telecommunications law, and I commend them for their leadership on these issues.

I believe any rewrite of the telecommunications law must take into account the transformative and positive impact broadband technologies have on the future of communications.

In considering what the next Telecommunications Act should look like, I am guided by a few foundational principles.

First, we should favor innovation and freedom over regulation. I call myself a commonsense Jeffersonian conservative. I trust free people, free enterprise, and free markets to allow them to innovate and create opportunities for all Americans to advance, compete, and succeed. Nowhere is this more true than with the Internet.

Restraining from regulating the economics of Internet applications has served consumers well with the advances in the Internet technologies, such as voice-over-IP or voice-over-Internet protocols. Entrepreneurs are a Web site away from offering phone services better than those offered by traditional telephone providers.

Virtually every consumer with broadband Internet access can now choose among potentially hundreds of telephone service providers. Internet applications are bringing new competition to old markets which means more innovation, lower prices, and higher quality of service for consumers who also can easily move to any other vendor if they get dissatisfied with any of those providers.

As elected leaders, we should ensure that our policies embrace and encourage this type of innovation and continued advancement.

Second principle: Support a competitive level playing field over fragmentation and ditches. As a former Governor of Virginia, I am an ardent supporter and believer in the principles of federalism. Our Founders, though, wisely realized, when constructing our Constitution, the importance of a coherent national policy regarding matters affecting interstate commerce.

Certainly, one of the great attributes of the Internet is that it is not limited by the boundaries of States or local governments. It is actually not even limited by the boundaries of countries. By its structure and unique architecture, it is clearly, though, interstate commerce and, indeed, international commerce.

I am reluctant to support policies that encourage the fragmentation of telecommunications regulation to State and local authorities, especially as communications transition to a digital format.

Third, and last, let's make sure we keep it clear and keep it certain. One of my biggest concerns with the 1996 Telecommunications Act is that it has brought forward a tremendous amount of litigation and legal uncertainty. This ongoing litigation and regulatory uncertainty has slowed the deployment and potentially stifled the advancement of future high-speed broadband networks. Any revision to the 1996 Telecommunications Act should contain clear, simple, coherent legislative principles that provide legal certainty and regulatory clarity for business models and also for the capital investment decisionmakers.

It has been the policy of the United States to promote the continued development and deployment of the Internet. The broadband revolution is bringing tomorrow's communications and commerce tools to more and more

Americans every day. These new opportunities for consumers are also providing new opportunities for our Nation's economy in terms of job creation, productivity gains, and innovation.

It is my great hope that as the Senate considers these important issues and potential telecommunications reform next year, we do so mindful that consumers are enjoying more choices, better value, and more personalized products in the Internet age than ever before, primarily due to the advances of broadband technologies.

I ask my colleagues to stand strong for freedom, for clarity of purpose, and we will see more investment and more jobs. I look forward to working with my colleagues for these exciting advancements in the future. We must keep adapting, keep innovating, and keep improving for the competitive benefit of the American people.

I thank the Chair, and I yield the floor.

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

Mr. ALEXANDER. Mr. President, I salute the Senator from Virginia for his leadership on telecommunications policy. Over the last 2 years, I do not know any Senator in the Chamber, other than the Senator from Virginia, who has been more active, who has been better informed, and who has been more vigorous on the principles in which he believes. He was the leading Senator in advancing a compromise. It was his legislation, S. 150, which a number of us cosponsored, which the House has accepted, which has taken the next step in how we deal with the so-called Internet tax moratorium.

I was glad to have a chance to hear his remarks today as he talked about that and as he looks to the future, and I would like to add my own thoughts because during this past 2 years we have had pretty vigorous debate as we have made our way toward a compromise. It has been a debate in the best traditions of the Senate. We have had it on the floor. On one occasion the Senator from Virginia and I took our points of view to a forum off campus, so to speak, went over to the Heritage Foundation and had a debate. In that debate, we actually learned some things from each other, which shows that when Senators debate and speak, we find some points of common agreement. I think that debate itself helped lead toward the compromise we have made.

I believe the compromise, S. 150, of which Senator ALLEN is the principle sponsor, is important. No. 1, it is temporary, not permanent. This is a fast-moving technology and field. As Senator ALLEN pointed out in his remarks, the 1996 Telecommunications Act in some ways is obsolete today because high-speed Internet access, or broadband as we call it, was barely even known in 1996. It is no insult to the Members of the Senate to say I doubt if many Senators ever heard of it in 1996, because most Americans had not heard of high-speed Internet access. Very few people were using it.

So the legislation did not contemplate this rapidly growing new technology we have. That is one reason why I felt in the debate that it was good to have a temporary, rather than a permanent, moratorium on what States may do about applying their taxes to Internet access so that the Commerce Committee of the Congress could consider a long-range permanent policy.

S. 150, which has passed this year, this compromise, as the Senator from Virginia said, allows States to continue collecting taxes on the Internet and to continue to do so for 2 to 4 years, depending on the type of access.

One other important thing it does is it makes clear that State and local governments can continue to collect taxes on telephone services even if telephone calls are made over the Internet.

Now, that is a very important development. Most observers believe that certainly most businesses—and maybe most all of us—will soon be making our telephone calls over the Internet. That is a wonderful opportunity and a great advance. I believe there is general consensus among all of us who debated this issue over the last 2 years that in order to make sure that happens, the Government needs as much as possible to get out of the way. That means a different kind of regulation than we now have for what we call traditional telephone services, the plain old telephone.

Where I was concerned about the legislation that was going through the Congress was not about whether we should lighten up on regulation—I believe we should—the question was whether from Washington, DC, we should tell State and local governments that they may not apply the same sales taxes and other use taxes to telephone calls made over the Internet that they apply to other telephone services. We did not change that with the temporary legislation we passed this year, but it is bound to be a big subject of discussion in the new Congress.

Now here is why it is so important: I believe gradually we are making it more difficult for State and local governments to do the things we want them to do. The Senator from Virginia and I are both former Governors. We know many of the things Americans want most from their government, they want from their State and local government. They do not want decisions made up here. So one of my goals is to make sure we do no harm to State and local governments while at the same time we are trying to make sure we do no harm to this exciting new technology, broadband, high-speed Internet access.

My fear was we might unwittingly in this legislation stop Texas, Tennessee, or Florida, for example, States that have no State income tax, from using their sales tax on telecommunications services. Last year, Texas collected $1 billion on sales tax on telecommunications services. Florida collected about $1 billion. Tennessee, according to the Department of Revenue, collected $361 million on sales taxes on telecommunications services.

Now, not all of that is threatened by telephone calls over the Internet that might not be subject to the same taxation, but gradually, and it may come very rapidly—actually, we hope it comes rapidly—and if people move to this new technology, make their telephone calls over the Internet, and suddenly the Texas State budget has a $1 billion hole in it or a $750 million hole or a $500 million hole, what do they do about it? Well, they raise tuitions at the University of Texas or University of Tennessee, they reduce services, or they raise other taxes.

So my primary reason for becoming involved in the Internet tax debate, so-called, was to try to make sure we did not do here what I never did like when I was a Governor, which was to look up to Washington and see Members of Congress coming up with a good idea, passing it, taking credit for it, and sending the bill to me when I was Governor. I did not like that.

My whole point was if we are going to stop States from collecting a source of revenue they are now collecting, then we should pay the bill from Washington. In other words, that is an unfunded Federal mandate, in my opinion. We did not get to that problem because we reached a compromise for now, but that is the debate coming up in the future.

Will we take some action in the name of making it easier for high-speed Internet access that does real, serious harm to State and local governments by depriving them of billions of dollars of revenue, which in turn could cause the sales tax in Blunt County, TN, to go up, or the property tax to go up or, heaven forbid, Florida, Texas, or Tennessee to have to put in a new State income tax because Washington has told us we cannot have a sales tax on telecommunications services and we still like to have universities, parks, roads, and the other services States are supposed to provide.

So now how do we go from where we are today, which Senator ALLEN has helped to craft a compromise we have all supported, and which is a very excellent piece of legislative work by him and by others, and what is the next step? He has offered a few suggestions about telecommunications in general. Let me reiterate a single suggestion I have about this specific issue about whether State and local governments will be permitted to tax telephone calls made over the Internet.

I would like once more to encourage the Governors, the mayors, and the county executives to meet with the telecommunications industry and suggest to us in the Congress a way to do

this. This is a highly technical subject. It has many moving parts. This is not the best place to come up with a complex reaction to a complex problem. We would like to see some options, or at least I would.

The option I would like to see would have basically two parts. One would be lighten up the regulation on high-speed Internet access. There is a broad consensus about that. But do it in a way that does no harm to State and local governments, that does not have Senator FEINSTEIN from California standing up in the back with letters from 130 cities and counties saying this could take away 5 to 15 percent of their local tax base. I do not think we need to go through that again. I think we need to find a way to do no harm to high-speed Internet access. Let it flourish. Let it grow. Let it move. And do no harm to State and local governments. Those are the principles.

I understand there may be some discussions already beginning to go on and I want to encourage those, and I pledge I will work with Senator ALLEN and others in this Chamber and State and local governments and the telecommunications industry to try to get a commonsense exclusion so the technology can grow and so States can continue to have an adequate tax base to support universities, schools, and the other things we expect from State and local governments.

The guidelines that I suggest for this discussion that I hope is being held outside the Halls of the Senate are, No. 1, separate the issue of taxation and regulation. Let's go ahead and figure out a way to lighten up regulation of high-speed Internet access. I think there is a broad consensus for that. Separate the issue of what do we do about the fact that States and local governments are depending on these revenues. What do we do about that? Second, I agree with the Senator from Virginia that our goal should be simplicity, simplicity both in regulation and in any rules about taxation.

Finally, I believe that a goal should be, in addition to simplicity—certainty. If you are in business, you want some certainty. If you are a State treasurer, you want some certainty. You have budgets to make up. So we need some certainty. We do not need a situation where thousands and thousands of local jurisdictions tax new telecommunications technology in such a confusing way that it creates uncertainty, litigation, and lots of paperwork and slows down the economy. We fail if we have that. In searching for simplicity, there is no need for us to create an unfunded Federal mandate that tells State and local governments they have to give up part of their tax base without reimbursing them for it.

While we can debate it at another day, I do not believe that high-speed Internet access needs a Federal subsidy or State subsidy. It is the fastest growing new technology we have seen. It is growing faster than the cell phone did at this stage of its development.

We are talking about an exciting new technology. We are talking about real dollars. We are talking about a bipartisan disagreement and a bipartisan consensus that we have been able to come to this year about what to do, at least temporarily. For those who say the Senate is not capable of working in a bipartisan way, I think they are wrong because we have had bipartisan agreement and we have disagreement, and we have had some bipartisan agreement.

I see the Senator from New Hampshire is also in the Chamber, and the Senator from Delaware. I have some other remarks I would like to make, but I imagine they both would like to say something about this same subject.

My further remarks have to do with other legislation. What I would like to do at this stage is to yield the floor in just a minute and listen to what they have to say, in the hopes that we may be advancing toward some consensus. Now that we have a consensus about what to do for the next 2 to 4 years, maybe we can take some steps about advancing toward a consensus about the future.

I yield the floor.

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

Mr. SUNUNU. Mr. President, I want to begin by thanking Senator ALEXANDER, as well as Senators WYDEN and ALLEN, who have worked on the consensus legislation that was touched on in earlier remarks, a final piece of the legislation necessary to ensure that we do not tax Internet access.

The reason we do this, the reason we think this legislation is so important is, first and foremost, because these are national and global broadband networks. They are interstate and global in nature. I believe the responsibility for both determining the tax status and the regulatory status of these networks falls on the Federal Government. I do believe taxation is merely an extension of regulatory power, in that it has the ability to shape the playing field, to weight the competition among ideas or technology in one direction or another. As was said many years ago, when you tax something, you get less of it. If that is not a form of regulation, I don't know what is.

The issue of broadband voice, of Internet protocol voice services was also mentioned. I do want to be clear, at least in expressing an opinion if not declaring it absolute fact: The Internet tax legislation that we passed was silent on this issue. It doesn't allow or disallow, per se, the taxation on Internet protocol, IP voice service, or broadband voice service. But what it does is protect Internet access, access to that broadband pipe from taxation.

We will discuss and debate in greater detail in the coming year the nature of these broadband voice services—broadband access, spectrum regulations—as we develop telecom legislation in 2005, beginning with hearings and work in the Commerce Committee. I think in many ways the FCC has already set the direction for this process in a recent ruling that they made, which was to say that broadband voice services using the Internet protocol are interstate in nature and that they should be regulated on a national level for many of the reasons that Senator ALEXANDER has outlined. We want clarity; we want consistency; we don't want it weighted toward one technology or another.

There are lots of ways to get access to these national and global broadband networks. You can get them through wireless systems, DSL, cable. You can get them even through satellite. And there are probably more technologies that will come to give customers and consumers access. We want to be careful that we do not distort the marketplace of ideas, either through subsidies for one form of technology relative to another—which was mentioned by Senator ALEXANDER—or regulatory regimes on one form of broadband network relative to another.

It will be a challenging debate. I think Senator ALEXANDER has been very helpful in this debate in bringing the perspective of a Governor. I think we do need to be very sensitive to the rights and the powers of the States. But where we have something that is interstate, national, or global in nature, then I think it does make sense to try to find a light regulatory touch, as Senator ALEXANDER has described, but one that is clearly defined and that will keep the competitive playing field as open and vigorous as possible. If we have a strong economy, then I think the governments at the local level, the State level, and the Federal level will do fine so far as revenue collection is concerned.

I look forward to participating in this debate with other members on the Commerce Committee and all of the Members in the Senate in order to make sure that we have a regulatory system that is designed for, so to speak, the 21st century, these new technologies, and not just take a regulatory system that was designed for a copper circuit switch phone system, invented by Alexander Graham Bell—don't take that regulatory system and try to force it on emerging technologies for the future.

I yield the floor.

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

Mr. CARPER. Mr. President, while my colleagues, Senator ALEXANDER and Senator ALLEN, are still in the Chamber, I want to express to each of them my own gratitude for their hard work to try to forge a compromise on an issue upon which some folks said we were not going to find common ground. But ultimately we did. They are to be commended for that.

I see we have been joined by Senator BURNS from Montana. I would say to him, thank you as well.

Several people who are not here have been very much involved in this issue, including Senator WYDEN of Oregon and a handful of other former Governors who serve now in the Senate—among them, Senator VOINOVICH of Ohio and Senator BOB GRAHAM. A couple of former mayors who serve here as well worked on this issue, and this includes the former mayor from California, Senator FEINSTEIN, and a former mayor from a little town called Gillette, WY, a fellow named ENZI, who have all been involved in this, along with Senator BYRON DORGAN of North Dakota.

We shared goals and we shared a number of the same objectives. None of us were interested in taxing access to the Internet. None of us wanted to inhibit its growth. But at the same time, none of us were interested in undercutting the ability of State and local governments to raise revenues to fund their own programs.

As a former Governor, as a former chairman of the National Governors Association, as are Senators ALEXANDER and VOINOVICH, I never liked it very much when the Federal Government would tell my State or any other State what to do but not to provide the revenue, the wherewithal to do that thing that was being ordered.

I never liked it when the Federal Government undercut my State or any State's ability to raise revenues to pay for programs that we deemed necessary and not provide the revenues to offset that loss.

I think in the end we have come out with a compromise that is not everything that those of us who are former Governors and mayors who worked with Senator ALEXANDER and myself wanted, and certainly all that was sought by Senators ALLEN and WYDEN. Having said that, I believe we have ended up in a very good place. Senator MCCAIN is not here today, at least in the Chamber at this moment, and I thank him for bringing us to common ground on this issue.

We have passed a compromise that I think sends a good message, that may have applicability to other issues. And there are a whole lot of issues that we have considered this year, certainly that we will be considering next year, where we generally share the same goals, but for some reason we do not—and maybe it is the lack of trust, the lack of interpersonal relationships to be able to work through our differences to get fairly close to, at the end, the goals that we share, to legislation that reflects the goals that we share. In this case we did it. And for all who have had a hand in fashioning what I think is a most acceptable compromise and a good ending, I just want to say well done.

The Commerce Committee will now move to new leadership beginning in January. I presume the leader, the chairman, will be Senator STEVENS, and the ranking Democrat will be Senator INOUYE. They have as close a personal bond as I think any two Senators across the aisle who serve in the Senate. I think that bodes well as they and their committee look down the road to what further changes we need to make, again, to deny the ability to have access to the Internet, make sure we don't inhibit the growth of the Internet and all it can do for our economy, and finally making sure we are fair to State and local governments. It is not an easy thing to do, but in this instance I think we have done quite well for State and local governments, and industry hasn't fared too badly either.

With that having been said, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. I ask unanimous consent to speak as if in morning business.

The PRESIDING OFFICER. The Senator should advise that we are in morning business.

Mr. DURBIN. I thank the Chair.

GLOBAL AIDS FUNDING

Mr. DURBIN. Mr. President, last Saturday, just 7 days ago, I was in Cape Town, South Africa, for a conference sponsored by the Chicago Council on Foreign Relations. With me were my colleagues, Senator SUSAN COLLINS, Congresswoman BARBARA LEE from the State of California, and we had an opportunity to visit an AIDS clinic, a clinic that is funded by the Global Fund. It is an area known as West Cape, and it is an extremely poor area. Many people are infected.

South Africa may be the most devastated country on that continent when it comes to the disease of AIDS. To think that 25 percent of the men and women in the South African military are infected with AIDS, to think that most of the major employers in companies find that at least one-fourth of their workforce is infected, is an indication of the reach of this terrible disease.

We went to this clinic because something historic was happening there. Because of the Global Fund and because of contributions from countries such as the United States, for the first time we are providing AIDS pills, ARV therapies to people who are infected. What that means is that for some of the poorest people on Earth, they will receive a few pills which, if they take them dutifully each day, they can live. And if they do not receive the pills, or don't take them, they will surely die. Think about that moment when they first heard of the possibility that they might be on the list to be saved with these drugs.

So we went to this clinic where they are measuring the rate of the infection of these poor people, and if they are far enough along with their infection, where their life is threatened, they qualify. They waited on benches in a crowded room silently for hours, literally for hours for a chance to be examined in the hopes that they would receive these pills.

Outside this clinic was a little dirt playground, just the most basic thing, filled with children. The kids were playing with everything they could find, stones and sticks and old rubber tires, just trying to while away the time together while they waited for their parents who were listening and waiting to be counseled to find out if they would be allowed to live or die. The children had no idea what was going on. They are just little kids. Some of them may be HIV-positive, too. But we walked by this playground, and the kids looked up at this delegation in their suits and ties walking through, and they looked at us and they waved, and we waved back, and I thought: I am going to go over and say hi to the kids.

I no sooner took two steps toward these children when they left the playground, 30 or 40 of them, and gathered around me hugging me. And then, as they were hugging me, these little toddlers, these kids, spontaneously started singing the African national anthem. You could not script that. It sounds like a scene from a movie. It is real life. It happened a week ago. And in this clinic in West Cape, a miracle is occurring. The United States, because of its caring and compassion, has reached out through the Global Fund to give these children the chance that they will grow up with a parent. And for many children in Africa there is no chance—12 million AIDS orphans on that continent, more infections on the continent of Africa than any other place on Earth.

We know how bad it is. We know it is getting worse. Take any minute that I speak in the Chamber, and in that 1-minute period of time, across the world 6 people will die from AIDS, and 10 more will become infected. So no matter what we are doing, as good as it is, we are approaching this with steady steps going after this disease and epidemic while it races away from us infecting more people than we can possibly save with the resources we are putting into it. Stephen Lewis is a special envoy for the United Nations for HIV/AIDS in Africa, and he said, ''Never in human history have so many died for so little reason.'' Then he went on to say, speaking to me and to all of us, ''You have a chance to alter the course of that history. Can there be any task more noble?'' This is the moral challenge of our generation.

Mr. President, 60 years from now, 100 years from now, people will look back and judge us by what we have done with the global AIDS epidemic. Questions have been asked for almost six decades about what the world did in response to the Holocaust. We will be asked by future generations: What did you do about this epidemic reaching Holocaust proportions and beyond? In 2002, the countries that came together to form the Global Fund said we are going to fight AIDS and malaria and tuberculosis, and all the countries committed some $3 billion to almost

300 programs to go after those diseases in nearly 130 different countries. Since the beginning, the United States has been involved and we have said for every dollar that we contribute, we want $2 from the rest of the world.

In some years we have fallen short. In some years the rest of the world has fallen short. But we need to continue to make a contribution.

Now, what troubles me is this: Last year, as a nation, we contributed $547 million to the Global Fund. This year we will contribute less. The disease is not under control. The disease is growing faster than our contributions toward ending it. This year if we are lucky we will contribute $438 million—far short of last year's contribution. And the Global Fund tells us that they need $551 million from the United States. They will find matching funds 2 to 1 from around the world, and they have plenty of projects just like the one I described to you.

In that West Cape clinic right now 550 victims of HIV/AIDS are receiving the therapy that keeps them alive every day—550.

The universe of those who are eligible is 4,000, to give you an idea. As we contribute to the Global Fund, we are scratching the surface of what this disease is doing to the world around us. As we reduce our contributions to this Global Fund, it limits our ability to save people.

I have spoken, of course, about HIV/AIDS. The challenge of malaria is just as alarming. The Global Fund has been financing the treatment of over 30 million people for over 5 years, a huge increase from the 10,000 people currently treated with new drugs. They need money to do it. People die from malaria as they do from so many other things.

In addition, we have to understand that the fight against tuberculosis is one we can win but one we must assume our responsibility for.

We need to make certain when the supplemental appropriations bills come before Congress, as they are likely to in the next several months, that we revisit our contribution to the Global Fund, not just for those kids in Africa but for ourselves. That life lost in Africa may seem so distant and removed from our own lives but in some ways we are connected. We are all God's children. We all believe this Creator put us on Earth for a purpose, and that purpose is to care for the less fortunate of our brethren.

At the International AIDS Conference in Bangkok last July, Nelson Mandela, who is probably one of the greatest living people, declared:

> History will surely judge us harshly if we do not respond with all the energy and resources that we can bring to bear in the fight against HIV/AIDS.

Nelson Mandela is right. History will stand in judgment of the bill we pass today, the supplemental bill that will come, and the resolve of this Congress and this administration to make sure that we continue to lead the world in this historic humanitarian effort.

I yield the floor.

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

IDEA CONFERENCE REPORT RATIFICATION

Mr. ALEXANDER. Mr. President, I say a few words about the legislation passed last night that we call IDEA, to help children with disabilities.

The Individuals with Disabilities Education Act (IDEA) which we have enacted is critical for the approximately 6.5 million children with special needs across the country, 125,000 of which I've in my home state of Tennessee.

The bill makes a number of substantial reforms. I would like to highlight two that I think are particularly important:

No. 1, the bill clarifies the definition of a highly qualified teacher, and

No. 2, the bill also creates a seamless early childhood program for children from birth until school age.

Research has shown that students taught by effective teachers greatly outperform those taught by ineffective teachers. That's why it is a priority for me to ensure that students have a highly qualified teacher in their classroom, especially special education students.

I am grateful language was included to clarify for schools what the definition of a highly qualified teacher means. This is particularly important for the 6,037 Certified Special Education teachers employed by Tennessee's public schools, especially for middle and high school teachers.

After the passage of No Child Left Behind, many middle and high school special ed teachers were concerned that they would have to become highly qualified in every subject—reading, math, history, science. The language in the Conference Report allows states to develop a Highly Objective Uniform State System of Evaluation, HOUSSE, for special ed teachers teaching multiple core subjects. Teachers can also be deemed highly qualified if they meet the educational requirements for each subject under NCLB test or degree. This important flexibility gives states more options to determine what makes a special education highly qualified so that we can keep veteran teachers in these classrooms and enable new teachers to become highly qualified and dedicate their careers to these special children.

I am a strong supporter of early intervention to help children with special needs before they reach school age, so that when they enter school they can succeed. I'm pleased by the changes to the Part C early intervention program included in the conference report. This program has enabled millions of infants and toddlers with disabilities to enter school with the skills they need to learn, grow and prosper. The bill before us today makes two needed changes to Part C.

First, it allows States to give parents the option of either (a) keeping a child in the Part C program until reaching school age, or (b) having their child transferred to the pre-school program at age three. This provides a comprehensive and fluid system of services for special needs children from birth to school age.

Second, it provides incentive grants to States that choose to give parents that option. Under the conference report, 15% of appropriated funds in excess of $460 million for Part C will be dedicated to these incentive grants.

In Tennessee, about 5,730 children participate in the Part C program. One of these children is Kaylie, a little girl who was born with Down Syndrome. The hospital referred her family to the Kiwanis Center for Child Development for services as part of the Part C early childhood program. At the Kiwanis Center, Kaylie receives physical, occupational, and speech therapy—there is even a therapeutic pool. She is provided with child care where she interacts with other children her age. All these services are provided through various federal and state programs, but the Part C program was the critical link that coordinated these programs so she can receive them all at one site. Kaylie was only 8 months old when I told this story at our Senate HELP Committee mark-up of this bill; today she's about two years old. Under the current Part C system, when Kaylie turns 3 she will no longer be able to continue to receive this seamless system of services at Kiwanis. She will have to attend the half-day pre-school program at the local elementary school. That date is fast approaching. But the changes included in this Conference Report, that we are about to ratify, will allow the state of Tennessee to give Kaylie's family the option to stay in the Part C program and continue receiving services at the Kiwanis Center until she goes to Kindergarten. Any fees that Kaylie's family currently pays they will continue to pay. If Kaylie's family would like her to attend the local public school for pre-school they still will have the opportunity to send her. We ought to give her parents that choice, and I'm grateful we're acting in time to make that possible.

This is one more example of the Senate working in a bipartisan way.

This is a complex bill. It affected 6.5 million children with special needs across this country, and 125,000 of them were in Tennessee.

Again, I want to focus on two aspects of it, especially how it affects teachers and children and families all across the country.

First, it clarifies the definition of a highly qualified teacher. That is important because of the No Child Left Behind Act.

Second, it allows children with special needs who are receiving services in

the community to continue to do that after age 3 all the way up to the time they enter school. Today, those children may be provided one service here and one service here and one service here. When they get to age 3, they suddenly have to go into a certain preschool program. This gives more parents more choices, more flexibility, and it is a great advantage.

One very important aspect of the bill—it is the first thing I mentioned—is the definition of highly qualified teacher. This may not sound very important to people who aren't teachers with special needs children, but this has been a source of a lot of anxiety for teachers.

In elementary schools, in early grades, teachers teach a lot of subjects. If you are certified to be an elementary school special needs teacher, then you can be a highly qualified teacher. But when you get to the middle school and high school level, you will be teaching special needs children in math, science, English, history, and geography. The original legislation said a special needs teacher in Shawnee, KS, or Fort Dodge, KS would have to be qualified in special needs in English, in math, in science, history, and geography. That is quite a burden for a special needs teacher in high school in some districts. This legislation creates some flexibility. It creates a way for States to look at this in a practical way, and says in middle schools and high schools across this country when teachers are teaching special needs children, we are going to come up with a commonsense way to make sure they are highly qualified because these children deserve that, too, but to take into account the reality. We are talking about maybe 100,000 teachers in the middle and high schools, maybe 15,000 or 20,000 schools.

We have to be careful when we write a sentence about elementary and secondary education in America. We are not the national school board, or at least we shouldn't be. We need to make sure it is practical and realistic and gives as much flexibility as possible to communities and States to come up with what actually works with an individual child in an individual classroom. This is one disappointment I have with the bill.

Senator SESSIONS from Alabama and I tried to change the effective date of the definition of a highly qualified teacher for middle and high school. We said it ought to be a year from now. But the majority felt this new requirement should go into effect in August of next year, which is 6 or 7 months from now. I think that is a mistake.

What has to happen is the President has to sign this bill in December. Then the U.S. Department of Education has to interpret its regulations—that is January or February. Then the States have to come up with their new, flexible ways of determining what ''highly qualified teacher'' is. Then the teachers have to read it. They have to perhaps do some professional development. They have to become certified. And all of this has to be done by July or August.

This is the kind of thing that does not build support for the No Child Left Behind Act. I think it very important that we remember while we may have a very good idea, we are not a national school board of the small school districts. This is a massive country with many different parts to it. We are dealing in this case with probably 100,000 teachers.

Overall, this is a very important bill and I am delighted to be a part of it. I commend especially Senators GREGG and KENNEDY for their leadership.

THE AMERICAN HISTORY AND CIVICS EDUCATION ACT OF 2004

Mr. ALEXANDER. Mr. President, I wish to discuss H.R. 5360, the American History and Civics Act of 2004.

I support H.R. 5360, the American History and Civics Education Act of 2004. The bill represents an important step forward in the teaching of these critical subjects. The Senate acted last year on an earlier version of this bill that I sponsored along with the Senator from Nevada, Mr. REID. I introduced that bill in my Maiden Speech before the Senate, and we later voted 90–0 in support of its passage. The House has now passed its version of the bill, under the leadership of Congressman ROGER WICKER from Mississippi. Senate passage of the bill today will be the culmination of nearly two years of work on this important piece of legislation.

National exams show that three-quarters of the nation's 4th, 8th and 12th graders are not proficient in civics knowledge and one-third does not even have basic knowledge, making them ''civic illiterates.''

Children are not learning about American history and civics because they are not being taught it. American history has been watered down, and civics is too often dropped from the curriculum entirely.

It is time to put the teaching of American history and civics back in its rightful place in our schools so our children can grow up learning what it means to be an American. This act does precisely that. It establishes Presidential Academies for Teachers of American History and Civics and Congressional Academies for Students of American History and Civics. Their purpose would be to inspire better teaching and more learning of our history and way of government. The Secretary of Education is authorized to provide grants to universities, libraries, museums, or other non-profits that demonstrate expertise in the core subjects of history and civics and government. For example, the Mount Vernon Ladies' Association, which operates and maintains the home of our first President, might apply to host an academy at their historical site, focusing on the history of the founding of our nation and the principles upon which it was founded.

Additionally, the bill allows the Secretary of Education to provide grants to the National History Day program, a year-long national program that trains teachers and sponsors a national competition among junior high and high school students, who produce dramatic performances, imaginative exhibits, multimedia documentaries and research papers based on research related to an annual theme.

I want to extend my gratitude to the Senators who have supported the bill here in the Senate: Senators FRIST, REID, GREGG, KENNEDY, STEVENS, and BYRD, among many others. And I want to thank our colleagues in the House who worked so hard on the bill, including Congressmen BOEHNER, MILLER, CASTLE, WOOLSEY, BLACKBURN, and especially Congressman WICKER who was the lead sponsor.

A strong, bipartisan team of players stood up for the future of our children and this nation by working on this legislation. With Senate passage, today is a great victory for everyone working to improve the teaching of American history and civics so our children can grow up learning what it means to be an American.

This bill will be coming, hopefully, before the Senate later today. It passed the Senate unanimously last year. Now it has passed the House and is coming back in an amended and improved version. I believe it has full support. The lead sponsor is the new Democratic leader of the Senate, HARRY REID. It is also sponsored by Senator KENNEDY and Senator BYRD, who testified for the bill. Most of the Republican Senators have cosponsored it.

This is a bill very simply to put teaching of American history and civics back into its rightful place—in schools where our children can grow up learning what it means to become an American.

It takes a modest step to establish Presidential Academies for Teachers of American History and Civics in the summer and the Congressional Academies for Students of American History and Civics. They are modeled after the very successful Governor's Schools that are in many States across the country where students and sometimes teachers go for 2 weeks or 4 weeks to learn particular subjects.

The reason for it is that high school seniors in the United States make the lowest scores of any subject on U.S. history. The lowest scores of any subject, according to the National Assessment for Educational Progress of America, for high school seniors are on U.S. history. That is absolutely disgraceful.

Here we are a nation at war, our principles are being attacked, and we are not teaching our children those principles. Here we are a nation that celebrates itself for being one for many with more new Americans coming than

ever in our history, and we are not teaching what it means to be an American.

You don't get to be an American by the color of your skin or where you come from. You get to be an American by understanding what we believe in. The common school itself was created 150 years ago, according to the late president of the American Federation of Teachers, Albert Shanker. He said the public school was created to help immigrant children learn the three Rs, and what it means to be an American, with a hope they would go home and teach their parents. The civic purpose of the public school is being fundamentally ignored in many parts of our country and this is one small step in that direction.

I am delighted that a bipartisan group of Senators and House Members—Mr. BOEHNER, Mr. MILLER, Representative BLACKBURN from Tennessee, and the principal sponsor, ROGER WICKER of Mississippi—played a role. I thank them for that.

AMERICAN BALD EAGLE COMMEMORATIVE COIN ACT

Mr. ALEXANDER. Mr. President, I mention one other piece of legislation that may have a chance of passing. At least I can report there are now 68 U.S. Senators who have agreed to sponsor S. 2889 which will celebrate the recovery and restoration of the American bald eagle by making $5- and $10- and 50-cent commemorative coins.

Very often these so called coin bills are especially parochial. That is why we are required to have 67 Senators agree before we do one; usually by practice, nearly 300 House Members. Well, 300 House Members have agreed and nearly 70 Senators. That is because in 1782 the Founding Fathers established the bald eagle as the national emblem of the United States. Since then, the bald eagle has come to represent the spirit of American freedom, democracy, and strength.

It is my hope before we finish our business today we will honor and protect the symbol of America and cosponsor and enact the American Bald Eagle Commemorative Coin Act.

One reason Senators have signed on is that the eagle has been roaming the Halls with its handler, going into different offices. A number of Senators have called me from their office with the eagle perched in front of them. The eagle is a very successful lobbyist for himself.

If we cannot get the commemorative coin enacted today before we adjourn, I am sure we will be able to do so early next year.

I thank the Senator from Minnesota and the Senator from Ohio for giving me an opportunity to conclude my remarks.

I yield the floor.

The PRESIDING OFFICER. The distinguished Senator from Minnesota is recognized on this glorious Saturday afternoon.

HELPING A VETERAN FAMILY WITH AIDS

Mr. COLEMAN. Mr. President, I had the great pleasure of sitting in the Presiding Officer's chair yesterday when one of our colleagues said goodbye, the distinguished minority leader. It was a very stirring and moving speech about what this institution is all about.

I sat in the Senate when the senior Senator from Oklahoma said goodbye after 20-something years in this institution. I was in the chair when the candidate for the Vice President of the United States said goodbye after serving one term in this institution.

It is pretty humbling, to understand how incredible it is to be part of this body and all the things that one can do.

I am standing right now to say thank you to a Member who is still serving, who I hope will serve for a long time, the Senator from Missouri, Mr. BOND. Sometimes we wait until folks leave until we express our deep appreciation for all they do and all they have accomplished. For me, I feel moved to do this for a little act of kindness, of help he gave some constituents of mine.

In the Omnibus bill we will vote on, hopefully, sometime this afternoon, there is $388 billion laid out to be spent in that bill. The very last item of the 133 pages of the section that appropriates funds for the Veterans Administration and HUD, had to do with two individuals from Minnesota, Brian and Eric Simon, to receive $200,000, to be split between them. That constitutes 1/20,000th of 1 percent of the allocations in that bill, but to those young men it is so important. Let me tell a little story about why it is important and who these young men are.

In 1983, Douglas Simon, the father of Brian and Eric Simon, served in the Army National Guard at Fort Benning, GA. He was injured. He required emergency medical surgery. Mr. Simon's surgery was performed at Fort Benning, GA. As part of the surgery, a blood transfusion of nine units was required. The blood he received was not screened and contained the AIDS/HIV virus.

In 1984, Mr. Simon married Nancy and they had three children together, Brian, Eric, and Candace. Before the virus took their lives, and ultimately the lives of Candace, the daughter, and the mom Nancy, the Simons were a smalltown American family: hopeful, conventional, meat and potatoes, church every Sunday, Roman Catholic family with a Virgin Mary statute in the front yard. Old Glory hung on the flagpole every clement day.

I am reading from and reflecting on an article written in 1994 about the Simons.

Doug and Nancy had met in high school. They got married after they graduated. He joined the Minnesota Army National Guard out of high school. He had an accident and underwent surgery. Nancy was older than a year by Doug and grew up close by, a place called New Prague, MN, 1 of 11 children. She was quiet, timid.

When she and Doug first got married, they dreamed of having lots of kids. The oldest son is Brian. He was 10 in 1994 and he is 19 now. I got to know him. He was born before Doug and Nancy were infected. Eric escaped the virus, although he was born after Nancy had been infected.

They were just regular kids, lived a regular life, with a mom and a dad. They had a young sister, Candy. Candy was diagnosed with AIDS when she was 18 months old, in 1989. The doctors had treated her for a number of conditions. She had persistent diarrhea. She failed to thrive. She had countless CAT scans and blood tests. She learned how to push the plunger of a syringe as the myriad of medications increased. She went through a lot. She was, as her brothers tell me, a mischievous little girl, hamming it up, wearing Elton John-like oversized sunglasses, or a poster-child angel, always a mommy's girl.

Three months before preschool started, she complained about stomach pains. You know why it hurts? Because I have a bad tummy.

For her doctors, it was a little more puzzling than that, and x rays revealed spots on her colon the size of chicken pox. She suffered greatly. She suffered greatly. I almost tear up as I reflect on what this young girl went through. She died on June 25, wrapped in her mom's arms. She was a couple days shy of her sixth birthday. The mother also contracted AIDS and went through great pain and great suffering. Mom ultimately died of AIDS.

I got to know the family. My predecessor, Senator Wellstone, worked in trying to do something for them.

The VA provides health care to some 2,800 veterans who have contracted AIDS in the manner that Mr. Simon contracted AIDS. They provide disability compensation to veterans with AIDS and death and education benefits to the families of veterans who have succumbed to AIDS. In this respect, the VA treats AIDS like other service-connected health conditions.

But in an important way, AIDS is different. It is not like other connected services; it can be transmitted to the spouses and unborn children of servicemen. That is what happened here with Doug Simon. By law, the VA cannot provide any sort of benefits for illnesses contracted by these family members.

Last year, I introduced S. 1509, the Eric and Brian Simon Act. I thought it was a starting point to give a fair deal to veterans and their families with AIDS to provide a one-time $100,000 benefit to veterans who receive AIDS as a result of a blood transfusion from the service-related injury. For spouses who contracted AIDS from contact with the infected veteran, and offspring of the veteran or spouse infected with AIDS at birth, in the event that the veteran or family member has already

succumbed, compensation would be given to survivors.

That is what has happened here. Douglas Simon is still alive. He is wheelchair-bound, and he suffers from AIDS and AIDS-related conditions, but mom and Candy are gone.

We could not get the bill through. We worked hard. I went to my friend and colleague. We actually had a hearing on this, thanks to the goodness and magnificence of Senator SPECTER. It was an opportunity for Mr. Simon and the boys to come forward and explain what happened. We were not able to move the bill forward, but I met with my friend, Senator BOND, champion of the VA/HUD appropriations committees and laid out this story, this great tragedy of two young men whose lives have been just so excruciatingly painful but not as painful as what their little sister suffered, not as painful as what their mom suffered. Why I am so moved by this issue is perhaps because I have a sister who died from AIDS. I know what this is about, and I know the great pain.

So my colleague, Senator BOND, said: We have to try to figure out a way to help. So in the very last portion of the $388 billion bill, there is a provision to provide this $100,000 benefit for these two individuals.

In terms of the scope of this bill, this is a little nothing. But in terms of two kids from Minnesota, who have been through so much, whose dad served this country and suffered such great pain, this is something.

We work on a lot of things in this body. We deal at times with millions and billions of dollars. I have sat with my colleague, Senator TALENT, to my right, and at different points we talk about millions or tens of millions of dollars, and it gets almost abstract. It gets almost so impersonal at times. But the ability to help one family, to touch that one life, to make a difference in that life, to put a smile on their face, to say we are doing our best to correct an injustice, something that went wrong, to be able to deliver on that is very meaningful. It is very special.

As I look at what has come out of that Omnibus bill, and with this provision, it certainly has made we very proud to serve in this body. It has made me appreciative of the kindness and the consideration of my senior colleagues, such as Senator BOND, and I must say his staff member, Jon Kamarck, who worked on this legislation.

We often wait until folks say their goodbye, and we hear very moving and very stunning reflections on lives of service and what it means to be a part of this magnificent institution, the greatest deliberative body in the world, the U.S. Senate. I am humbled to be here, I am thankful to be here, and I am deeply appreciative of the actions and the conscience and the heart and the ability of my colleagues, and in this particular case of the chairman of the Appropriations VA–HUD subcommittee, the senior Senator from Missouri.

I just wanted to take this time to say thanks, to say it on the RECORD, to say it very loud and clear, to speak for two young Minnesota men who will be getting a little something back. You cannot take away and compensate for all the pain and all the suffering, but you can show that we care, and in this body we do care. I am honored to be part of this body.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. ALLEN). The Senator from Ohio.

INTERNET TAX MORATORIUM

Mr. VOINOVICH. Mr. President, on Wednesday of this week, by unanimous consent, the Senate adopted S. Con. Res. 146, which made slight modifications to S. 150, the Internet Tax Non-Discrimination Act.

I am pleased that the House passed S. 150 with the Senate changes, thereby clearing the legislation for President Bush's signature. It is long overdue.

This action ensures that Internet access will remain free from taxation, a policy that has existed since 1998, when, as Governor of Ohio and president of the National Governors Association, I helped negotiate the first moratorium.

I rise to commend my colleagues in the House and the Senate for resolving this issue in a bipartisan manner. Just over a year ago, the Senate became engaged in a spirited debate over the future of the Internet tax moratorium.

The sponsors of S. 150 argued that an expanded and permanent Internet tax moratorium was necessary to facilitate the growth of broadband Internet technologies.

On the surface, this sounded like a very reasonable position. In fact, after studying this issue, I realized that not all Internet technologies were being treated equally. For instance, some States treated digital subscriber line, DSL, service, which uses phone lines to provide high-speed Internet access, as a ''telecommunications service'' and therefore taxed it. Other States treated DSL Internet access as an ''information service'' exempt from taxation. The inconsistent treatment of DSL service created a competitive disadvantage for some Internet service providers, and I was willing to help level the playing field. However, several of my colleagues and I, including Senators ALEXANDER, CARPER, FEINSTEIN, and BOB GRAHAM of Florida, had more serious concerns with S. 150.

Specifically, the CBO stated that the new and expanded definition of ''Internet access'' in S. 150 was an unfunded mandate. Therefore, it was believed that S. 150 would cause significant revenue losses for our State and local governments at a time when they were facing their worst economic crisis in a generation.

In fact, the State of Ohio projected revenue losses of up to $350 million per year if the Commerce Committee's version of S. 150 passed the Senate. As a former mayor and Governor, I knew my State could not afford to lose $350 million per year.

Fortunately, the debate on S. 150 was taken off the floor, where Members and staff could try to close the chasm that separated the two sides. From November 2003 to April 2004, Members and staff worked feverishly to find common ground. Both sides listened and worked in good faith. Although it took a few months, I was pleased with the end result.

The final bill, which passed the Senate on April 29, 2004, by a vote of 93 to 3, created a level playing field for Internet service providers sought by the bill's sponsors, while at the same time protected State and local governments from any immediate financial harm.

I was pleased that the original grandfather clause was extended for the length of the moratorium because it provided protections to States, including Ohio, from losing further revenue.

Finally, the negotiated 4-year term of this legislation provides Congress with the necessary time to examine and understand how the new and expanded definition of ''Internet access'' affects both the growth of broadband Internet service and the revenue base of State and local governments. There has to be some balance.

Senator STEVENS assures me that the Commerce Committee will closely reexamine these issues next Congress. In fact, we just talked about it 10 minutes ago, about the fact he wants to move forward very expeditiously to tackle this very complicated subject.

I commend the Presiding Officer, Senator ALLEN, and Senator WYDEN for their leadership and commitment to this issue. Certainly, no two Members of the Senate have spent more time on it. I also thank Senator MCCAIN for his patience and perseverance and willingness to offer a reasonable compromise upon which both sides could agree.

Additionally, I offer my thanks to Senators ALEXANDER and CARPER. Their vision and steadfast determination to protect State and local governments is commendable, and I was proud to work so closely with my colleagues and former Governors on this issue.

Finally, I would be remiss if I did not thank the staff of the Presiding Officer and the staff of other Senators for their hard work and dedication. They really rolled up their sleeves and went to work. They spent hours, countless hours, negotiating subtle yet important nuances in the legislative language in order to reach a compromise. Some of those nuances I had a very difficult time understanding, but they understood them, thank God. The debate and end result of the Internet tax moratorium proves we can work through difficult and highly technical issues in a bipartisan manner.

As the 108th Congress comes to a close, it is my sincere hope that the same type of bipartisan spirit can be extended into the 109th Congress. It is vital that Members of this body work together to find common ground on issues that are important to our citizens, our States, our country, and, in some instances, the world.

I, for one, am looking forward to the challenges we face and am confident we can solve the difficult issues for our day and leave a lasting legacy for our children, grandchildren, and future generations.

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

The PRESIDING OFFICER. The clerk will please call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

THANKING CHAIRMAN STEVENS

Mr. COLEMAN. Mr. President, I got up here about an hour ago to pay homage, to pay tribute to the senior Senator from Missouri, the chairman of the VA/HUD Appropriations Committee, for his help in finding a way to compensate two young men from Minnesota who have suffered great personal tragedy. I must confess to a rookie mistake in not recognizing at the same time a person without whose help, approval, and guidance this never would have happened, and that, of course, is the chairman of the Appropriations Committee, Senator STEVENS from Alaska. I know he was personally involved in this. In fact, he commented to me this is one of the worst, most terrible circumstances, and we need to address it. He has pledged on a longer term basis, even next year, to look at other situations like this so that we do the right thing.

I want to say on the record to my friend, the chairman of the Appropriations Committee, how appreciative I am, how thankful I am, how grateful I am for all he does, for his guidance in putting together a huge package that deals with big things but doesn't forget little things. Sometimes the little things are big things. In this case, this somewhat little thing—little in the scope of a $388 billion bill, but big for two young men who have suffered so much—would not have happened without the help and the direction of the chairman of the Appropriations Committee. I wanted to make that clear on the record my deep appreciation for his big heart, for his guidance and mentorship, his concern, and ultimately his ability to get things done.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

CONTINUING SAGA OF BOSTON'S BIG DIG

Mr. MCCAIN. Mr. President, I come to the floor to discuss the continuing saga of Boston's big dig, an issue I have been involved in now for many years. As usual, the news is not good.

As most of my colleagues know, the Central Artery/Ted Williams Tunnel Project in Boston, more commonly known as the big dig, apparently has sprung a leak or, more accurately, hundreds of leaks.

The two independent engineers brought in by the Massachusetts Turnpike Authority are still assessing the extent of the problem. But so far, over 400 leaks have been identified that they say could take a decade—and millions of dollars—to fix. And on Wednesday, the Boston Globe reported that documents obtained by the newspaper indicate there are ''thousands of ceiling and wall fissures, water damage to steel supports and fireproofing systems, and overloaded drainage equipment''.

It comes as no surprise that all of the parties involved in this latest scandal are holding each other, but not themselves, accountable. Modern Continental Construction Company, which performed the work where the 8-inch ''blow out'' leak occurred in the northbound section of the I–93 tunnel in September, believes the project's engineer, and joint venture of Bechtel Corporation and Parsons Brinckerhoff, is responsible because of faulty design work. The Turnpike Authority insists that even though a senior agency official was notified of the leak problem in 2001, the contractors and the project engineer are the responsible parties. The Governor believes that Turnpike Authority bears responsibility and has asked for Chairman Amorello's resignation. With all the finger-pointing, I am concerned that the taxpayers could end up footing at least part of the bill for repairs.

I do not intend to allow this to happen. The newly-discovered leaks are just another in a long list of costly failures in the continuing saga of the bid dig.

The Central Artery Tunnel Project was conceived in 1981 and received initial approval in 1985. Construction began in 1991 with a target completion date of December 1998. I repeat, the target completion date of the Central Artery Tunnel Project, known as the big dig, was December 1998. As I calculate, it is now 6 years later. Over the intervening years, the completion date slipped nearly 7 years. The current forecast is for the project to be completed between May and November of 2005.

As delays for the project mounted over the years, the costs of the project spiraled out of control. According to this chart, it was estimated in 1985 that the big dig would cost $2.6 billion. When the project is finally completed next year, the total cost is projected to be $14.6 billion, roughly 5.5 times the original estimate. That does not count the newly discovered leaks and the repairs which, in the view of some, would take 10 years to fix.

We now know that billions of the cost overruns are attributable to mistakes and deliberate misstatements by the project managers. We have had over 20 reports from the Department of Transportation Inspector General which has tracked this very carefully. There have been deliberate misstatements by the project managers, made not only to the people of Massachusetts but also to the Congress of the United States. Several years of low-ball cost estimates finally caught up with the big dig in the year 2000.

In January of that year, the Turnpike Authority submitted its annual financial plan, estimating the cost of the big dig at $10.8 billion.

The following month, on the same day the Federal Railroad Administration accepted the plan as valid, the Turnpike Authority announced the project would cost $12.2 billion, or an estimated additional $1.4 billion.

Bechtel/Parsons Brinckerhoff blamed the increase on unforeseen cost increases and shortening the construction schedule by 2 years. But a series of articles by the Boston Globe concluded that the majority of the $1.4 billion cost overrun was due to design errors by Bechtel/Parsons Brinckerhoff. In one instance, the engineering firms failed to include the FleetCenter, the sports center home to the Boston Bruins and Boston Celtics, in the designs for the project. Months of construction took place before the design flaw was detected. This mistake alone cost taxpayers $991,000.

The Department of Transportation Inspector General and all members of the Commerce Committee are aware of the incredible work the Department of Transportation Inspector General has done, which issued 20 reports on the big dig, and was highly skeptical of the project managers' cost projections, and concluded in May 2000 that the project's managers were ''well aware that costs were increasing significantly'' and ''deliberately withheld'' information about cost increases in the 1998 and 1999 financial plans.

That statement by the Department of Transportation Inspector General bears repeating. It concludes that the project's managers were well aware that costs were increasing significantly and deliberately withheld information—that includes the Congress of the United States—about cost increases in the 1998 and 1999 financial plans.

Last year, the Securities and Exchange Commission determined the Turnpike Authority and its former

chairman, James Kerasiotes, had violated the securities laws by failing to disclose to investors during the 1999 bond offerings that they knew of the more than $1 billion in cost overruns related to the project. The Securities and Exchange Commission order noted:

Reasonable investors would have considered project cost increases in excess of $1 billion to be an important factor in the investment decisionmaking process . . . In addition to being a substantial amount in absolute terms, the cost increases equal to approximately 3% of the total revenues of the Commonwealth estimated for fiscal year 2000 and 2001 . . . and 9% of the total Commonwealth debt load as of January 1, 1991, and exceeded the amount of the Commonwealth's rainy day fund.

After the revelations in 2000 about the rising cost of the project, I sought and achieved an overall Federal cap for the big dig of $8.549 billion in fiscal year 2001 transportation appropriations legislation. The cap was also incorporated in a project partnership agreement entered into June 22, 2000, by the Federal Railroad Administration and the Commonwealth to improve management and oversight of the big dig.

As a result of the cap, the Federal taxpayers should be protected from additional project costs. Without the cap, the Federal share of the big dig could have been as much as $12 to $13 billion.

Efforts are underway to recover project costs associated with change orders, led by retired probate judge Edward M. Ginsburg at the Turnpike Authority. The cost recovery team, as of March 2004, identified 634 potential cost recovery items valued at over $744 million, but today the team has only recovered $3.5 million from one design consultant and none has been refunded from Bechtel/Parsons Brinckerhoff, although the Turnpike Authority and the Commonwealth have filed suit against the joint venture, seeking $146 million in damages. Eventually, perhaps, the taxpayers will recoup some modest portion of the costly mistakes.

Since Federal oversight of the big dig by the Department of Transportation Inspector General and the Federal Railroad Administration was strengthened in 2000, the big dig has submitted realistic financial plans and construction has preceded relatively on schedule. Even as portions of the project were being completed, taxpayer dollars were being improperly spent. In 2002, the Turnpike Authority spent $373,000 to host walking tours of the bridge and the I–93 tunnel. Later that year, the Turnpike Authority threw a $1 million party to celebrate the opening of the Leonard P. Zaim Bunker Hill Bridge. Nearly half the expenses, $450,000, were paid for with public funds.

In December 2003, Chairman Amorello's plans to celebrate the opening of the southbound I–93 tunnel with a concert by the Boston Pops for 2,000 invited guests caused an uproar. While the $250,000 cost of the concert could have been donated by Citizens Bank, Chairman Amorello reportedly planned to use up to $200,000 in public funds for security and site preparation. Ultimately, the event was cancelled, but only after Citizens Bank, a major sponsor of the event, complained about diverting highway beautification funds to help pay for the event.

It is also the matter of the big dig's headquarters building. In 1992, they purchased their headquarters building for $29 million, $26 million of which was financed with Federal highway funds. The Commonwealth now plans to sell the building and expects to see $97 million net of transaction costs. The Federal Railroad Administration has concluded that Massachusetts may treat the proceeds from the sale as State funds, even though the Federal Government funded 90 percent of the purchase. And the Government Accountability Office has concluded that the Federal share of the proceeds from the sale of the headquarters building does not count against the statutory Federal cap.

I remain firmly committed to protecting Federal taxpayers from incurring any additional expenditure for the big dig, including costs associated with the sale of property, fixing hundreds of leaks in the tunnels, or celebrating the completion of a project not well done.

Mr. President, I ask unanimous consent that articles from the Boston Globe and the Boston Herald be printed in the RECORD.

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

[From The Boston Herald, Nov. 14, 2004]

WITH TUNNEL ALL WET, BUILDER DRAINS STATE

(By Casey Ross)

A confidential agreement that paid the Big Dig's lead contractor for additional work on a defective section of the Interstate 93 tunnel also included a hefty cash advance and money for the leaky Fort Point Channel tunnel, according to court documents and a former state official.

The agreement, a $59 million payout authorized by top Massachusetts Turnpike Authority officials in 2002, paid Modern Continental without demanding compensation for its faulty work, the court papers say.

''The Authority cannot protect (Modern Continental) from itself or place the interests of . . . the commonwealth and its taxpayers,'' former Turnpike board member Christy Mihos said in a 2002 letter to Chairman Matthew Amorello.

The payout is significant because top Turnpike Authority officials knew of Modern's faulty work—both in the Fort Point Channel and the Interstate 93 tunnel—and did nothing to hold the contractor accountable, former officials say.

The payout also could jeopardize the state's efforts to recover costs for repairs to hundreds of leaks in the tunnels—an assertion Turnpike Authority officials deny because of contract language they say gives them broad collection powers.

In court papers responding to a lawsuit filed by Mihos—the suit alleges Amorello and a Turnpike lawyer refused to give him access to records—Turnpike officials say the $59 million agreement was necessary to allow financially troubled Modem Continental to finish its work.

Lawyers for the Turnpike also say Mihos was twice given an opportunity to review the agreement.

Money that was paid for the Fort Point Channel tunnel, which sprung a massive leak in September 2001, capped the amount spent on that contract at $417 million, a 39 percent increase over its original price.

Before reaching that agreement, Pike officials launched a complaint investigated by the Attorney General's office that Modern Continental had filed false monetary claims for tunnel work.

But Mihos said top Turnpike Authority officials, by authorizing a payout in 2002 that paid for work not yet performed, did little to hold the contractor accountable.

''We do not work for (Modern Continental), they work for us,'' Mihos wrote to Amorello. ''. . . We cannot and must not place the (Big Dig) or its funds in jeopardy.''

[From The Boston Globe, Sept. 16, 2004]

ARTERY TUNNEL SPRINGS LEAK, TRAFFIC SNARLED; BIG DIG CLOSES LANES, SEEKS CAUSE, AIMS FOR FULL REOPENING

(By David Abel and Mac Daniel)

Water gushed into the Central Artery's northbound tunnel for hours yesterday from a small breach in the eastern wall, backing up afternoon rush-hour traffic for miles and leaving Big Dig officials at a loss to explain where the water was coming from and what had caused the leak.

In the first couple of hours after the leak was reported, about 1:45 p.m., officials closed two lanes in the northbound tunnel and all onramps from the Massachusetts Turnpike. Traffic on the Southeast Expressway backed up to Quincy, and there were long delays on the turnpike approaching the interchange.

Big Dig officials said at a late afternoon press conference that they hoped to reopen all the tunnel's northbound lanes by this morning's commute. But they said they did not know how long it would take to find the source of the leak and repair the damage, and they could not guarantee that work would be finished in time.

By late afternoon, officials could not provide an estimate of how much water had flowed into the tunnel. For safety and to soak up the water, highway workers piled sandbags along the eastern wall and poured sand in the right lane.

Officials and engineers were so uncertain about the origin of the water that some tasted it. The likely source, they said, was groundwater, because that portion of the tunnel sits 110 feet underground.

One theory for the leak was that sand or clay got into the poured concrete in the tunnel's slurry wall during construction, said Sean O'Neill, a spokesman for the Massachusetts Turnpike Authority, which oversees the $14.6 billion Big Dig project.

O'Neill said it is possible that groundwater ate away at the sand and carved a small leak in the wall.

During construction of the Big Dig, engineers and workers built the slurry walls by first digging a series of deep trenches, which were filled with a clay substance. Concrete was then pumped underneath, displacing the clay and forming the tunnel's concrete walls.

Keith Sibley, director of construction for Bechtel/Parsons Brinckerhoff, the consortium responsible for major portions of the Big Dig, sought during the press conference to reassure drivers and state officials that there were no safety concerns.

''Structurally, there's no problem with the tunnel at all,'' he said.

But state officials said they would hold the consortium responsible for all costs of sealing the leak and repairing the wall.

''Believe me, as a customer of the product we constructed, I'm not happy right now,'' said Matthew J. Amorello, chairman of the

Massachusetts Turnpike Authority, which oversees the $14.6 billion Big Dig project. ''It's unacceptable, and we're going to deal with it.''

Bechtel/Parsons officials said last night that Modern Continental, the contractor that built the tunnel's slurry walls 10 years ago, would pay for the repairs.

''Modern Continental has accepted responsibility and will make all the repairs as quickly as possible,'' said Andrew Paven, a Bechtel/Parsons spokesman.

But last night, a spokeswoman for Modern Continental said that no such agreement had been reached. ''The cause of the leak has not been determined, and no conversation about the cost of the repairs has taken place,'' said the spokeswoman, Lorraine Marino.

About 7 last night, Big Dig engineers met in a office at the project's headquarters on Kneeland Street to figure out how to plug the hole without making the problem worse. The engineers said that removing tiles along the wall could expand the leak.

Officials were notified about the leak when motorists began reporting water seeping through Jersey barriers along the northbound tunnel's eastern wall.

Shortly after those reports, with the water flow at its heaviest, officials closed two lanes of the northbound tunnel, which produced the miles-long backup.

To ease congestion, officials opened the Haul Road off Interstate 93 north at 3:30 p.m., a road normally limited to commercial traffic. At the same time, they closed the entrance into the tunnel from Congress Street. And 15 minutes later, officials closed all onramps from the turnpike leading to northbound tunnel.

By early evening, the closing was reduced to one lane, and traffic was flowing. So was the water, which continued to form a small pool in the right lane of the tunnel about a quarter mile south of Exit 23 to Government Center.

A stream of water trickled between sandbags and rippled in a puddle about 5 inches deep and two cars long in the right lane.

Officials said they found an 8–inch hole in the slurry wall, one of the Big Dig's signature innovations, and sent a special team of construction workers to inspect whether the damage was more extensive.

Officials said there was no connection between yesterday's leak and a water leak last winter, when ice formed on the road surface in the northbound and southbound tunnels. The ice was blamed on the presence old steel footings from the elevated Central Artery, which allowed rainwater to seep into the tunnel.

While construction of the Big Dig is nearing an end, the process for determining who should pay for the cost overruns in the project is ongoing.

In February 2003, Amorello appointed Edward M. Ginsburg, a retired state judge, to lead a review of the project with an eye to holding contractors responsible for mistakes. To date, Ginsburg's team of lawyers and engineers has identified more than 700 construction issues and has recovered $3.5 million from a design firm.

The Ginsburg team has filed several lawsuits against other design firms, including one seeking $150 million from Bechtel/Parsons Brinckerhoff, the project's overall manager.

Last night, Ginsburg said he could not comment on the leak, but promised an aggressive investigation on behalf of taxpayers.

''We will definitely get all the preliminary reports and send our people in to look at this,'' he said. ''This shouldn't happen, and somebody has got to make an explanation, and I can assure you it is not going to get by us. We will look at this, absolutely.''

[From the Boston Globe, Nov. 17, 2004]

LIST OF TUNNEL TROUBLES GROWS LONGER, MORE LEAKS, DAMAGE FOUND

(By Raphael Lewis and Sean P. Murphy)

The Big Dig's tunnel leak problem is far more costly and extensive than Massachusetts Turnpike officials and private contractors have acknowledged, involving thousands of ceiling and wall fissures, water damage to steel supports and fireproofing systems, and overloaded drainage equipment, according to documents obtained by the Globe.

Turnpike officials and private-sector managers Bechtel/Parsons Brinckerhoff have together signed off on at least $10 million in cost overruns to repair the leaks and water damage since early 2001, the records show, and the problem persists.

Turnpike officials did not acknowledge the leak problem until it was revealed in the Globe last week.

All this occurred while engineers worked frantically to come up with a permanent solution for waterproofing the tunnels, an effort that continues today, according to project documents.

The problem stems in part from an apparent projectwide failure in the original design of the waterproofing system, a critical feature of a tunnel that sits almost entirely beneath the salty water table of downtown Boston. In a confidential report commissioned by the Turnpike in 2001 by the auditing firm Deloitte & Touche, project officials acknowledged that ''the original design provided insufficient protection against leaking'' at the top of tunnel walls.

With construction of the tunnels well underway and with water seeping in through joints between the roof and tunnel walls and between panels, Bechtel/Parsons Brinckerhoff abandoned its initial waterproofing system, a membrane applied to the roof and walls that had proved incapable of stopping water. Contractors were ordered to apply a spray-on application instead.

Doug Hanchett spokesman for the Massachusetts Turnpike Authority, which oversees the Big Dig said that the agency has made progress in controlling the leak problem and that the authority is working to recoup costs from contractors.

''This issue is something that will resolve itself through the construction process, and we fully expect that the contractors will perform the waterproofing work, as required in their contracts,'' Hanchett said.

Earlier this month, a team of independent engineers hired to investigate a massive leak that erupted in September said the project was riddled with more than 400 leaks throughout the tunnel system.

However, the documents obtained by the Globe show nearly 700 leaks in just one 1,000–foot section of the Interstate 93 tunnels beneath South Station. The documents include memorandums, diagrams, photographs, and correspondence pertaining to the Central Artery tunnels.

According to documents detailing modification to tunnel finishing contracts, which were obtained by the Globe, the Turnpike Authority and Bechtel/Parsons Brinckerhoff established a Leak Task Force in early 2001 and is now allocating $250,000 a month for the firm McCourt/Obiyashi to send repair teams into virtually all sections of the I–93 tunnels. McCourt/Obiyashi's initial contract, which began in 1999, had no such provisions for leak repair, but by mid-2001 the firm was extensively engaged in that effort, the documents show.

For example, in August 2003, tunnel officials, approved a $205,000 plan to replace 300 wall panel connectors in the downtown tunnels because ''excessive tunnel leakage with high salt content has caused unacceptable corrosion.''

In another instance in March 2001, McCourt/Obiyashi was told to extend tubes that contained liquid concrete grout for leak repairs throughout the tunnels. That work cost $300,000.

George J. Tamaro, an independent engineer hired by the Turnpike Authority to investigate the source of the massive tunnel leak that erupted in September, said that the roof's waterproofing membrane didn't work as intended and that engineers have used concrete grout for several years to try to plug the leaks. He said problems with leaks seemed to occur when the weather becomes colder.

Tamaro and another engineer hired to investigate the situation, Jack K. Lemley, said a permanent solution to address the problem is needed, or workers will spend years, perhaps even a decade, patching and repatching the leaks.

Anthony Lancellotti, a Bechtel/Parsons Brinckerhoff design executive, said that ''there are a lot of theories'' on the cause of the leaks and that he is not allowed to discuss them because of ongoing investigations by Bechtel/Parsons Brinckerhoff, the Turnpike Authority, the state attorney general's office, and the US Department of Transportation's inspector general.

But Lancellotti insisted that there has been a dramatic drop in the number of leaks due to ongoing repairs. He said that using grout to close leaks is a hit-or-miss proposition. Workers drilling into the concrete to inject the grout are never sure the holes they have drilled intersect with the path of the leak.

''Drilling is exploratory,'' he said. ''You have to do it several times. You chase leaks; that's the nature of the business. But we have seen a dramatic improvement.''

Attorney General Thomas F. Reilly, who said his office is meeting regularly with engineers trying to get refunds for shoddy work, predicted that the cost of fixing the roof leaks will be much more than the $10 million already spent by the Turnpike Authority, and he called on the contractors involved, including Bechtel/Parsons Brinckerhoff, to cover those costs.

In addition to the $10 million allocated so far, project construction contractors who built the tunnels have on their own spent at least $6 million plugging leaks, according to construction industry officials who spoke on condition on anonymity.

Some of the contractors are now pressing hard to be compensated by the state for those expenses.

One firm, Modern Continental, has submitted a bill of roughly $4 million for leak repair work, and is asserting that the leakage problem is the result of a flawed design by Bechtel/Parsons Brinckerhoff.

But the Turnpike Authority and Bechtel/Parsons Brinckerhoff have insisted that the design was appropriate.

[From the Boston Herald, Sept. 17, 2004]

SPONGEBOB TUNNEL SIMPLY LEAVING TAXPAYERS ALL WET

(By Howie Carr)

They're going to make a movie about the Big Dig.

They'll call it ''The Poseidon Adventure.'' Or maybe '' 15 Billion Dollars Under the Sea.'' Or ''Voyage to the Bottom of the Tunnel.''

Another day, another flood. And Wednesday was a dry day, too, as you well recall, if you were caught in the traffic jam for two or three hours. It hadn't rained in a week, but suddenly there was a flood. It was a small gusher, a Newton Lower Falls type of cascade. But you have to wonder, how long until we get a Niagara down there in the Liberty Tunnel?

In case you've forgotten, the Big Dig cost $14.6 billion.

And it leaks. It has more holes in it than a ''60 Minutes'' investigation.

Riding into the tunnel is like going through a car wash, only you can't get a wax job. The next time they have a grand opening ribbon-cutting down there, they should forget the elephants and invite SpongeBob SquarePants instead.

How many more times do we have to endure Fat Matt Amorello, the bloated hack who runs the Big Dig, at a press conference, flopping like a fish, as SpongeBob would say? Talk about nautical nonsense.

To quote Fat Matt: ''I'm not a happy customer.''

''I didn't know he was a customer,'' said Christy Mihos, the former Pike board member. ''I thought he was the boss.''

Only when there's a ribbon to be cut.

''The Big Dig,'' Amorello says in one of the Pike's many four-color handouts, ''has evolved into the single largest, most complex highway project on the planet.''

And it leaks.

Yesterday, Fat Matt was talking about a ''forensic'' investigation. What a joke. After years of cost overruns and water overflows, Fat Matt has got about as much credibility as Dan Rather talking about his ''unimpeachable sources.''

Why won't Gov. Mitt Romney fire Fat Matt? That's been the question for a long time now. Of course, Mitt needs ''just cause''—that was the ruling of the SJC in the firings of Christy Mihos and Jordan Levy by then-Gov. Jane Swift. But how much more inepitude can Mitt tolerate? This guy Fat Matt is a walking blister.

But after this latest flood, it appears that there may be some method to Mitt's madness. These leaks, after all, are just going to keep coming, no matter what they say. So Mitt needs a . . . hostage, someone he can whack when the time comes. Remember Jim Kerasiotes?

If—when?—the day comes that you need Noah's Ark to get around down there, someone's going to have to take two in the hat. And Mitt can say, hey, I tried to blow out this bindlestiff, but the Legislature refused to pass my highway reorganization plan.

Mitt's good at this kind of in-fighting. Look at the convention in July. He washed his hands of that fiasco pretty well. He offered the DNC the use of the convention center in South Boston, and then when the city shut down for a week, Mitt said, that's too bad, I wish they'd taken me up on my offer.

Now Mitt wants to run for president, and the last thing he needs to do is preside over a flooded-out, $15 billion tunnel. Better Trav should take the hit.

Of course, whenever Fat Matt's minions talk about this fiasco, they mention how much money they've gotten back from the contractors. So far, on a $14.6 billion project, they've recovered $3.5 million.

That would be like if you hired a guy to fix the roof on your house for $10,000, and the first time it rained, the water was coming into every nook and cranny in your home. And then the contractor told you, hey, that's a shame, so I'm going to give you a refund—here's $30.

Why don't we just rename the tunnel after SpongeBob SquarePants? Absorbent and yellow and porous is he—just like the tunnel.

[From the Associated Press State & Local Wire, Nov. 10, 2004

BIG DIG OFFICIALS: TAXPAYERS WON'T PAY TO REPAIR LEAKS

By Steve Leblanc

BOSTON—The Big Dig is riddled with leaks that are dumping millions of gallons of water into the $14.6 billion tunnel system, according to an engineer hired to investigate the cause of a massive leak in September.

Locating and fixing the hundreds of leaks could take up to 10 years, said Jack K. Lemley, a consultant hired by the Massachusetts Turnpike Authority to investigate the problem.

''There is no public safety issue,'' Turnpike Authority Chairman Matthew Amorello said Wednesday, adding that the tunnels remain structurally sound, and the drainage system is keeping water off the roadways.

Lemley told The Boston Globe that repairing September's leak alone would require two months and lane closures. But Amorello said that taxpayers and motorists who pay tolls will not foot the bill for repairs.

Lemley's team also found documents showing that managers of Bechtel/Parsons Brinckerhoff, the private consortium that managed the project, were aware that the wall breached this fall was faulty when it was built in the late 1990s, but did not order it replaced and did not notify state officials.

Retired judge Edward M. Ginsburg, leader of a state-appointed team reviewing overcharges by Big Dig contractors, said he has spoken to Attorney General Tom Reilly about filing a lawsuit targeting Bechtel and Modern Continental, the contractor that built the wall section that leaked in September.

''I can honestly say we were shocked,'' Ginsburg told the Globe. ''I can assure you we're going to make sure there is a thorough investigation.''

Turnpike Authority member Jordan Levy promised to make the contractors pay for repairing the leaks. mat.

''I'm outraged and dismayed at the quality of some of this work,'' he said. ''We are not going to let anyone off the mat.

''If there was a cover-up involved in this, I would expect the attorney general would bring this before a grand jury to determine if there is criminal intent here,'' he said.

Levy said either the Bechtel project was incompetent or there was ''malfeasance at the highest level.''

''I don't think they're stupid,'' he said.

Levy said the scope of the problem was ''beyond comprehension,'' given the years and billions of tax dollars spent.

He added that more tax dollars would be spent to fix the problem, ''over my dead body.''

In September, an eight-inch leak sprung in the northbound lanes of the Interstate 93 tunnel and caused 10–mile backups on the highway.

Bechtel/Parsons Brinckerhoff issued a statement Tuesday saying:

''While the cause of the September water leak in the northbound tunnel remains under investigation, it would be inappropriate for us to comment on specific allegations. ... In a tunnel of this construction type, seepage is inevitable, but is mitigated by proper engineering and maintenance programs, which have been planned for and are in place. The tunnel is structurally sound.''

Modern Continental, the largest contractor on the project, also issued a statement.

''The results of the investigation will conclude that Modern's workmanship was in accordance with contract plans and specifications,'' it said.

Ginsburg said his team will demand that the contractors fix the problem at no cost to taxpayers. He could not estimate the cost.

The September leak was the latest in a series of embarrassing episodes in the two-decade construction of the Big

Dig, formally called the Central Artery/Third Harbor Tunnel project.

In January, ice formed in the tunnels, forcing officials to close lanes and jamming up traffic. And in 2001, a leak spouted from under one of six concrete tubes being put in place to carry Interstate 90 through the Fort Point Channel.

The Big Dig replaced the elevated Central Artery of Interstate 93 with underground tunnels through downtown

Boston. It also connected Interstate 90—the Massachusetts Turnpike—to Logan International Airport, and added the Ted Williams Tunnel beneath Boston Harbor.

Mr. MCCAIN. Mr. President, on November 17, there was an article in the Boston Globe: ''List Of Tunnel Troubles Grows Longer, More Leaks, Damage Found.'' I will quote parts of the article:

The problem stems in part from an apparent projectwide failure in the original design of the waterproofing system. . . .

Earlier this month, a team of independent engineers hired to investigate a massive leak that erupted in September said the project was riddled with more than 400 leaks throughout the tunnel system.

However, the documents obtained by the Globe show nearly 700 leaks in just one 1,000-foot section of the Interstate 93 tunnels beneath South Station. . . .

In addition to the $10 million allocated so far, project construction contractors who built the tunnels have on their own spent at least $6 million plugging leaks, according to construction industry officials who spoke on condition of anonymity.

Some of the contractors are now pressing hard to be compensated by the state for those expenses.

One firm, Modern Continental, has submitted a bill of roughly $4 million for leak repair work, and is asserting that the leakage problem is the result of a flawed design by Bechtel/Parsons Brinckerhoff. . . .

George J. Tamaro, an independent engineer hired by the Turnpike Authority to investigate the source of the massive tunnel leak that erupted in September, said that the roof's waterproofing membrane didn't work as intended and the engineers have used concrete grout for several years to try to plug the leaks. . . .

Tamaro and another engineer hired to investigate the situation, Jack K. Lemley, said a permanent solution to address the problem is needed, or workers will spend years, perhaps even a decade, patching and repatching the leaks.

An article in the Associated Press:

The team of consulting engineers also said it found documents showing that managers of Bechtel/Parsons Brinckerhoff, the private consortium that oversaw the project, were aware that the wall was faulty when it was built in the late 1990s but did not tell the Turnpike Authority about it.

Another article in the Associated Press:

Locating and fixing the hundreds of leaks could take up to 10 years, said Jack K. Lemley, a consultant hired by the Massachusetts Turnpike Authority. . . .

Lemley's team also found documents showing that managers of Bechtel/Parsons Brinckerhoff, the private consortium that managed the project, were aware that the wall breached this fall was faulty when it was built in the late 1990s, but did not order it replaced and did not notify state officials.

Retired Judge Edward M. Ginsburg, leader of a state-appointed team reviewing overcharges by Big Dig contractors, said he has spoken to Attorney General Tom Reilly about filing a lawsuit targeting Bechtel and Modern Continental, the contractor that built the wall section that leaked in September.

''I can honestly say we were shocked,'' Ginsburg told the Globe. ''I can assure you we're going to make sure there is a thorough investigation.''

Here is one in the Boston Herald:

They're going to make a movie about the Big Dig.

They'll call it ''The Poseidon Adventure.'' Or maybe ''15 Billion Dollars Under the Sea.'' Or ''Voyage to the Bottom of the Tunnel.''

Another day, another flood. And Wednesday was a dry day, too, as you well recall, if you were caught in the traffic jam for two or three hours. It hadn't rained in a week, but suddenly there was a flood. It was a small gusher, a Newton Lower Falls type of cascade. But you have to wonder, how long until we get a Niagara down there in the Liberty Tunnel?

. . . In case you've forgotten, the Big Dig cost $14.6 billion.

And it leaks. It has more holes in it than a ''60 Minutes'' investigation.

Riding into the tunnel is like going through a car wash, only you can't get a wax job. The next time they have a grand opening ribbon-cutting down there, they should forget the elephants and invite SpongeBob SquarePants instead.

How many more times do we have to endure Fat Matt Amarillo, the bloated hack who runs the Big Dig, at a press conference, flopping like a fish, as SpongeBob would say? Talk about nautical nonsense.

To quote Fat Matt: ''I'm not a happy customer.''

''I didn't know he was a customer,'' said Christy Mihos, the former Pike board member. ''I thought he was the boss.''

Only when there's a ribbon to be cut.

I commend this article to all of my colleagues' reading. It is very entertaining. And since it is such a sad kind of a situation, maybe there is room—

Why don't we just rename the tunnel after SpongeBob SquarePants? Absorbent and yellow and porous is he—just like the tunnel.

I think that is pretty much of a high point or low point of my selective reading from articles from the Boston Globe and the Boston Herald and the Associated Press.

Mr. President, in summary, this is a serious situation. I do not believe the taxpayers of America should pay any more money in this effort. No funds have been recovered from Bechtel/Parsons Brinckerhoff, although the Turnpike Authority and the Commonwealth have filed suit against the joint venture.

I hope we can get this cleared up as soon as possible. I would assume next year the Commerce Committee will have additional oversight hearings on this issue. This is not a good day for the taxpayers of America.

FAMILY ENTERTAINMENT AND COPYRIGHT ACT OF 2004

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 3021, which was introduced earlier today by Senators HATCH and LEAHY.

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

The assistant legislative clerk read as follows:

A bill (S. 3021) to provide for the protection of intellectual property rights and for other purposes.

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

Mr. MCCAIN. Mr. President, I ask unanimous consent that the McCain amendment at the desk be agreed to, the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table, and that any statements regarding this matter be printed in the RECORD.

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

The amendment (No. 4074) was agreed to.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The bill (S. 3021), as amended, was read the third time and passed, as follows:

S. 3021

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 ''Family Entertainment and Copyright Act of 2004''.

TITLE I—ARTISTS' RIGHTS AND THEFT PREVENTION

SEC. 101. SHORT TITLE.

This title may be cited as the ''Artists' Rights and Theft Prevention Act of 2004'' or the ''ART Act''.

SEC. 102. CRIMINAL PENALTIES FOR UNAUTHORIZED RECORDING OF MOTION PICTURES IN A MOTION PICTURE EXHIBITION FACILITY.

(a) IN GENERAL.—Chapter 113 of title 18, United States Code, is amended by adding after section 2319A the following new section:

''§ 2319B. Unauthorized recording of motion pictures in a motion picture exhibition facility

''(a) OFFENSE.—Any person who, without the authorization of the copyright owner, knowingly uses or attempts to use an audiovisual recording device to transmit or make a copy of a motion picture or other audiovisual work protected under title 17, or any part thereof, from a performance of such work in a motion picture exhibition facility, shall—

''(1) be imprisoned for not more than 3 years, fined under this title, or both; or

''(2) if the offense is a second or subsequent offense, be imprisoned for no more than 6 years, fined under this title, or both.

The possession by a person of an audiovisual recording device in a motion picture exhibition facility may be considered as evidence in any proceeding to determine whether that person committed an offense under this subsection, but shall not, by itself, be sufficient to support a conviction of that person for such offense.

''(b) FORFEITURE AND DESTRUCTION.—When a person is convicted of a violation of subsection (a), the court in its judgment of conviction shall, in addition to any penalty provided, order the forfeiture and destruction or other disposition of all unauthorized copies of motion pictures or other audiovisual works protected under title 17, or parts thereof, and any audiovisual recording devices or other equipment used in connection with the offense.

''(c) AUTHORIZED ACTIVITIES.—This section does not prevent any lawfully authorized investigative, protective, or intelligence activity by an officer, agent, or employee of the United States, a State, or a political subdivision of a State, or a person acting under a contract with the United States, a State, or a political subdivision of a State.

''(d) IMMUNITY FOR THEATERS.—With reasonable cause, the owner or lessee of a facility where a motion picture is being exhibited, the authorized agent or employee of such owner or lessee, the licensor of the motion picture being exhibited, or the agent or employee of such licensor—

''(1) may detain, in a reasonable manner and for a reasonable time, any person suspected of a violation of this section for the purpose of questioning or summoning a law enforcement officer; and

''(2) shall not be held liable in any civil or criminal action arising out of a detention under paragraph (1).

''(e) VICTIM IMPACT STATEMENT.—

''(1) IN GENERAL.—During the preparation of the presentence report under rule 32(c) of the Federal Rules of Criminal Procedure, victims of an offense under this section shall be permitted to submit to the probation officer a victim impact statement that identifies the victim of the offense and the extent and scope of the injury and loss suffered by the victim, including the estimated economic impact of the offense on that victim.

''(2) CONTENTS.—A victim impact statement submitted under this subsection shall include—

''(A) producers and sellers of legitimate works affected by conduct involved in the offense;

''(B) holders of intellectual property rights in the works described in subparagraph (A); and

''(C) the legal representatives of such producers, sellers, and holders.

''(f) STATE LAW NOT PREEMPTED.—Nothing in this section may be construed to annul or limit any rights or remedies under the laws of any State.

''(g) DEFINITIONS.—In this section, the following definitions shall apply:

''(1) TITLE 17 DEFINITIONS.—The terms 'audiovisual work', 'copy', 'copyright owner', 'motion picture', 'motion picture exhibition facility', and 'transmit' have, respectively, the meanings given those terms in section 101 of title 17.

''(2) AUDIOVISUAL RECORDING DEVICE.—The term 'audiovisual recording device' means a digital or analog photographic or video camera, or any other technology or device capable of enabling the recording or transmission of a copyrighted motion picture or other audiovisual work, or any part thereof, regardless of whether audiovisual recording is the sole or primary purpose of the device.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113 of title 18, United States Code, is amended by inserting after the item relating to section 2319A the following:

''2319B. Unauthorized recording of motion pictures in a motion picture exhibition facility.''.

(c) DEFINITION.—Section 101 of title 17, United States Code, is amended by inserting after the definition of ''Motion pictures'' the following:

''The term 'motion picture exhibition facility' means a movie theater, screening room, or other venue that is being used primarily for the exhibition of a copyrighted motion picture, if such exhibition is open to the public or is made to an assembled group of viewers outside of a normal circle of a family and its social acquaintances.''.

SEC. 103. CRIMINAL INFRINGEMENT OF A WORK BEING PREPARED FOR COMMERCIAL DISTRIBUTION.

(a) PROHIBITED ACTS.—Section 506(a) of title 17, United States Code, is amended to read as follows:

''(a) CRIMINAL INFRINGEMENT.—

''(1) IN GENERAL.—Any person who willfully infringes a copyright shall be punished as provided under section 2319 of title 18, if the infringement was committed—

''(A) for purposes of commercial advantage or private financial gain;

''(B) by the reproduction or distribution, including by electronic means, during any 180–day period, of 1 or more copies or phonorecords of 1 or more copyrighted works, which have a total retail value of more than $1,000; or

''(C) by the distribution of a work being prepared for commercial distribution, by making it available on a computer network accessible to members of the public, if such person knew or should have known that the work was intended for commercial distribution.

''(2) EVIDENCE.—For purposes of this subsection, evidence of reproduction or distribution of a copyrighted work, by itself, shall not be sufficient to establish willful infringement of a copyright.

''(3) DEFINITION.—In this subsection, the term 'work being prepared for commercial distribution' means—

''(A) a computer program, a musical work, a motion picture or other audiovisual work, or a sound recording, if at the time of unauthorized distribution—

''(i) the copyright owner has a reasonable expectation of commercial distribution; and

''(ii) the copies or phonorecords of the work have not been commercially distributed; or

''(B) a motion picture, if at the time of unauthorized distribution, the motion picture—

''(i) has been made available for viewing in a motion picture exhibition facility; and

''(ii) has not been made available in copies for sale to the general public in the United States in a format intended to permit viewing outside a motion picture exhibition facility.''.

(b) CRIMINAL PENALTIES.—Section 2319 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking ''Whoever'' and inserting ''Any person who''; and

(B) by striking ''and (c) of this section'' and inserting '', (c), and (d)'';

(2) in subsection (b), by striking ''section 506(a)(1)'' and inserting ''section 506(a)(1)(A)'';

(3) in subsection (c), by striking ''section 506(a)(2) of title 17, United States Code'' and inserting ''section 506(a)(1)(B) of title 17'';

(4) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively;

(5) by adding after subsection (c) the following:

''(d) Any person who commits an offense under section 506(a)(1)(C) of title 17—

''(1) shall be imprisoned not more than 3 years, fined under this title, or both;

''(2) shall be imprisoned not more than 5 years, fined under this title, or both, if the offense was committed for purposes of commercial advantage or private financial gain;

''(3) shall be imprisoned not more than 6 years, fined under this title, or both, if the offense is a second or subsequent offense; and

''(4) shall be imprisoned not more than 10 years, fined under this title, or both, if the offense is a second or subsequent offense under paragraph (2).''; and

(6) in subsection (f), as redesignated—

(A) in paragraph (1), by striking ''and'' at the end;

(B) in paragraph (2), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(3) the term 'financial gain' has the meaning given the term in section 101 of title 17; and

''(4) the term 'work being prepared for commercial distribution' has the meaning given the term in section 506(a) of title 17.''.

SEC. 104. CIVIL REMEDIES FOR INFRINGEMENT OF A WORK BEING PREPARED FOR COMMERCIAL DISTRIBUTION.

(a) PREREGISTRATION.—Section 408 of title 17, United States Code, is amended by adding at the end the following:

''(f) PREREGISTRATION OF WORKS BEING PREPARED FOR COMMERCIAL DISTRIBUTION.—

''(1) RULEMAKING.—Not later than 180 days after the date of enactment of this subsection, the Register of Copyrights shall issue regulations to establish procedures for preregistration of a work that is being prepared for commercial distribution and has not been published.

''(2) CLASS OF WORKS.—The regulations established under paragraph (1) shall permit preregistration for any work that is in a class of works that the Register determines has had a history of infringement prior to authorized commercial distribution.

''(3) APPLICATION FOR REGISTRATION.—Not later than 3 months after a the first publication of a work preregistered under this subsection, the applicant shall submit to the Copyright Office—

''(A) an application for registration of the work;

''(B) a deposit; and

''(C) the applicable fee.

''(4) EFFECT OF UNTIMELY APPLICATION.—An action under this chapter for infringement of a preregistered work, in a case in which the infringement commenced no later than 2 months after the first publication of the work shall be dismissed if the items described in paragraph (3) are not submitted to the Copyright Office in proper form within the earlier of—

''(A) 3 months after the first publication of the work; or

''(B) 1 month after the copyright owner has learned of the infringement.''.

(b) INFRINGEMENT ACTIONS.—Section 411(a) of title 17, United States Code, is amended by inserting ''preregistration or'' after ''shall be instituted until''.

(c) EXCLUSION.—Section 412 of title 17, United States Code, is amended by inserting '', an action for infringement of the copyright of a work that has been preregistered under section 408(f) before the commencement of the infringement and that has an effective date of registration not later than the earlier of 3 months after the first publication of the work or 1 month after the copyright owner has learned of the infringement,'' after ''section 106A(a)''.

SEC. 105. FEDERAL SENTENCING GUIDELINES.

(a) REVIEW AND AMENDMENT.—Not later than 180 days after the date of enactment of this Act, the United States Sentencing Commission, pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, shall review and, if appropriate, amend the Federal sentencing guidelines and policy statements applicable to persons convicted of intellectual property rights crimes, including any offense under—

(1) section 506, 1201, or 1202 of title 17, United States Code; or

(2) section 2318, 2319, 2319A, 2319B, or 2320 of title 18, United States Code.

(b) AUTHORIZATION.—The United States Sentencing Commission may amend the Federal sentencing guidelines in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987 (28 U.S.C. 994 note) as though the authority under that section had not expired.

(c) RESPONSIBILITIES OF UNITED STATES SENTENCING COMMISSION.—In carrying out this section, the United States Sentencing Commission shall—

(1) take all appropriate measures to ensure that the Federal sentencing guidelines and policy statements described in subsection (a) are sufficiently stringent to deter, and adequately reflect the nature of, intellectual property rights crimes;

(2) determine whether to provide a sentencing enhancement for those convicted of the offenses described in subsection (a), if the conduct involves the display, performance, publication, reproduction, or distribution of a copyrighted work before it has been authorized by the copyright owner, whether in the media format used by the infringing party or in any other media format;

(3) determine whether the scope of ''uploading'' set forth in application note 3 of section 2B5.3 of the Federal sentencing guidelines is adequate to address the loss attributable to people who broadly distribute copyrighted works without authorization over the Internet; and

(4) determine whether the sentencing guidelines and policy statements applicable to the offenses described in subsection (a) adequately reflect any harm to victims from copyright infringement if law enforcement authorities cannot determine how many times copyright material has been reproduced or distributed.

TITLE II—EXEMPTION FROM INFRINGEMENT FOR SKIPPING AUDIO AND VIDEO CONTENT IN MOTION PICTURES

SEC. 201. SHORT TITLE.

This title may be cited as the ''Family Movie Act of 2004''.

SEC. 202. EXEMPTION FROM INFRINGEMENT FOR SKIPPING AUDIO AND VIDEO CONTENT IN MOTION PICTURES.

(a) IN GENERAL.—Section 110 of title 17, United States Code, is amended—

(1) in paragraph (9), by striking ''and'' after the semicolon at the end;

(2) in paragraph (10), by striking the period at the end and inserting ''; and'';

(3) by inserting after paragraph (10) the following:

''(11) the making imperceptible, by or at the direction of a member of a private household, of limited portions of audio or video content of a motion picture, during a performance in or transmitted to that household for private home viewing, from an authorized copy of the motion picture, or the creation or provision of a computer program or other technology that enables such making imperceptible and that is designed and marketed for such use at the direction of a member of a private household, if no fixed copy of the altered version of the motion picture is created by such computer program or other technology.''; and

(4) by adding at the end the following:

''For purposes of paragraph (11), the term 'making imperceptible' does not include the addition of audio or video content that is performed or displayed over or in place of existing content in a motion picture.

''Nothing in paragraph (11) shall be construed to imply further rights under section 106 of this title, or to have any effect on defenses or limitations on rights granted under any other section of this title or under any other paragraph of this section.''.

(c) EXEMPTION FROM TRADEMARK INFRINGEMENT.—Section 32 of the Trademark Act of 1946 (15 U.S.C. 1114) is amended by adding at the end the following:

''(3)(A) Any person who engages in the conduct described in paragraph (11) of section 110 of title 17, United States Code, and who complies with the requirements set forth in that paragraph is not liable on account of

such conduct for a violation of any right under this Act. This subparagraph does not preclude liability, nor shall it be construed to restrict the defenses or limitations on rights granted under this Act, of a person for conduct not described in paragraph (11) of section 110 of title 17, United States Code, even if that person also engages in conduct described in paragraph (11) of section 110 of such title.

''(B) A manufacturer, licensee, or licensor of technology that enables the making of limited portions of audio or video content of a motion picture imperceptible as described in subparagraph (A) is not liable on account of such manufacture or license for a violation of any right under this Act, if such manufacturer, licensee, or licensor ensures that the technology provides a clear and conspicuous notice at the beginning of each performance that the performance of the motion picture is altered from the performance intended by the director or copyright holder of the motion picture. The limitations on liability in subparagraph (A) and this subparagraph shall not apply to a manufacturer, licensee, or licensor of technology that fails to comply with this paragraph.

''(C) The requirement under subparagraph (B) to provide notice shall apply only with respect to technology manufactured after the end of the 180-day period beginning on the date of the enactment of the Family Movie Act of 2004.

''(D) Any failure by a manufacturer, licensee, or licensor of technology to qualify for the exemption under subparagraphs (A) and (B) shall not be construed to create an inference of liability for trademark infringement for any such party that engages in conduct described in paragraph (11) of section 110 of title 17, United States Code.''.

(d) DEFINITION.—In this section, the term ''Trademark Act of 1946'' means the Act entitled ''An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes'', approved July 5, 1946 (15 U.S.C. 1051 et seq.).

TITLE III—NATIONAL FILM PRESERVATION

Subtitle A—Reauthorization of the National Film Preservation Board

SEC. 301. SHORT TITLE.

This subtitle may be cited as the ''National Film Preservation Act of 2004''.

SEC. 302. REAUTHORIZATION AND AMENDMENT.

(a) DUTIES OF THE LIBRARIAN OF CONGRESS.—Section 103 of the National Film Preservation Act of 1996 (2 U.S.C. 179m) is amended—

(1) in subsection (b)—

(A) by striking ''film copy'' each place that term appears and inserting ''film or other approved copy'';

(B) by striking ''film copies'' each place that term appears and inserting ''film or other approved copies''; and

(C) in the third sentence, by striking ''copyrighted'' and inserting ''copyrighted, mass distributed, broadcast, or published''; and

(2) by adding at the end the following:

''(c) COORDINATION OF PROGRAM WITH OTHER COLLECTION, PRESERVATION, AND ACCESSIBILITY ACTIVITIES.—In carrying out the comprehensive national film preservation program for motion pictures established under the National Film Preservation Act of 1992, the Librarian, in consultation with the Board established pursuant to section 104, shall—

''(1) carry out activities to make films included in the National Film registry more broadly accessible for research and educational purposes, and to generate public awareness and support of the Registry and the comprehensive national film preservation program;

''(2) review the comprehensive national film preservation plan, and amend it to the extent necessary to ensure that it addresses technological advances in the preservation and storage of, and access to film collections in multiple formats; and

''(3) wherever possible, undertake expanded initiatives to ensure the preservation of the moving image heritage of the United States, including film, videotape, television, and born digital moving image formats, by supporting the work of the National Audio-Visual Conservation Center of the Library of Congress, and other appropriate nonprofit archival and preservation organizations.''.

(b) NATIONAL FILM PRESERVATION BOARD.—Section 104 of the National Film Preservation Act of 1996 (2 U.S.C. 179n) is amended—

(1) in subsection (a)(1) by striking ''20'' and inserting ''22'';

(2) in subsection (a) (2) by striking ''three'' and inserting ''5'';

(3) in subsection (d) by striking ''11'' and inserting ''12''; and

(4) by striking subsection (e) and inserting the following:

''(e) REIMBURSEMENT OF EXPENSES.—Members of the Board shall serve without pay, but may receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.''.

(c) NATIONAL FILM REGISTRY.—Section 106 of the National Film Preservation Act of 1996 (2 U.S.C. 179p) is amended by adding at the end the following:

''(e) NATIONAL AUDIO-VISUAL CONSERVATION CENTER.—The Librarian shall utilize the National Audio-Visual Conservation Center of the Library of Congress at Culpeper, Virginia, to ensure that preserved films included in the National Film Registry are stored in a proper manner, and disseminated to researchers, scholars, and the public as may be appropriate in accordance with—

''(1) title 17, United States Code; and

''(2) the terms of any agreements between the Librarian and persons who hold copyrights to such audiovisual works.''.

(d) USE OF SEAL.—Section 107 (a) of the National Film Preservation Act of 1996 (2 U.S.C. 179q(a)) is amended—

(1) in paragraph (1), by inserting ''in any format'' after ''or any copy''; and

(2) in paragraph (2), by striking ''or film copy'' and inserting ''in any format''.

(e) EFFECTIVE DATE.—Section 113 of the National Film Preservation Act of 1996 (2 U.S.C. 179w) is amended by striking ''7'' and inserting ''12''.

Subtitle B—Reauthorization of the National Film Preservation Foundation

SEC. 311. SHORT TITLE.

This subtitle may be cited as the ''National Film Preservation Foundation Reauthorization Act of 2004''.

SEC. 312. REAUTHORIZATION AND AMENDMENT.

(a) BOARD OF DIRECTORS.—Section 151703 of title 36, United States Code, is amended—

(1) in subsection (b)(2)(A), by striking ''nine'' and inserting ''12''; and

(2) in subsection (b)(4), by striking the second sentence and inserting ''There shall be no limit to the number of terms to which any individual may be appointed.''.

(b) POWERS.—Section 151705 of title 36, United States Code, is amended in subsection (b) by striking ''District of Columbia'' and inserting ''the jurisdiction in which the principal office of the corporation is located''.

(c) PRINCIPAL OFFICE.—Section 151706 of title 36, United States Code, is amended by inserting '', or another place as determined by the board of directors'' after ''District of Columbia''.

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 151711 of title 36, United States Code, is amended by striking subsections (a) and (b) and inserting the following:

''(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Library of Congress amounts necessary to carry out this chapter, not to exceed $530,000 for each of the fiscal years 2004 through 2008. These amounts are to be made available to the corporation to match any private contributions (whether in currency, services, or property) made to the corporation by private persons and State and local governments.

''(b) LIMITATION RELATED TO ADMINISTRATIVE EXPENSES.—Amounts authorized under this section may not be used by the corporation for management and general or fundraising expenses as reported to the Internal Revenue Service as part of an annual information return required under the Internal Revenue Code of 1986.''.

TITLE IV—PRESERVATION OF ORPHAN WORKS

SEC. 401. SHORT TITLE.

This title may be cited as the ''Preservation of Orphan Works Act''.

SEC. 402. REPRODUCTION OF COPYRIGHTED WORKS BY LIBRARIES AND ARCHIVES.

Section 108(i) of title 17, United States Code, is amended by striking ''(b) and (c)'' and inserting ''(b), (c), and (h)''.

TITLE V—ANTICOUNTERFEITING PROVISIONS AND FRAUDULENT ONLINE IDENTITY SANCTIONS

Subtitle A—Anticounterfeiting Provisions

SEC. 501. SHORT TITLE.

This subtitle may be cited as the ''Anticounterfeiting Act of 2004''.

SEC. 502. PROHIBITION AGAINST TRAFFICKING IN COUNTERFEIT COMPONENTS.

(a) IN GENERAL.—Section 2318 of title 18, United States Code, is amended—

(1) by striking the section heading and inserting the following:

''§ 2318. Trafficking in counterfeit labels, illicit labels, or counterfeit documentation or packaging'';

(2) by striking subsection (a) and inserting the following:

''(a) Whoever, in any of the circumstances described in subsection (c), knowingly traffics in—

''(1) a counterfeit label or illicit label affixed to, enclosing, or accompanying, or designed to be affixed to, enclose, or accompany—

''(A) a phonorecord;

''(B) a copy of a computer program;

''(C) a copy of a motion picture or other audiovisual work;

''(D) a copy of a literary work;

''(E) a copy of a pictorial, graphic, or sculptural work;

''(F) a work of visual art; or

''(G) documentation or packaging; or

''(2) counterfeit documentation or packaging,

shall be fined under this title or imprisoned for not more than 5 years, or both.'';

(3) in subsection (b)—

(A) in paragraph (2), by striking ''and'' after the semicolon;

(B) in paragraph (3)—

(i) by striking ''and 'audiovisual work' have'' and inserting the following: '' 'audiovisual work', 'literary work', 'pictorial, graphic, or sculptural work', 'sound recording', 'work of visual art', and 'copyright owner' have''; and

(ii) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(4) the term 'illicit label' means a genuine certificate, licensing document, registration card, or similar labeling component—

''(A) that is used by the copyright owner to verify that a phonorecord, a copy of a computer program, a copy of a motion picture or other audiovisual work, a copy of a literary work, a copy of a pictorial, graphic, or sculptural work, a work of visual art, or documentation or packaging is not counterfeit or infringing of any copyright; and

''(B) that is, without the authorization of the copyright owner—

''(i) distributed or intended for distribution not in connection with the copy, phonorecord, or work of visual art to which such labeling component was intended to be affixed by the respective copyright owner; or

''(ii) in connection with a genuine certificate or licensing document, knowingly falsified in order to designate a higher number of licensed users or copies than authorized by the copyright owner, unless that certificate or document is used by the copyright owner solely for the purpose of monitoring or tracking the copyright owner's distribution channel and not for the purpose of verifying that a copy or phonorecord is noninfringing;

''(5) the term 'documentation or packaging' means documentation or packaging, in physical form, for a phonorecord, copy of a computer program, copy of a motion picture or other audiovisual work, copy of a literary work, copy of a pictorial, graphic, or sculptural work, or work of visual art; and

''(6) the term 'counterfeit documentation or packaging' means documentation or packaging that appears to be genuine, but is not.'';

(4) in subsection (c)—

(A) by striking paragraph (3) and inserting the following:

''(3) the counterfeit label or illicit label is affixed to, encloses, or accompanies, or is designed to be affixed to, enclose, or accompany—

''(A) a phonorecord of a copyrighted sound recording or copyrighted musical work;

''(B) a copy of a copyrighted computer program;

''(C) a copy of a copyrighted motion picture or other audiovisual work;

''(D) a copy of a literary work;

''(E) a copy of a pictorial, graphic, or sculptural work;

''(F) a work of visual art; or

''(G) copyrighted documentation or packaging; or''; and

(B) in paragraph (4), by striking ''for a computer program''; and

(5) in subsection (d)—

(A) by inserting ''or illicit labels'' after ''counterfeit labels'' each place it appears; and

(B) by inserting before the period at the end the following: '', and of any equipment, device, or material used to manufacture, reproduce, or assemble the counterfeit labels or illicit labels''.

(b) CIVIL REMEDIES.—Section 2318 of title 18, United States Code, is further amended by adding at the end the following:

''(f) CIVIL REMEDIES.—

''(1) IN GENERAL.—Any copyright owner who is injured, or is threatened with injury, by a violation of subsection (a) may bring a civil action in an appropriate United States district court.

''(2) DISCRETION OF COURT.—In any action brought under paragraph (1), the court—

''(A) may grant 1 or more temporary or permanent injunctions on such terms as the court determines to be reasonable to prevent or restrain a violation of subsection (a);

''(B) at any time while the action is pending, may order the impounding, on such terms as the court determines to be reasonable, of any article that is in the custody or control of the alleged violator and that the court has reasonable cause to believe was involved in a violation of subsection (a); and

''(C) may award to the injured party—

''(i) reasonable attorney fees and costs; and

''(ii)(I) actual damages and any additional profits of the violator, as provided in paragraph (3); or

''(II) statutory damages, as provided in paragraph (4).

''(3) ACTUAL DAMAGES AND PROFITS.—

''(A) IN GENERAL.—The injured party is entitled to recover—

''(i) the actual damages suffered by the injured party as a result of a violation of subsection (a), as provided in subparagraph (B) of this paragraph; and

''(ii) any profits of the violator that are attributable to a violation of subsection (a) and are not taken into account in computing the actual damages.

''(B) CALCULATION OF DAMAGES.—The court shall calculate actual damages by multiplying—

''(i) the value of the phonorecords, copies, or works of visual art which are, or are intended to be, affixed with, enclosed in, or accompanied by any counterfeit labels, illicit labels, or counterfeit documentation or packaging, by

''(ii) the number of phonorecords, copies, or works of visual art which are, or are intended to be, affixed with, enclosed in, or accompanied by any counterfeit labels, illicit labels, or counterfeit documentation or packaging.

''(C) DEFINITION.—For purposes of this paragraph, the 'value' of a phonorecord, copy, or work of visual art is—

''(i) in the case of a copyrighted sound recording or copyrighted musical work, the retail value of an authorized phonorecord of that sound recording or musical work;

''(ii) in the case of a copyrighted computer program, the retail value of an authorized copy of that computer program;

''(iii) in the case of a copyrighted motion picture or other audiovisual work, the retail value of an authorized copy of that motion picture or audiovisual work;

''(iv) in the case of a copyrighted literary work, the retail value of an authorized copy of that literary work;

''(v) in the case of a pictorial, graphic, or sculptural work, the retail value of an authorized copy of that work; and

''(vi) in the case of a work of visual art, the retail value of that work.

''(4) STATUTORY DAMAGES.—The injured party may elect, at any time before final judgment is rendered, to recover, instead of actual damages and profits, an award of statutory damages for each violation of subsection (a) in a sum of not less than $2,500 or more than $25,000, as the court considers appropriate.

''(5) SUBSEQUENT VIOLATION.—The court may increase an award of damages under this subsection by 3 times the amount that would otherwise be awarded, as the court considers appropriate, if the court finds that a person has subsequently violated subsection (a) within 3 years after a final judgment was entered against that person for a violation of that subsection.

''(6) LIMITATION ON ACTIONS.—A civil action may not be commenced under this subsection unless it is commenced within 3 years after the date on which the claimant discovers the violation of subsection (a).''.

(c) CONFORMING AMENDMENT.—The item relating to section 2318 in the table of sections for chapter 113 of title 18, United States Code, is amended to read as follows:

''2318. Trafficking in counterfeit labels, illicit labels, or counterfeit documentation or packaging.''.

SEC. 503. OTHER RIGHTS NOT AFFECTED.

(a) CHAPTERS 5 AND 12 OF TITLE 17; ELECTRONIC TRANSMISSIONS.—The amendments made by this subtitle—

(1) shall not enlarge, diminish, or otherwise affect any liability or limitations on liability under sections 512, 1201, or 1202 of title 17, United States Code; and

(2) shall not be construed to apply—

(A) in any case, to the electronic transmission of a genuine certificate, licensing document, registration card, similar labeling component, or documentation or packaging described in paragraph (4) or (5) of section 2318(b) of title 18, United States Code, as amended by this subtitle; and

(B) in the case of a civil action under section 2318(f) of title 18, United States Code, to the electronic transmission of a counterfeit label or counterfeit documentation or packaging defined in paragraph (1) or (6) of section 2318(b) of title 18, United States Code.

(b) FAIR USE.—The amendments made by this subtitle shall not affect the fair use, under section 107 of title 17, United States Code, of a genuine certificate, licensing document, registration card, similar labeling component, or documentation or packaging described in paragraph (4) or (5) of section 2318(b) of title 18, United States Code, as amended by this subtitle.

Subtitle B—Fraudulent Online Identity Sanctions

SEC. 511. SHORT TITLE.

This subtitle may be cited as the ''Fraudulent Online Identity Sanctions Act''.

SEC. 512. AMENDMENT TO TRADEMARK ACT OF 1946.

Section 35 of the Act entitled ''An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes'', approved July 5, 1946 (commonly referred to as the ''Trademark Act of 1946''; 15 U.S.C. 1117), is amended by adding at the end the following new subsection:

''(e) In the case of a violation referred to in this section, it shall be a rebuttable presumption that the violation is willful for purposes of determining relief if the violator, or a person acting in concert with the violator, knowingly provided or knowingly caused to be provided materially false contact information to a domain name registrar, domain name registry, or other domain name registration authority in registering, maintaining, or renewing a domain name used in connection with the violation. Nothing in this subsection limits what may be considered a willful violation under this section.''.

SEC. 513. AMENDMENT TO TITLE 17, UNITED STATES CODE.

Section 504(c) of title 17, United States Code, is amended by adding at the end the following new paragraph:

''(3) (A) In a case of infringement, it shall be a rebuttable presumption that the infringement was committed willfully for purposes of determining relief if the violator, or a person acting in concert with the violator, knowingly provided or knowingly caused to be provided materially false contact information to a domain name registrar, domain name registry, or other domain name registration authority in registering, maintaining, or renewing a domain name used in connection with the infringement.

''(B) Nothing in this paragraph limits what may be considered willful infringement under this subsection.

''(C) For purposes of this paragraph, the term 'domain name' has the meaning given that term in section 45 of the Act entitled 'An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes'

approved July 5, 1946 (commonly referred to as the 'Trademark Act of 1946'; 15 U.S.C. 1127).''.

SEC. 514. AMENDMENT TO TITLE 18, UNITED STATES CODE.

(a) SENTENCING ENHANCEMENT.—Section 3559 of title 18, United States Code, is amended by adding at the end the following:

''(f)(1) If a defendant who is convicted of a felony offense (other than offense of which an element is the false registration of a domain name) knowingly falsely registered a domain name and knowingly used that domain name in the course of that offense, the maximum imprisonment otherwise provided by law for that offense shall be doubled or increased by 7 years, whichever is less.

''(2) As used in this subsection—

''(A) the term 'falsely registers' means registers in a manner that prevents the effective identification of or contact with the person who registers; and

''(B) the term 'domain name' has the meaning given that term in section 45 of the Act entitled 'An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes' approved July 5, 1946 (commonly referred to as the 'Trademark Act of 1946') (15 U.S.C. 1127).''.

(b) UNITED STATES SENTENCING COMMISSION.—

(1) DIRECTIVE.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and amend the sentencing guidelines and policy statements to ensure that the applicable guideline range for a defendant convicted of any felony offense carried out online that may be facilitated through the use of a domain name registered with materially false contact information is sufficiently stringent to deter commission of such acts.

(2) REQUIREMENTS.—In carrying out this subsection, the Sentencing Commission shall provide sentencing enhancements for anyone convicted of any felony offense furthered through knowingly providing or knowingly causing to be provided materially false contact information to a domain name registrar, domain name registry, or other domain name registration authority in registering, maintaining, or renewing a domain name used in connection with the violation.

(3) DEFINITION.—For purposes of this subsection, the term ''domain name'' has the meaning given that term in section 45 of the Act entitled ''An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes'', approved July 5, 1946 (commonly referred to as the ''Trademark Act of 1946''; 15 U.S.C. 1127).

SEC. 515. CONSTRUCTION.

(a) FREE SPEECH AND PRESS.—Nothing in this subtitle shall enlarge or diminish any rights of free speech or of the press for activities related to the registration or use of domain names.

(b) DISCRETION OF COURTS IN DETERMINING RELIEF.—Nothing in this subtitle shall restrict the discretion of a court in determining damages or other relief to be assessed against a person found liable for the infringement of intellectual property rights.

(c) DISCRETION OF COURTS IN DETERMINING TERMS OF IMPRISONMENT.—Nothing in this subtitle shall be construed to limit the discretion of a court to determine the appropriate term of imprisonment for an offense under applicable law.

TITLE VI—COOPERATIVE RESEARCH AND TECHNOLOGY ENHANCEMENT

SEC. 601. SHORT TITLE.

This title may be cited as the ''Cooperative Research and Technology Enhancement (CREATE) Act of 2004''.

SEC. 602. COLLABORATIVE EFFORTS ON CLAIMED INVENTIONS.

Section 103(c) of title 35, United States Code, is amended to read as follows:

''(c)(1) Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person.

''(2) For purposes of this subsection, subject matter developed by another person and a claimed invention shall be deemed to have been owned by the same person or subject to an obligation of assignment to the same person if—

''(A) the claimed invention was made by or on behalf of parties to a joint research agreement that was in effect on or before the date the claimed invention was made;

''(B) the claimed invention was made as a result of activities undertaken within the scope of the joint research agreement; and

''(C) the application for patent for the claimed invention discloses or is amended to disclose the names of the parties to the joint research agreement.

''(3) For purposes of paragraph (2), the term 'joint research agreement' means a written contract, grant, or cooperative agreement entered into by two or more persons or entities for the performance of experimental, developmental, or research work in the field of the claimed invention.''.

SEC. 603. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this title shall apply to any patent granted on or after the date of the enactment of this Act.

(b) SPECIAL RULE.—The amendments made by this title shall not affect any final decision of a court or the United States Patent and Trademark Office rendered before the date of the enactment of this Act, and shall not affect the right of any party in any action pending before the United States Patent and Trademark Office or a court on the date of the enactment of this Act to have that party's rights determined on the basis of the provisions of title 35, United States Code, in effect on the day before the date of the enactment of this Act.

TITLE VII—PROFESSIONAL BOXING SAFETY

SEC. 701. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the ''Professional Boxing Amendments Act of 2004''.

(b) TABLE OF CONTENTS.—The table of contents for this title is as follows:

SEC. 702. AMENDMENT OF PROFESSIONAL BOXING SAFETY ACT OF 1996.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Professional Boxing Safety Act of 1996 (15 U.S.C. 6301 et seq.).

SEC. 703. DEFINITIONS.

(a) IN GENERAL.—Section 2 (15 U.S.C. 6301) is amended to read as follows:

''SEC. 2. DEFINITIONS.

''In this Act:

''(1) COMMISSION.—The term 'Commission' means the United States Boxing Commission.

''(2) BOUT AGREEMENT.—The term 'bout agreement' means a contract between a promoter and a boxer that requires the boxer to participate in a professional boxing match for a particular date.

''(3) BOXER.—The term 'boxer' means an individual who fights in a professional boxing match.

''(4) BOXING COMMISSION.—The term 'boxing commission' means an entity authorized under State or tribal law to regulate professional boxing matches.

''(5) BOXER REGISTRY.—The term 'boxer registry' means any entity certified by the Commission for the purposes of maintaining records and identification of boxers.

''(6) BOXING SERVICE PROVIDER.—The term 'boxing service provider' means a promoter, manager, sanctioning body, licensee, or matchmaker.

''(7) CONTRACT PROVISION.—The term 'contract provision' means any legal obligation between a boxer and a boxing service provider.

''(8) INDIAN LANDS; INDIAN TRIBE.—The terms 'Indian lands' and 'Indian tribe' have the meanings given those terms by paragraphs (4) and (5), respectively, of section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703).

''(9) LICENSEE.—The term 'licensee' means an individual who serves as a trainer, corner man, second, or cut man for a boxer.

''(10) MANAGER.—The term 'manager' means a person other than a promoter who, under contract, agreement, or other arrangement with a boxer, undertakes to control or administer, directly or indirectly, a boxing-related matter on behalf of that boxer, including a person who is a booking agent for a boxer.

''(11) MATCHMAKER.—The term 'matchmaker' means a person that proposes, selects, and arranges for boxers to participate in a professional boxing match.

''(12) PHYSICIAN.—The term 'physician' means a doctor of medicine legally authorized to practice medicine by the State in which the physician performs such function or action and who has training and experience in dealing with sports injuries, particularly head trauma.

''(13) PROFESSIONAL BOXING MATCH.—The term 'professional boxing match' means a

boxing contest held in the United States between individuals for financial compensation. The term 'professional boxing match' does not include a boxing contest that is regulated by a duly recognized amateur sports organization, as approved by the Commission.

''(14) PROMOTER.—The term 'promoter'—

''(A) means the person primarily responsible for organizing, promoting, and producing a professional boxing match; but

''(B) does not include a hotel, casino, resort, or other commercial establishment hosting or sponsoring a professional boxing match unless—

''(i) the hotel, casino, resort, or other commercial establishment is primarily responsible for organizing, promoting, and producing the match; and

''(ii) there is no other person primarily responsible for organizing, promoting, and producing the match.

''(15) PROMOTIONAL AGREEMENT.—The term 'promotional agreement' means a contract, for the acquisition of rights relating to a boxer's participation in a professional boxing match or series of boxing matches (including the right to sell, distribute, exhibit, or license the match or matches), with—

''(A) the boxer who is to participate in the match or matches; or

''(B) the nominee of a boxer who is to participate in the match or matches, or the nominee is an entity that is owned, controlled or held in trust for the boxer unless that nominee or entity is a licensed promoter who is conveying a portion of the rights previously acquired.

''(16) STATE.—The term 'State' means each of the 50 States, Puerto Rico, the District of Columbia, and any territory or possession of the United States, including the Virgin Islands.

''(17) SANCTIONING ORGANIZATION.—The term 'sanctioning organization' means an organization, other than a boxing commission, that sanctions professional boxing matches, ranks professional boxers, or charges a sanctioning fee for professional boxing matches in the United States—

''(A) between boxers who are residents of different States; or

''(B) that are advertised, otherwise promoted, or broadcast (including closed circuit television) in interstate commerce.

''(18) SUSPENSION.—The term 'suspension' includes within its meaning the temporary revocation of a boxing license.

''(19) TRIBAL ORGANIZATION.—The term 'tribal organization' has the same meaning as in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l)).''.

(b) CONFORMING AMENDMENT.—Section 21 (15 U.S.C. 6312) is amended to read as follows:

''SEC. 21. PROFESSIONAL BOXING MATCHES CONDUCTED ON INDIAN LANDS.

''(a) IN GENERAL.—Notwithstanding any other provision of law, a tribal organization may establish a boxing commission to regulate professional boxing matches held on Indian land under the jurisdiction of that tribal organization.

''(b) STANDARDS AND LICENSING.—A tribal organization that establishes a boxing commission shall, by tribal ordinance or resolution, establish and provide for the implementation of health and safety standards, licensing requirements, and other requirements relating to the conduct of professional boxing matches that are at least as restrictive as—

''(1) the otherwise applicable requirements of the State in which the Indian land on which the professional boxing match is held is located; or

''(2) the guidelines established by the United States Boxing Commission.

''(c) APPLICATION OF ACT TO BOXING MATCHES ON TRIBAL LANDS.—The provisions of this Act apply to professional boxing matches held on tribal lands to the same extent and in the same way as they apply to professional boxing matches held in any State.''.

SEC. 704. PURPOSES.

Section 3(2) (15 U.S.C. 6302(2)) is amended by striking ''State''.

SEC. 705. UNITED STATES BOXING COMMISSION APPROVAL, OR ABC OR COMMISSION SANCTION, REQUIRED FOR MATCHES.

(a) IN GENERAL.—Section 4 (15 U.S.C. 6303) is amended to read as follows:

''SEC. 4. APPROVAL OR SANCTION REQUIREMENT.

''(a) IN GENERAL.—No person may arrange, promote, organize, produce, or fight in a professional boxing match within the United States unless the match—

''(1) is approved by the Commission; and

''(2) is held in a State, or on tribal land of a tribal organization, that regulates professional boxing matches in accordance with standards and criteria established by the Commission.

''(b) APPROVAL PRESUMED.—

''(1) IN GENERAL.—For purposes of subsection (a), the Commission shall be presumed to have approved any match other than—

''(A) a match with respect to which the Commission has been informed of an alleged violation of this Act and with respect to which it has notified the supervising boxing commission that it does not approve;

''(B) a match advertised to the public as a championship match;

''(C) a match scheduled for 10 rounds or more; or

''(D) a match in which 1 of the boxers has—

''(i) suffered 10 consecutive defeats in professional boxing matches; or

''(ii) has been knocked out 5 consecutive times in professional boxing matches.

''(2) DELEGATION OF APPROVAL AUTHORITY.—Notwithstanding paragraph (1), the Commission shall be presumed to have approved a match described in subparagraph (B), (C), or (D) of paragraph (1) if—

''(A) the Commission has delegated in writing its approval authority with respect to that match to a boxing commission; and

''(B) the boxing commission has approved the match.

''(3) KNOCKED-OUT DEFINED.—Except as may be otherwise provided by the Commission by rule, in paragraph (1)(D)(ii), the term 'knocked out' means knocked down and unable to continue after a count of 10 by the referee or stopped from continuing because of a technical knockout.''.

(b) CONFORMING AMENDMENT.—Section 19 (15 U.S.C. 6310) is repealed.

SEC. 706. SAFETY STANDARDS.

Section 5 (15 U.S.C. 6304) is amended—

(1) by striking ''requirements or an alternative requirement in effect under regulations of a boxing commission that provides equivalent protection of the health and safety of boxers:'' and inserting ''requirements:'';

(2) by adding at the end of paragraph (1) ''The examination shall include testing for infectious diseases in accordance with standards established by the Commission.'';

(3) by striking paragraph (2) and inserting the following:

''(2) An ambulance continuously present on site.'';

(4) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and inserting after paragraph (2) the following:

''(3) Emergency medical personnel with appropriate resuscitation equipment continuously present on site.''; and

(5) by striking ''match.'' in paragraph (5), as redesignated, and inserting ''match in an amount prescribed by the Commission.''.

SEC. 707. REGISTRATION.

Section 6 (15 U.S.C. 6305) is amended—

(1) by inserting ''or Indian tribe'' after ''State'' the second place it appears in subsection (a)(2);

(2) by striking the first sentence of subsection (c) and inserting ''A boxing commission shall, in accordance with requirements established by the Commission, make a health and safety disclosure to a boxer when issuing an identification card to that boxer.'';

(3) by striking ''should'' in the second sentence of subsection (c) and inserting ''shall, at a minimum,''; and

(4) by adding at the end the following:

''(d) COPY OF REGISTRATION AND IDENTIFICATION CARDS TO BE SENT TO COMMISSION.—A boxing commission shall furnish a copy of each registration received under subsection (a), and each identification card issued under subsection (b), to the Commission.''.

SEC. 708. REVIEW.

Section 7 (15 U.S.C. 6306) is amended—

(1) by striking ''that, except as provided in subsection (b), no'' in subsection (a)(2) and inserting ''that no'';

(2) by striking paragraphs (3) and (4) of subsection (a) and inserting the following:

''(3) Procedures to review a summary suspension when a hearing before the boxing commission is requested by a boxer, licensee, manager, matchmaker, promoter, or other boxing service provider which provides an opportunity for that person to present evidence.'';

(3) by striking subsection (b); and

(4) by striking ''(a) PROCEDURES.—''.

SEC. 709. REPORTING.

Section 8 (15 U.S.C. 6307) is amended—

(1) by striking ''48 business hours'' and inserting ''2 business days'';

(2) by striking ''bxoing'' and inserting ''boxing''; and

(3) by striking ''each boxer registry.'' and inserting ''the Commission.''.

SEC. 710. CONTRACT REQUIREMENTS.

Section 9 (15 U.S.C. 6307a) is amended to read as follows:

''SEC. 9. CONTRACT REQUIREMENTS.

''(a) IN GENERAL.—The Commission, in consultation with the Association of Boxing Commissions, shall develop guidelines for minimum contractual provisions that shall be included in each bout agreement, boxer-manager contract, and promotional agreement. Each boxing commission shall ensure that these minimal contractual provisions are present in any such agreement or contract submitted to it.

''(b) FILING AND APPROVAL REQUIREMENTS.—

''(1) COMMISSION.—A manager or promoter shall submit a copy of each boxer-manager contract and each promotional agreement between that manager or promoter and a boxer to the Commission, and, if requested, to the boxing commission with jurisdiction over the bout.

''(2) BOXING COMMISSION.—A boxing commission may not approve a professional boxing match unless a copy of the bout agreement related to that match has been filed with it and approved by it.

''(c) BOND OR OTHER SURETY.—A boxing commission may not approve a professional boxing match unless the promoter of that match has posted a surety bond, cashier's check, letter of credit, cash, or other security with the boxing commission in an amount acceptable to the boxing commission.''.

SEC. 711. COERCIVE CONTRACTS.

Section 10 (15 U.S.C. 6307b) is amended—

(1) by striking paragraph (3) of subsection (a);

(2) by inserting ''OR ELIMINATION'' after ''MANDATORY'' in the heading of subsection (b); and

(3) by inserting ''or elimination'' after ''mandatory'' in subsection (b).

SEC. 712. SANCTIONING ORGANIZATIONS.

(a) IN GENERAL.—Section 11 (15 U.S.C. 6307c) is amended to read as follows:

''SEC. 11. SANCTIONING ORGANIZATIONS.

''(a) OBJECTIVE CRITERIA.—Within 1 year after the date of enactment of the Professional Boxing Amendments Act of 2004, the Commission shall develop guidelines for objective and consistent written criteria for the rating of professional boxers based on the athletic merits and professional record of the boxers. Within 90 days after the Commission's promulgation of the guidelines, each sanctioning organization shall adopt the guidelines and follow them.

''(b) NOTIFICATION OF CHANGE IN RATING.—A sanctioning organization shall, with respect to a change in the rating of a boxer previously rated by such organization in the top 10 boxers—

''(1) post a copy, within 7 days after the change, on its Internet website or home page, if any, including an explanation of the change, for a period of not less than 30 days;

''(2) provide a copy of the rating change and a thorough explanation in writing under penalty of perjury to the boxer and the Commission;

''(3) provide the boxer an opportunity to appeal the ratings change to the sanctioning organization; and

''(4) apply the objective criteria for ratings required under subsection (a) in considering any such appeal.

''(c) CHALLENGE OF RATING.—If, after disposing with an appeal under subsection (b)(3), a sanctioning organization receives a petition from a boxer challenging that organization's rating of the boxer, it shall (except to the extent otherwise required by the Commission), within 7 days after receiving the petition—

''(1) provide to the boxer a written explanation under penalty of perjury of the organization's rating criteria, its rating of the boxer, and the rationale or basis for its rating (including a response to any specific questions submitted by the boxer); and

''(2) submit a copy of its explanation to the Association of Boxing Commissions and the Commission for their review.''.

(b) CONFORMING AMENDMENTS.—Section 18(e) (15 U.S.C. 6309(e)) is amended—

(1) by striking ''FEDERAL TRADE COMMISSION,'' in the subsection heading and inserting ''UNITED STATES BOXING COMMISSION''; and

(2) by striking ''Federal Trade Commission,'' in paragraph (1) and inserting ''United States Boxing Commission,''.

SEC. 713. REQUIRED DISCLOSURES BY SANCTIONING ORGANIZATIONS.

Section 12 (15 U.S.C. 6307d) is amended—

(1) by striking the matter preceding paragraph (1) and inserting ''Within 7 days after a professional boxing match of 10 rounds or more, the sanctioning organization, if any, for that match shall provide to the Commission, and, if requested, to the boxing commission in the State or on Indian land responsible for regulating the match, a written statement of—'';

(2) by striking ''will assess'' in paragraph (1) and inserting ''has assessed, or will assess,''; and

(3) by striking ''will receive'' in paragraph (2) and inserting ''has received, or will receive,''.

SEC. 714. REQUIRED DISCLOSURES BY PROMOTERS AND BROADCASTERS.

Section 13 (15 U.S.C. 6307e) is amended—

(1) by striking ''**PROMOTERS.**'' in the section caption and inserting ''**PROMOTERS AND BROADCASTERS.**'';

(2) by striking so much of subsection (a) as precedes paragraph (1) and inserting the following:

''(a) DISCLOSURES TO BOXING COMMISSIONS AND THE COMMISSION.—Within 7 days after a professional boxing match of 10 rounds or more, the promoter of any boxer participating in that match shall provide to the Commission, and, if requested, to the boxing commission in the State or on Indian land responsible for regulating the match—'';

(3) by striking ''writing,'' in subsection (a)(1) and inserting ''writing, other than a bout agreement previously provided to the commission,'';

(4) by striking ''all fees, charges, and expenses that will be'' in subsection (a)(3)(A) and inserting ''a written statement of all fees, charges, and expenses that have been, or will be,'';

(5) by inserting ''a written statement of'' before ''all'' in subsection (a)(3)(B);

(6) by inserting ''a statement of'' before ''any'' in subsection (a)(3)(C);

(7) by striking the matter in subsection (b) following ''BOXER.—'' and preceding paragraph (1) and inserting ''Within 7 days after a professional boxing match of 10 rounds or more, the promoter of the match shall provide to each boxer participating in the bout or match with whom the promoter has a bout or promotional agreement a statement of—'';

(8) by striking ''match;'' in subsection (b)(1) and inserting ''match, and that the promoter has paid, or agreed to pay, to any other person in connection with the match;''; and

(9) by adding at the end the following:

''(d) REQUIRED DISCLOSURES BY BROADCASTERS.—

''(1) IN GENERAL.—A broadcaster that owns the television broadcast rights for a professional boxing match of 10 rounds or more shall, within 7 days after that match, provide to the Commission—

''(A) a statement of any advance, guarantee, or license fee paid or owed by the broadcaster to a promoter in connection with that match;

''(B) a copy of any contract executed by or on behalf of the broadcaster with—

''(i) a boxer who participated in that match; or

''(ii) the boxer's manager, promoter, promotional company, or other representative or the owner or representative of the site of the match; and

''(C) a list identifying sources of income received from the broadcast of the match.

''(2) COPY TO BOXING COMMISSION.—Upon request from the boxing commission in the State or Indian land responsible for regulating a match to which paragraph (1) applies, a broadcaster shall provide the information described in paragraph (1) to that boxing commission.

''(3) CONFIDENTIALITY.—The information provided to the Commission or to a boxing commission pursuant to this subsection shall be confidential and not revealed by the Commission or a boxing commission, except that the Commission may publish an analysis of the data in aggregate form or in a manner which does not disclose confidential information about identifiable broadcasters.

''(4) TELEVISION BROADCAST RIGHTS.—In paragraph (1), the term 'television broadcast rights' means the right to broadcast the match, or any part thereof, via a broadcast station, cable service, or multichannel video programming distributor as such terms are defined in section 3(5), 602(6), and 602(13) of the Communications Act of 1934 (47 U.S.C. 153(5), 602(6), and 602(13), respectively).''.

SEC. 715. JUDGES AND REFEREES.

(a) IN GENERAL.—Section 16 (15 U.S.C. 6307h) is amended—

(1) by inserting ''(a) LICENSING AND ASSIGNMENT REQUIREMENT.—'' before ''No person'';

(2) by striking ''certified and approved'' and inserting ''selected'';

(3) by inserting ''or Indian lands'' after ''State''; and

(4) by adding at the end the following:

''(b) CHAMPIONSHIP AND 10-ROUND BOUTS.—In addition to the requirements of subsection (a), no person may arrange, promote, organize, produce, or fight in a professional boxing match advertised to the public as a championship match or in a professional boxing match scheduled for 10 rounds or more unless all referees and judges participating in the match have been licensed by the Commission.

''(c) ROLE OF SANCTIONING ORGANIZATION.—A sanctioning organization may provide a list of judges and referees deemed qualified by that organization to a boxing commission, but the boxing commission shall select, license, and appoint the judges and referees participating in the match.

''(d) ASSIGNMENT OF NONRESIDENT JUDGES AND REFEREES.—A boxing commission may assign judges and referees who reside outside that commission's State or Indian land.

''(e) REQUIRED DISCLOSURE.—A judge or referee shall provide to the boxing commission responsible for regulating a professional boxing match in a State or on Indian land a statement of all consideration, including reimbursement for expenses, that the judge or referee has received, or will receive, from any source for participation in the match. If the match is scheduled for 10 rounds or more, the judge or referee shall also provide such a statement to the Commission.''.

(b) CONFORMING AMENDMENT.—Section 14 (15 U.S.C. 6307f) is repealed.

SEC. 716. MEDICAL REGISTRY.

The Act is amended by inserting after section 13 (15 U.S.C. 6307e) the following:

''SEC. 14. MEDICAL REGISTRY.

''(a) IN GENERAL.—The Commission shall establish and maintain, or certify a third party entity to establish and maintain, a medical registry that contains comprehensive medical records and medical denials or suspensions for every licensed boxer.

''(b) CONTENT; SUBMISSION.—The Commission shall determine—

''(1) the nature of medical records and medical suspensions of a boxer that are to be forwarded to the medical registry; and

''(2) the time within which the medical records and medical suspensions are to be submitted to the medical registry.

''(c) CONFIDENTIALITY.—The Commission shall establish confidentiality standards for the disclosure of personally identifiable information to boxing commissions that will—

''(1) protect the health and safety of boxers by making relevant information available to the boxing commissions for use but not public disclosure; and

''(2) ensure that the privacy of the boxers is protected.''.

SEC. 717. CONFLICTS OF INTEREST.

Section 17 (15 U.S.C. 6308) is amended—

(1) by striking ''enforces State boxing laws,'' in subsection (a) and inserting ''implements State or tribal boxing laws, no officer or employee of the Commission,'';

(2) by striking ''belong to,'' and inserting ''hold office in,'' in subsection (a);

(3) by striking the last sentence of subsection (a);

(4) by striking subsection (b) and inserting the following:

''(b) BOXERS.—A boxer may not own or control, directly or indirectly, an entity that promotes the boxer's bouts if that entity is responsible for—

''(1) executing a bout agreement or promotional agreement with the boxer's opponent; or

''(2) providing any payment or other compensation to—

''(A) the boxer's opponent for participation in a bout with the boxer;

''(B) the boxing commission that will regulate the bout; or

''(C) ring officials who officiate at the bout.''.

SEC. 718. ENFORCEMENT.

Section 18 (15 U.S.C. 6309) is amended—

(1) by striking ''(a) INJUNCTIONS.—'' in subsection (a) and inserting ''(a) ACTIONS BY ATTORNEY GENERAL.—'';

(2) by striking ''enforces State boxing laws,'' in subsection (b)(3) and inserting ''implements State or tribal boxing laws, any officer or employee of the Commission,'';

(3) by inserting ''has engaged in or'' after ''organization'' in subsection (c);

(4) by striking ''subsection (b)'' in subsection (c)(3) and inserting ''subsection (b), a civil penalty, or''; and

(5) by striking ''boxer'' in subsection (d) and inserting ''person''.

SEC. 719. REPEAL OF DEADWOOD.

Section 20 (15 U.S.C. 6311) is repealed.

SEC. 720. RECOGNITION OF TRIBAL LAW.

Section 22 (15 U.S.C. 6313) is amended—

(1) by insert ''**or tribal**'' in the section heading after ''**state**''; and

(2) by inserting ''or indian tribe'' after ''State''.

SEC. 721. ESTABLISHMENT OF UNITED STATES BOXING COMMISSION.

(a) IN GENERAL.—The Act is amended by adding at the end the following:

''TITLE II—UNITED STATES BOXING COMMISSION

''SEC. 201. PURPOSE.

''The purpose of this title is to protect the health, safety, and welfare of boxers and to ensure fairness in the sport of professional boxing.

''SEC. 202. UNITED STATES BOXING COMMISSION.

''(a) IN GENERAL.—The United States Boxing Commission is established as a commission within the Department of Commerce.

''(b) MEMBERS.—

''(1) IN GENERAL.—The Commission shall consist of 3 members appointed by the President, by and with the advice and consent of the Senate.

''(2) QUALIFICATIONS.—

''(A) IN GENERAL.—Each member of the Commission shall be a citizen of the United States who—

''(i) has extensive experience in professional boxing activities or in a field directly related to professional sports;

''(ii) is of outstanding character and recognized integrity; and

''(iii) is selected on the basis of training, experience, and qualifications and without regard to political party affiliation.

''(B) SPECIFIC QUALIFICATIONS FOR CERTAIN MEMBERS.—At least 1 member of the Commission shall be a former member of a local boxing authority. If practicable, at least 1 member of the Commission shall be a physician or other health care professional duly licensed as such.

''(C) DISINTERESTED PERSONS.—No member of the Commission may, while serving as a member of the Commission—

''(i) be engaged as a professional boxer, boxing promoter, agent, fight manager, matchmaker, referee, judge, or in any other capacity in the conduct of the business of professional boxing;

''(ii) have any pecuniary interest in the earnings of any boxer or the proceeds or outcome of any boxing match; or

''(iii) serve as a member of a boxing commission.

''(3) BIPARTISAN MEMBERSHIP.—Not more than 2 members of the Commission may be members of the same political party.

''(4) GEOGRAPHIC BALANCE.—Not more than 2 members of the Commission may be residents of the same geographic region of the United States when appointed to the Commission. For purposes of the preceding sentence, the area of the United States east of the Mississippi River is a geographic region, and the area of the United States west of the Mississippi River is a geographic region.

''(5) TERMS.—

''(A) IN GENERAL.—The term of a member of the Commission shall be 3 years.

''(B) REAPPOINTMENT.—Members of the Commission may be reappointed to the Commission.

''(C) MIDTERM VACANCIES.—A member of the Commission appointed to fill a vacancy in the Commission occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of that unexpired term.

''(D) CONTINUATION PENDING REPLACEMENT.—A member of the Commission may serve after the expiration of that member's term until a successor has taken office.

''(6) REMOVAL.—A member of the Commission may be removed by the President only for cause.

''(c) EXECUTIVE DIRECTOR.—

''(1) IN GENERAL.—The Commission shall employ an Executive Director to perform the administrative functions of the Commission under this Act, and such other functions and duties of the Commission as the Commission shall specify.

''(2) DISCHARGE OF FUNCTIONS.—Subject to the authority, direction, and control of the Commission the Executive Director shall carry out the functions and duties of the Commission under this Act.

''(d) GENERAL COUNSEL.—The Commission shall employ a General Counsel to provide legal counsel and advice to the Executive Director and the Commission in the performance of its functions under this Act, and to carry out such other functions and duties as the Commission shall specify.

''(e) STAFF.—The Commission shall employ such additional staff as the Commission considers appropriate to assist the Executive Director and the General Counsel in carrying out the functions and duties of the Commission under this Act.

''(f) COMPENSATION.—

''(1) MEMBERS OF COMMISSION.—

''(A) IN GENERAL.—Each member of the Commission shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission.

''(B) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

''(2) EXECUTIVE DIRECTOR AND STAFF.—The Commission shall fix the compensation of the Executive Director, the General Counsel, and other personnel of the Commission. The rate of pay for the Executive Director, the General Counsel, and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

''SEC. 203. FUNCTIONS.

''(a) PRIMARY FUNCTIONS.—The primary functions of the Commission are—

''(1) to protect the health, safety, and general interests of boxers consistent with the provisions of this Act; and

''(2) to ensure uniformity, fairness, and integrity in professional boxing.

''(b) SPECIFIC FUNCTIONS.—The Commission shall—

''(1) administer title I of this Act;

''(2) promulgate uniform standards for professional boxing in consultation with the Association of Boxing Commissions;

''(3) except as otherwise determined by the Commission, oversee all professional boxing matches in the United States;

''(4) work with the boxing commissions of the several States and tribal organizations—

''(A) to improve the safety, integrity, and professionalism of professional boxing in the United States;

''(B) to enhance physical, medical, financial, and other safeguards established for the protection of professional boxers; and

''(C) to improve the status and standards of professional boxing in the United States;

''(5) ensure, in cooperation with the Attorney General (who shall represent the Commission in any judicial proceeding under this Act), the chief law enforcement officer of the several States, and other appropriate officers and agencies of Federal, State, and local government, that Federal and State laws applicable to professional boxing matches in the United States are vigorously, effectively, and fairly enforced;

''(6) review boxing commission regulations for professional boxing and provide assistance to such authorities in meeting minimum standards prescribed by the Commission under this title;

''(7) serve as the coordinating body for all efforts in the United States to establish and maintain uniform minimum health and safety standards for professional boxing;

''(8) if the Commission determines it to be appropriate, publish a newspaper, magazine, or other publication and establish and maintain a website consistent with the purposes of the Commission;

''(9) procure the temporary and intermittent services of experts and consultants to the extent authorized by section 3109(b) of title 5, United States Code, at rates the Commission determines to be reasonable; and

''(10) promulgate rules, regulations, and guidance, and take any other action necessary and proper to accomplish the purposes of, and consistent with, the provisions of this title.

''(c) PROHIBITIONS.—The Commission may not—

''(1) promote boxing events or rank professional boxers; or

''(2) provide technical assistance to, or authorize the use of the name of the Commission by, boxing commissions that do not comply with requirements of the Commission.

''(d) USE OF NAME.—The Commission shall have the exclusive right to use the name 'United States Boxing Commission'. Any person who, without the permission of the Commission, uses that name or any other exclusive name, trademark, emblem, symbol, or insignia of the Commission for the purpose of inducing the sale or exchange of any goods or services, or to promote any exhibition, performance, or sporting event, shall be subject to suit in a civil action by the Commission for the remedies provided in the Act of July 5, 1946 (commonly known as the 'Trademark Act of 1946'; 15 U.S.C. 1051 et seq.).

''SEC. 204. LICENSING AND REGISTRATION OF BOXING PERSONNEL.

''(a) LICENSING.—

''(1) REQUIREMENT FOR LICENSE.—No person may compete in a professional boxing match

or serve as a boxing manager, boxing promoter, or sanctioning organization for a professional boxing match except as provided in a license granted to that person under this subsection.

''(2) APPLICATION AND TERM.—

''(A) IN GENERAL.—The Commission shall—

''(i) establish application procedures, forms, and fees;

''(ii) establish and publish appropriate standards for licenses granted under this section; and

''(iii) issue a license to any person who, as determined by the Commission, meets the standards established by the Commission under this title.

''(B) DURATION.—A license issued under this section shall be for a renewable—

''(i) 4-year term for a boxer; and

''(ii) 2-year term for any other person.

''(C) PROCEDURE.—The Commission may issue a license under this paragraph through boxing commissions or in a manner determined by the Commission.

''(b) LICENSING FEES.—

''(1) AUTHORITY.—The Commission may prescribe and charge reasonable fees for the licensing of persons under this title. The Commission may set, charge, and adjust varying fees on the basis of classifications of persons, functions, and events determined appropriate by the Commission.

''(2) LIMITATIONS.—In setting and charging fees under paragraph (1), the Commission shall ensure that, to the maximum extent practicable—

''(A) club boxing is not adversely effected;

''(B) sanctioning organizations and promoters pay comparatively the largest portion of the fees; and

''(C) boxers pay as small a portion of the fees as is possible.

''(3) COLLECTION.—Fees established under this subsection may be collected through boxing commissions or by any other means determined appropriate by the Commission.

''SEC. 205. NATIONAL REGISTRY OF BOXING PERSONNEL.

''(a) REQUIREMENT FOR REGISTRY.—The Commission shall establish and maintain (or authorize a third party to establish and maintain) a unified national computerized registry for the collection, storage, and retrieval of information related to the performance of its duties.

''(b) CONTENTS.—The information in the registry shall include the following:

''(1) BOXERS.—A list of professional boxers and data in the medical registry established under section 114 of this Act, which the Commission shall secure from disclosure in accordance with the confidentiality requirements of section 114(c).

''(2) OTHER PERSONNEL.—Information (pertinent to the sport of professional boxing) on boxing promoters, boxing matchmakers, boxing managers, trainers, cut men, referees, boxing judges, physicians, and any other personnel determined by the Commission as performing a professional activity for professional boxing matches.

''SEC. 206. CONSULTATION REQUIREMENTS.

''The Commission shall consult with the Association of Boxing Commissions—

''(1) before prescribing any regulation or establishing any standard under the provisions of this title; and

''(2) not less than once each year regarding matters relating to professional boxing.

''SEC. 207. MISCONDUCT.

''(a) SUSPENSION AND REVOCATION OF LICENSE OR REGISTRATION.—

''(1) AUTHORITY.—The Commission may, after notice and opportunity for a hearing, suspend or revoke any license issued under this title if the Commission finds that—

''(A) the license holder has violated any provision of this Act;

''(B) there are reasonable grounds for belief that a standard prescribed by the Commission under this title is not being met, or that bribery, collusion, intentional losing, racketeering, extortion, or the use of unlawful threats, coercion, or intimidation have occurred in connection with a license; or

''(C) the suspension or revocation is necessary for the protection of health and safety or is otherwise in the public interest.

''(2) PERIOD OF SUSPENSION.—

''(A) IN GENERAL.—A suspension of a license under this section shall be effective for a period determined appropriate by the Commission except as provided in subparagraph (B).

''(B) SUSPENSION FOR MEDICAL REASONS.—In the case of a suspension or denial of the license of a boxer for medical reasons by the Commission, the Commission may terminate the suspension or denial at any time that a physician certifies that the boxer is fit to participate in a professional boxing match. The Commission shall prescribe the standards and procedures for accepting certifications under this subparagraph.

''(3) PERIOD OF REVOCATION.—In the case of a revocation of the license of a boxer, the revocation shall be for a period of not less than 1 year.

''(b) INVESTIGATIONS AND INJUNCTIONS.—

''(1) AUTHORITY.—The Commission may—

''(A) conduct any investigation that it considers necessary to determine whether any person has violated, or is about to violate, any provision of this Act or any regulation prescribed under this Act;

''(B) require or permit any person to file with it a statement in writing, under oath or otherwise as the Commission shall determine, as to all the facts and circumstances concerning the matter to be investigated;

''(C) in its discretion, publish information concerning any violations; and

''(D) investigate any facts, conditions, practices, or matters to aid in the enforcement of the provisions of this Act, in the prescribing of regulations under this Act, or in securing information to serve as a basis for recommending legislation concerning the matters to which this Act relates.

''(2) POWERS.—

''(A) IN GENERAL.—For the purpose of any investigation under paragraph (1) or any other proceeding under this title—

''(i) any officer designated by the Commission may administer oaths and affirmations, subpoena or otherwise compel the attendance of witnesses, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records the Commission considers relevant or material to the inquiry; and

''(ii) the provisions of sections 6002 and 6004 of title 18, United States Code, shall apply.

''(B) WITNESSES AND EVIDENCE.—The attendance of witnesses and the production of any documents under subparagraph (A) may be required from any place in the United States, including Indian land, at any designated place of hearing.

''(3) ENFORCEMENT OF SUBPOENAS.—

''(A) CIVIL ACTION.—In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Commission may file an action in any district court of the United States within the jurisdiction of which an investigation or proceeding is carried out, or where that person resides or carries on business, to enforce the attendance and testimony of witnesses and the production of books, papers, correspondence, memorandums, and other records. The court may issue an order requiring the person to appear before the Commission to produce records, if so ordered, or to give testimony concerning the matter under investigation or in question.

''(B) FAILURE TO OBEY.—Any failure to obey an order issued by a court under subparagraph (A) may be punished as contempt of that court.

''(C) PROCESS.—All process in any contempt case under subparagraph (A) may be served in the judicial district in which the person is an inhabitant or in which the person may be found.

''(4) EVIDENCE OF CRIMINAL MISCONDUCT.—

''(A) IN GENERAL.—No person may be excused from attending and testifying or from producing books, papers, contracts, agreements, and other records and documents before the Commission, in obedience to the subpoena of the Commission, or in any cause or proceeding instituted by the Commission, on the ground that the testimony or evidence, documentary or otherwise, required of that person may tend to incriminate the person or subject the person to a penalty or forfeiture.

''(B) LIMITED IMMUNITY.—No individual may be prosecuted or subject to any penalty or forfeiture for, or on account of, any transaction, matter, or thing concerning the matter about which that individual is compelled, after having claimed a privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that the individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

''(5) INJUNCTIVE RELIEF.—If the Commission determines that any person is engaged or about to engage in any act or practice that constitutes a violation of any provision of this Act, or of any regulation prescribed under this Act, the Commission may bring an action in the appropriate district court of the United States, the United States District Court for the District of Columbia, or the United States courts of any territory or other place subject to the jurisdiction of the United States, to enjoin the act or practice, and upon a proper showing, the court shall grant without bond a permanent or temporary injunction or restraining order.

''(6) MANDAMUS.—Upon application of the Commission, the district courts of the United States, the United States District Court for the District of Columbia, and the United States courts of any territory or other place subject to the jurisdiction of the United States, shall have jurisdiction to issue writs of mandamus commanding any person to comply with the provisions of this Act or any order of the Commission.

''(c) INTERVENTION IN CIVIL ACTIONS.—

''(1) IN GENERAL.—The Commission, on behalf of the public interest, may intervene of right as provided under rule 24(a) of the Federal Rules of Civil Procedure in any civil action relating to professional boxing filed in a district court of the United States.

''(2) AMICUS FILING.—The Commission may file a brief in any action filed in a court of the United States on behalf of the public interest in any case relating to professional boxing.

''(d) HEARINGS BY COMMISSION.—Hearings conducted by the Commission under this Act shall be public and may be held before any officer of the Commission. The Commission shall keep appropriate records of the hearings.

''SEC. 208. NONINTERFERENCE WITH BOXING COMMISSIONS.

''(a) NONINTERFERENCE.—Nothing in this Act prohibits any boxing commission from exercising any of its powers, duties, or functions with respect to the regulation or supervision of professional boxing or professional boxing matches to the extent not inconsistent with the provisions of this Act.

''(b) MINIMUM STANDARDS.—Nothing in this Act prohibits any boxing commission from enforcing local standards or requirements

that exceed the minimum standards or requirements promulgated by the Commission under this Act.

''SEC. 209. ASSISTANCE FROM OTHER AGENCIES.

''Any employee of any executive department, agency, bureau, board, commission, office, independent establishment, or instrumentality may be detailed to the Commission, upon the request of the Commission, on a reimbursable or nonreimbursable basis, with the consent of the appropriate authority having jurisdiction over the employee. While so detailed, an employee shall continue to receive the compensation provided pursuant to law for the employee's regular position of employment and shall retain, without interruption, the rights and privileges of that employment.

''SEC. 210. REPORTS.

''(a) ANNUAL REPORT.—The Commission shall submit a report on its activities to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Commerce each year. The annual report shall include—

''(1) a detailed discussion of the activities of the Commission for the year covered by the report; and

''(2) an overview of the licensing and enforcement activities of the State and tribal organization boxing commissions.

''(b) PUBLIC REPORT.—The Commission shall annually issue and publicize a report of the Commission on the progress made at Federal and State levels and on Indian lands in the reform of professional boxing, which shall include comments on issues of continuing concern to the Commission.

''(c) FIRST ANNUAL REPORT ON THE COMMISSION.—The first annual report under this title shall be submitted not later than 2 years after the effective date of this title.

''SEC. 211. INITIAL IMPLEMENTATION.

''(a) TEMPORARY EXEMPTION.—The requirements for licensing under this title do not apply to a person for the performance of an activity as a boxer, boxing judge, or referee, or the performance of any other professional activity in relation to a professional boxing match, if the person is licensed by a boxing commission to perform that activity as of the effective date of this title.

''(b) EXPIRATION.—The exemption under subsection (a) with respect to a license issued by a boxing commission expires on the earlier of—

''(A) the date on which the license expires; or

''(B) the date that is 2 years after the date of the enactment of the Professional Boxing Amendments Act of 2004.

''SEC. 212. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There are authorized to be appropriated for the Commission for each fiscal year such sums as may be necessary for the Commission to perform its functions for that fiscal year.

''(b) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.—Notwithstanding section 3302 of title 31, United States Code, any fee collected under this title—

''(1) shall be credited as offsetting collections to the account that finances the activities and services for which the fee is imposed;

''(2) shall be available for expenditure only to pay the costs of activities and services for which the fee is imposed; and

''(3) shall remain available until expended.''.

(b) CONFORMING AMENDMENTS.—

(1) PBSA.—The Professional Boxing Safety Act of 1996, as amended by this Act, is further amended—

(A) by striking section 1 and inserting the following:

''SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

''(a) SHORT TITLE.—This Act may be cited as the 'Professional Boxing Safety Act'.

''(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

(B) by inserting before section 3 the following:

''TITLE I—PROFESSIONAL BOXING SAFETY'';

(C) by redesignating sections 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 21, and 22 as sections 101 through 118, respectively;

(D) by striking subsection (a) of section 113, as redesignated, and inserting the following:

''(a) IN GENERAL.—Except to the extent required in a legal, administrative, or judicial proceeding, a boxing commission, an Attorney General, or the Commission may not disclose to the public any matter furnished by a promoter under section 111.'';

(E) by striking ''section 13'' in subsection (b) of section 113, as redesignated, and inserting ''section 111'';

(F) by striking ''9(b), 10, 11, 12, 13, 14, or 16,'' in paragraph (1) of section 116(b), as redesignated, and inserting ''107, 108, 109, 110, 111, or 114,'';

(G) by striking ''9(b), 10, 11, 12, 13, 14, or 16'' in paragraph (2) of section 116(b), as redesignated, and inserting ''107, 108, 109, 110, 111, or 114'';

(H) by striking ''section 17(a)'' in subsection (b)(3) of section 116, as redesignated, and inserting ''section 115(a)'';

(I) by striking ''section 10'' in subsection (e)(3) of section 116, as redesignated, and inserting ''section 108''; and

(J) by striking ''of this Act'' each place it appears in sections 101 through 120, as redesignated, and inserting ''of this title''.

(2) COMPENSATION OF MEMBERS.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

''Members of the United States Boxing Commission.''.

SEC. 722. STUDY AND REPORT ON DEFINITION OF PROMOTER.

(a) STUDY.—The United States Boxing Commission shall conduct a study on how the term ''promoter'' should be defined for purposes of the Professional Boxing Safety Act.

(b) HEARINGS.—As part of that study, the Commission shall hold hearings and solicit testimony at those hearings from boxers, managers, promoters, premium, cable, and satellite program service providers, hotels, casinos, resorts, and other commercial establishments that host or sponsor professional boxing matches, and other interested parties with respect to the definition of that term as it is used in the Professional Boxing Safety Act.

(c) REPORT.—Not later than 12 months after the date of the enactment of this Act, 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 on the study conducted under subsection (a). The report shall—

(1) set forth a proposed definition of the term ''promoter'' for purposes of the Professional Boxing Safety Act; and

(2) describe the findings, conclusions, and rationale of the Commission for the proposed definition, together with any recommendations of the Commission, based on the study.

SEC. 723. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this title shall take effect on the date of enactment of this Act.

(b) 1-YEAR DELAY FOR CERTAIN TITLE II PROVISIONS.—Sections 205 through 212 of the Professional Boxing Safety Act of 1996, as added by section 721(a) of this title, shall take effect 1 year after the date of enactment of this Act.

Mr. HATCH. Mr. President, I commend my esteemed colleagues in the Senate for passing S. 3021, the Family Entertainment and Copyright Act of 2004, which I introduced today with the senior Senator from Vermont. This important legislation is actually a package of several smaller intellectual property bills that the House and Senate have been working to enact over the past 2 years. This bill strengthens the intellectual property laws that are vital to the ongoing growth of our economy. In addition to important clarifications to U.S. intellectual property laws, this bill also contains the Family Movie Act, introduced by Representative Lamar Smith, the Chairman of the House subcommittee with jurisdiction over intellectual property legislation.

Title I of this Act, the Artists' Rights and Theft Prevention Act of 2003, the ART Act, contains a slightly modified version of S. 1932, authored by my colleagues Senators Cornyn and Feinstein, that passed the Senate by unanimous consent earlier this Congress. This bill will close two significant gaps in our copyright laws that are feeding some of the piracy now rampant on the Internet. First, it criminalizes attempts to camcord movies off of theater screens. These camcorded copies of new movies now appear on filesharing networks almost contemporaneously with the theatrical release

of a film. Several states have already taken steps to criminalize this activity, but providing a uniform Federal law, instead of a patchwork of State criminal statutes, will assist law enforcement officials in combating the theft and redistribution of valuable intellectual property embodied in newly-released motion pictures. Second, the bill will create a pre-registration system that will permit criminal penalties and statutory damage awards. This will also provide a tool for law enforcement officials combating the growing problem of music and movies being distributed on filesharing networks and circulating on the Internet before they are even released. Obviously, the increasingly frequent situation of copyrighted works being distributed illegally via the Internet before they are even made available for sale to the public severely undercuts the ability of copyright holders to receive fair and adequate compensation for their works.

Title II of this Act, the Family Movie Act of 2004, resolves some ongoing disputes about e legality of so-called ''jump-and-skip'' technologies that companies like Clearplay in my home state of Utah have developed to permit family-friendly viewing of films that may contain objectionable content. The Family Movie Act creates a narrowly-defined safe-harbor clarifying that distributors of such technologies will not face liability for copyright or trademark infringement, provided that they comply with the requirements of the Act. Throughout the 108th Congress, I have been working to resolve this issue with my colleagues in the Senate and several leaders in the House, including, most importantly Chairman SMITH and Chairman SENSENBRENNER. The Family Movie Act will help to end aggressive litigation threatening the viability of small companies like Clearplay who are busy creating innovative technologies for consumers that allow them to tailor their home viewing experience to their own individual or family preferences.

I thank my friend, the senior Senator from Arizona, for his and his staff's assistance in drafting this version of the legislation to resolve concerns that the House version might affect entirely unrelated disputes about commercial-skipping technology. Apparently, some were concerned that language in the House bill stating that this particular safe-harbor provision was not intended to resolve disputes about the legality of commercial-skipping technologies might be construed by courts as evidence that Congress believes that such technologies violate the Copyright Act.

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Courts do not, cannot, and should not construe the Copyright Act's safe harbors in this way. For example, when Congress created safe-harbor provisions for certain types of internet service providers, it did not imply that all others were violating the Copyright Act. Nevertheless, I am pleased that we were able to find language that satisfies all so that it is clear the Act's safe-harbor for family-friendly viewing technologies encode absolutely no judgment whatsoever about the proper resolution of entirely unrelated disputes about the legality of commercial-skipping technologies. It would have been tragic if we had allowed a special-interest dispute about advertising to deny parents access to technologies that give them and their children the opportunity to watch movies without being exposed to profanity or images of rape, sex or murder.

Title III of this Act, the National Film Preservation Act of 2004, will reauthorize the National Film Preservation Board and the National Film Preservation Foundation. These entities have worked successfully to recognize and preserve historically or culturally significant films, often by providing the grants and expertise that enable local historical societies to protect and preserve historically significant films for the local communities for which they are most important. This fine work will ensure that the history of the 20th century will be preserved and available to future generations. As a conservative Senator from a socially-conservative-state, I occasionally take a few swings at the movie industry for the quality and content of the motion pictures they are currently creating, but I will note for the record that I commend efforts to ensure that important artistic, cultural, and historically-significant films are preserved for future generations, and I commend the Senator from Vermont for his perseverance in reauthorizing federal funds to continue this important effort.

Title IV of this Act, the Preservation of Orphan Works Act, also ensures the preservation of valuable historic records by correcting a technical error that unnecessarily narrows a limitation on the copyright law applicable to librarians and archivists. This will strengthen the ability of librarians and archivists to better meet the needs of both researchers and ordinary individuals and will result in greater accessibility of important works. I applaud my colleague in the House, Representative HOWARD BERMAN of California, for his efforts on this bill and am pleased to see it included in this Senate package.

Title V of this Act, the Anticounterfeiting Act of 2004, amends our criminal and civil anticounterfeiting laws to ensure that these laws keep pace with the counterfeiters. Traffic in counterfeit copies of goods protected by American copyrights, patents or trademarks has become a multi-billion dollar drain on our economy. The proceeds of this illegal traffic are stolen from legitimate American companies and then used to fund other criminal enterprises. Unlike several of the other bills in this package that provide tools for combating music and movie piracy, the Anticounterfeiting Act is directed primarily toward combating counterfeiting practices that enable software piracy around the world.

To combat this counterfeiting, companies are using increasingly sophisticated authentication features to distinguish genuine, authorized copies of their products and to protect their customers and distributors. Now, the counterfeiters are fighting back by counterfeiting authentication features or by stealing legally produced authentication features and selling them to counterfeiters. The Anticounterfeiting Act of 2004 will impose criminal and civil penalties upon those who traffic in counterfeit or stolen authentication features. This will ensure that law-enforcement agencies and private rights-holders can halt criminal traffic in counterfeit or stolen authentication features before it even creates an illusion of authenticity that allows counterfeit goods to penetrate legitimate markets and endanger both the growth of our economy and the personal safety of our citizens.

Title VI of this Act, the Cooperative Research and Technology Enhancement Act of 2004, the CREATE Act, will create new opportunities to innovate when public institutions and private entrepreneurs combine their respective forms of expertise in collaborative, joint research efforts. This type of joint private-public research effort is well-suited to, in the words of President Lincoln, add ''the fuel of interest to the fire of genius in the production of new and useful things.'' As a result, we have long realized the enormous value of these joint research efforts, and we have long realized that their potential cannot be realized unless their participants can benefit from the intellectual property rights generated by such research.

Unfortunately, the literal language of Section 102(g) of the Patent Act suggests that nonpublic information known to some members of a private-public research team can constitute ''prior art'' that may make the final results of the team research obvious, and thus not patentable. Because nonpublic information does not usually constitute ''prior art'' under the Patent Act, the potentially disparate treatment of such information creates a disincentive for entrepreneurs and public institutions to collaborate in joint research efforts.

I believe that we must encourage, not discourage, public institutions and private entrepreneurs to combine their respective talents in joint research efforts. Indeed, Congress committed itself to this principle when it passed the Bayh-Dole amendments to the Patent Act. The CREATE Act will simply conform the present language of the Patent Act to the intent that has always animated it. I commend Chairman SMITH and his staff for their efforts on this legislation and am pleased that it has been made part of this package of bills.

Before I close, I thank all my colleagues and their staff who made passage of this bill today possible. In particular, I commend staff of both Judiciary Committees, including my own staff, Tom Sydnor and Dave Jones, and also Susan Davies, Chip Roy, Rich Phillips, Dan Fine, Jeff Miller, Jonathan Schwantes, Jonathan Meyer, Brooke Roberts, Bill Bailey, Lee Carosi, Jim Hippe, Joseph Gibson, Bill Bailey, Blaine Merrit, David Whitney, Joe Keeley, Alec French, and Sampak Garg.

Finally, I must note that the bicameral, bipartisan approach to these bills in particular and to intellectual property issues in general is a model we should strive to achieve in the 109th Congress.

FEDERAL EMPLOYEE DENTAL AND VISION BENEFITS ENHANCEMENT ACT OF 2004

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 783, S. 2657.

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

The assistant legislative clerk read as follows:

A bill (S. 2657) to amend part III of title 5, United States Code, to provide for the establishment of programs under which supplemental dental and vision benefits are made available to Federal employees, retirees, and their dependents, to expand the contracting authority of the Office of Personnel Management, and for other purposes.

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

Mr. MCCAIN. Mr. President, I ask unanimous consent that the amendment at the desk be agreed to, the bill, as amended, be read a third time and passed, the motions 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 amendment (No. 4075) was agreed to, as follows:

AMENDMENT NO. 4075

(Purpose: To make technical and conforming amendments)

On page 3, line 10, insert ''or an employee organization defined under section 8901(8)'' after ''companies)''.

On page 8, line 9, insert ''area'' after ''delivery''.

On page 12, line 15, strike ''General Accounting Office'' and insert ''Government Accountability Office''.

On page 13, line 1, strike ''General Accounting Office'' and insert ''Government Accountability Office''.

On page 15, line 4, insert ''or an employee organization defined under section 8901(8)'' after ''companies)''.

On page 19, line 20, ''area'' after ''delivery''.

On page 23, line 25, strike ''General Accounting Office'' and insert ''Government Accountability Office''.

On page 24, line 11, strike ''General Accounting Office'' and insert ''Government Accountability Office''.

On page 25, line 18, strike all through page 26, line 19.

On page 26, line 20, strike ''sec. 7.'' and insert ''sec. 6.''.

On page 27, line 7, strike ''sec. 8.'' and insert ''sec. 7.''.

The bill (S. 2657), as amended, was read the third time and passed, as follows:

S. 2657

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Federal Employee Dental and Vision Benefits Enhancement Act of 2004''.

SEC. 2. ENHANCED DENTAL BENEFITS FOR FEDERAL EMPLOYEES.

(a) IN GENERAL.—Subpart G of part III of title 5, United States Code, is amended by inserting after chapter 89 the following:

''CHAPTER 89A—ENHANCED DENTAL BENEFITS

''§ 8951. Definitions

''In this chapter:

''(1) The term 'employee' means an employee defined under section 8901(1).

''(2) The terms 'annuitant', 'member of family', and 'dependent' have the meanings as such terms are defined under paragraphs (3), (5), and (9), respectively, of section 8901.

''(3) The term 'eligible individual' refers to an individual described in paragraph (1) or (2), without regard to whether the individual is enrolled in a health benefits plan under chapter 89.

''(4) The term 'Office' means the Office of Personnel Management.

''(5) The term 'qualified company' means a company (or consortium of companies or an employee organization defined under section 8901(8)) that offers indemnity, preferred provider organization, health maintenance organization, or discount dental programs and if required is licensed to issue applicable coverage in any number of States, taking any subsidiaries of such a company into account (and, in the case of a consortium, considering the member companies and any subsidiaries thereof, collectively).

''(6) The term 'employee organization' means an association or other organization of employees which is national in scope, or in which membership is open to all employees of a Government agency who are eligible to enroll in a health benefits plan under chapter 89.

''(7) The term 'State' includes the District of Columbia.

''§ 8952. Availability of dental benefits

''(a) The Office shall establish and administer a program through which an eligible individual may obtain dental coverage to supplement coverage available through chapter 89.

''(b) The Office shall determine, in the exercise of its reasonable discretion, the financial requirements for qualified companies to participate in the program.

''(c) Nothing in this chapter shall be construed to prohibit the availability of dental benefits provided by health benefits plans under chapter 89.

''§ 8953. Contracting authority

''(a)(1) The Office shall contract with a reasonable number of qualified companies for a policy or policies of benefits described under section 8954 without regard to section 5 of title 41 or any other statute requiring competitive bidding. An employee organization may contract with a qualified company for the purpose of participating with that qualified company in any contract between the Office and that qualified company.

''(2) The Office shall ensure that each resulting contract is awarded on the basis of contractor qualifications, price, and reasonable competition.

''(b) Each contract under this section shall contain—

''(1) the requirements under section 8902(d), (f), and (i) made applicable to contracts under this section by regulations prescribed by the Office;

''(2) the terms of the enrollment period; and

''(3) such other terms and conditions as may be mutually agreed to by the Office and the qualified company involved, consistent with the requirements of this chapter and regulations prescribed by the Office.

''(c) Nothing in this chapter shall, in the case of an individual electing dental supplemental benefit coverage under this chapter after the expiration of such individual's first opportunity to enroll, preclude the application of waiting periods more stringent than those that would have applied if that opportunity had not yet expired.

''(d)(1) Each contract under this chapter shall require the qualified company to agree—

''(A) to provide payments or benefits to an eligible individual if such individual is entitled thereto under the terms of the contract; and

''(B) with respect to disputes regarding claims for payments or benefits under the terms of the contract—

''(i) to establish internal procedures designed to expeditiously resolve such disputes; and

''(ii) to establish, for disputes not resolved through procedures under clause (i), procedures for 1 or more alternative means of dispute resolution involving independent third-party review under appropriate circumstances by entities mutually acceptable to the Office and the qualified company.

''(2) A determination by a qualified company as to whether or not a particular individual is eligible to obtain coverage under this chapter shall be subject to review only to the extent and in the manner provided in the applicable contract.

''(3) For purposes of applying the Contract Disputes Act of 1978 to disputes arising under this chapter between a qualified company and the Office—

''(A) the agency board having jurisdiction to decide an appeal relative to such a dispute shall be such board of contract appeals as the Director of the Office of Personnel Management shall specify in writing (after appropriate arrangements, as described in section 8(c) of such Act); and

''(B) the district courts of the United States shall have original jurisdiction, concurrent with the United States Court of Federal Claims, of any action described in section 10(a)(1) of such Act relative to such a dispute.

''(e) Nothing in this section shall be considered to grant authority for the Office or third-party reviewer to change the terms of any contract under this chapter.

''(f) Contracts under this chapter shall be for a uniform term of 7 years and may not be renewed automatically.

''§ 8954. Benefits

''(a) The Office may prescribe reasonable minimum standards for enhanced dental benefits plans offered under this chapter and for qualified companies offering the plans.

''(b) Each contract may include more than 1 level of benefits that shall be made available to all eligible individuals.

''(c) The benefits to be provided under enhanced dental benefits plans under this chapter may be of the following types:

''(1) Diagnostic.
''(2) Preventive.
''(3) Emergency care.
''(4) Restorative.
''(5) Oral and maxillofacial surgery.
''(6) Endodontics.
''(7) Periodontics.
''(8) Prosthodontics.
''(9) Orthodontics.

''(d) A contract approved under this chapter shall require the qualified company to cover the geographic service delivery area specified by the Office. The Office shall require qualified companies to include dentally underserved areas in their service delivery areas.

''(e) If an individual has dental coverage under a health benefits plan under chapter 89 and also has coverage under a plan under this chapter, the health benefits plan under chapter 89 shall be the first payor of any benefit payments.

''§ 8955. Information to individuals eligible to enroll

''(a) The qualified companies at the direction and with the approval of the Office, shall make available to each individual eligible to enroll in a dental benefits plan information on services and benefits (including maximums, limitations, and exclusions), that the Office considers necessary to enable the individual to make an informed decision about electing coverage.

''(b) The Office shall make available to each individual eligible to enroll in a dental benefits plan, information on services and benefits provided by qualified companies participating under chapter 89.

''§ 8956. Election of coverage

''(a) An eligible individual may enroll in a dental benefits plan for self-only, self plus one, or for self and family. If an eligible individual has a spouse who is also eligible to enroll, either spouse, but not both, may enroll for self plus one or self and family. An individual may not be enrolled both as an employee, annuitant, or other individual eligible to enroll and as a member of the family.

''(b) The Office shall prescribe regulations under which—

''(1) an eligible individual may enroll in a dental benefits plan; and

''(2) an enrolled individual may change the self-only, self plus one, or self and family coverage of that individual.

''(c)(1) Regulations under subsection (b) shall permit an eligible individual to cancel or transfer the enrollment of that individual to another dental benefits plan—

''(A) before the start of any contract term in which there is a change in rates charged or benefits provided, in which a new plan is offered, or in which an existing plan is terminated; or

''(B) during other times and under other circumstances specified by the Office.

''(2) A transfer under paragraph (1) shall be subject to waiting periods provided under a new plan.

''§ 8957. Coverage of restored survivor or disability annuitants

''A surviving spouse, disability annuitant, or surviving child whose annuity is terminated and is later restored, may continue enrollment in a dental benefits plan subject to the terms and conditions prescribed in regulations issued by the Office.

''§ 8958. Premiums

''(a) Each eligible individual obtaining supplemental dental coverage under this chapter shall be responsible for 100 percent of the premiums for such coverage.

''(b) The Office shall prescribe regulations specifying the terms and conditions under which individuals are required to pay the premiums for enrollment.

''(c) The amount necessary to pay the premiums for enrollment may—

''(1) in the case of an employee, be withheld from the pay of such an employee; or

''(2) in the case of an annuitant, be withheld from the annuity of such an annuitant.

''(d) All amounts withheld under this section shall be paid directly to the qualified company.

''(e) Each participating qualified company shall maintain accounting records that contain such information and reports as the Office may require.

''(f)(1) The Employee Health Benefits Fund is available, without fiscal year limitation, for reasonable expenses incurred by the Office in administering this chapter before the first day of the first contract period, including reasonable implementation costs.

''(2)(A) There is established in the Employees Health Benefits Fund a Dental Benefits Administrative Account, which shall be available to the Office, without fiscal year limitation, to defray reasonable expenses incurred by the Office in administering this chapter after the start of the first contract year.

''(B) A contract under this chapter shall include appropriate provisions under which the qualified company involved shall, during each year, make such periodic contributions to the Dental Benefits Administrative Account as necessary to ensure that the reasonable anticipated expenses of the Office in administering this chapter during such year are defrayed.

''§ 8959. Preemption

''The terms of any contract that relate to the nature, provision, or extent of coverage or benefits (including payments with respect to benefits) shall supersede and preempt any State or local law, or any regulation issued thereunder, which relates to dental benefits, insurance, plans, or contracts.

''§ 8960. Studies, reports, and audits

''(a) Each contract shall contain provisions requiring the qualified company to—

''(1) furnish such reasonable reports as the Office determines to be necessary to enable it to carry out its functions under this chapter; and

''(2) permit the Office and representatives of the Government Accountability Office to examine such records of the qualified company as may be necessary to carry out the purposes of this chapter.

''(b) Each Federal agency shall keep such records, make such certifications, and furnish the Office, the qualified company, or both, with such information and reports as the Office may require.

''(c) The Office shall conduct periodic reviews of plans under this chapter, including a comparison of the dental benefits available under chapter 89, to ensure the competitiveness of plans under this chapter. The Office shall cooperate with the Government Accountability Office to provide periodic evaluations of the program.

''§ 8961. Jurisdiction of courts

''The district courts of the United States have original jurisdiction, concurrent with the United States Court of Federal Claims, of a civil action or claim against the United States under this chapter after such administrative remedies as required under section 8953(d) have been exhausted, but only to the extent judicial review is not precluded by any dispute resolution or other remedy under this chapter.

''§ 8962. Administrative functions

''(a) The Office shall prescribe regulations to carry out this chapter. The regulations may exclude an employee on the basis of the nature and type of employment or conditions pertaining to it.

''(b) The Office shall, as appropriate, provide for coordinated enrollment, promotion, and education efforts as appropriate in consultation with each qualified company. The information under this subsection shall include information relating to the dental benefits available under chapter 89, including the advantages and disadvantages of obtaining additional coverage under this chapter.''.

SEC. 3. ENHANCED VISION BENEFITS FOR FEDERAL EMPLOYEES.

Subpart G of part III of title 5, United States Code, is amended by inserting after chapter 89A (as added by section 2 of this Act) the following:

''CHAPTER 89B—ENHANCED VISION BENEFITS

''§ 8981. Definitions

''In this chapter:

''(1) The term 'employee' means an employee defined under section 8901(1).

''(2) The terms 'annuitant', 'member of family', and 'dependent' have the meanings as such terms are defined under paragraphs (3), (5), and (9), respectively, of section 8901.

''(3) The term 'eligible individual' refers to an individual described in paragraph (1) or (2), without regard to whether the individual is enrolled in a health benefits plan under chapter 89.

''(4) The term 'Office' means the Office of Personnel Management.

''(5) The term 'qualified company' means a company (or consortium of companies or an employee organization defined under section 8901(8)) that offers indemnity, preferred provider organization, health maintenance organization, or discount vision programs and if required is licensed to issue applicable coverage in any number of States, taking any subsidiaries of such a company into account (and, in the case of a consortium, considering the member companies and any subsidiaries thereof, collectively).

''(6) The term 'employee organization' means an association or other organization of employees which is national in scope, or in which membership is open to all employees of a Government agency who are eligible to enroll in a health benefits plan under chapter 89.

''(7) The term 'State' includes the District of Columbia.

''§ 8982. Availability of vision benefits

''(a) The Office shall establish and administer a program through which an eligible individual may obtain vision coverage to supplement coverage available through chapter 89.

''(b) The Office shall determine, in the exercise of its reasonable discretion, the financial requirements for qualified companies to participate in the program.

''(c) Nothing in this chapter shall be construed to prohibit the availability of vision benefits provided by health benefits plans under chapter 89.

''§ 8983. Contracting authority

''(a)(1) The Office shall contract with a reasonable number of qualified companies for a policy or policies of benefits described under section 8984 without regard to section 5 of title 41 or any other statute requiring competitive bidding. An employee organization may contract with a qualified company for the purpose of participating with that qualified company in any contract between the Office and that qualified company.

''(2) The Office shall ensure that each resulting contract is awarded on the basis of contractor qualifications, price, and reasonable competition.

''(b) Each contract under this section shall contain—

''(1) the requirements under section 8902 (d), (f), and (i) made applicable to contracts under this section by regulations prescribed by the Office;

''(2) the terms of the enrollment period; and

''(3) such other terms and conditions as may be mutually agreed to by the Office and the qualified company involved, consistent with the requirements of this chapter and regulations prescribed by the Office.

''(c) Nothing in this chapter shall, in the case of an individual electing vision supplemental benefit coverage under this chapter after the expiration of such individual's first opportunity to enroll, preclude the application of waiting periods more stringent than those that would have applied if that opportunity had not yet expired.

''(d)(1) Each contract under this chapter shall require the qualified company to agree—

''(A) to provide payments or benefits to an eligible individual if such individual is entitled thereto under the terms of the contract; and

''(B) with respect to disputes regarding claims for payments or benefits under the terms of the contract—

''(i) to establish internal procedures designed to expeditiously resolve such disputes; and

''(ii) to establish, for disputes not resolved through procedures under clause (i), procedures for 1 or more alternative means of dispute resolution involving independent third-party review under appropriate circumstances by entities mutually acceptable to the Office and the qualified company.

''(2) A determination by a qualified company as to whether or not a particular individual is eligible to obtain coverage under this chapter shall be subject to review only to the extent and in the manner provided in the applicable contract.

''(3) For purposes of applying the Contract Disputes Act of 1978 to disputes arising under this chapter between a qualified company and the Office—

''(A) the agency board having jurisdiction to decide an appeal relative to such a dispute shall be such board of contract appeals as the Director of the Office of Personnel Management shall specify in writing (after appropriate arrangements, as described in section 8(c) of such Act); and

''(B) the district courts of the United States shall have original jurisdiction, concurrent with the United States Court of Federal Claims, of any action described in section 10(a)(1) of such Act relative to such a dispute.

''(e) Nothing in this section shall be considered to grant authority for the Office or third-party reviewer to change the terms of any contract under this chapter.

''(f) Contracts under this chapter shall be for a uniform term of 7 years and may not be renewed automatically.

''§ 8984. Benefits

''(a) The Office may prescribe reasonable minimum standards for enhanced vision benefits plans offered under this chapter and for qualified companies offering the plans.

''(b) Each contract may include more than 1 level of benefits that shall be made available to all eligible individuals.

''(c) The benefits to be provided under enhanced vision benefits plans under this chapter may be of the following types:

''(1) Diagnostic (to include refractive services).

''(2) Preventive.

''(3) Eyewear.

''(d) A contract approved under this chapter shall require the qualified company to cover the geographic service delivery area specified by the Office. The Office shall require qualified companies to include visually underserved areas in their service delivery areas.

''(e) If an individual has vision coverage under a health benefits plan under chapter 89 and also has coverage under a plan under this chapter, the health benefits plan under chapter 89 shall be the first payor of any benefit payments.

''§ 8985. Information to individuals eligible to enroll

''(a) The qualified companies at the direction and with the approval of the Office, shall make available to each individual eligible to enroll in a vision benefits plan information on services and benefits (including maximums, limitations, and exclusions), that the Office considers necessary to enable the individual to make an informed decision about electing coverage.

''(b) The Office shall make available to each individual eligible to enroll in a vision benefits plan, information on services and benefits provided by qualified companies participating under chapter 89.

''§ 8986. Election of coverage

''(a) An eligible individual may enroll in a vision benefits plan for self-only, self plus one, or for self and family. If an eligible individual has a spouse who is also eligible to enroll, either spouse, but not both, may enroll for self plus one or self and family. An individual may not be enrolled both as an employee, annuitant, or other individual eligible to enroll and as a member of the family.

''(b) The Office shall prescribe regulations under which—

''(1) an eligible individual may enroll in a vision benefits plan; and

''(2) an enrolled individual may change the self-only, self plus one, or self and family coverage of that individual.

''(c)(1) Regulations under subsection (b) shall permit an eligible individual to cancel or transfer the enrollment of that individual to another vision benefits plan—

''(A) before the start of any contract term in which there is a change in rates charged or benefits provided, in which a new plan is offered, or in which an existing plan is terminated; or

''(B) during other times and under other circumstances specified by the Office.

''(2) A transfer under paragraph (1) shall be subject to waiting periods provided under a new plan.

''§ 8987. Coverage of restored survivor or disability annuitants

''A surviving spouse, disability annuitant, or surviving child whose annuity is terminated and is later restored, may continue enrollment in a vision benefits plan subject to the terms and conditions prescribed in regulations issued by the Office.

''§ 8988. Premiums

''(a) Each eligible individual obtaining supplemental vision coverage under this chapter shall be responsible for 100 percent of the premiums for such coverage.

''(b) The Office shall prescribe regulations specifying the terms and conditions under which individuals are required to pay the premiums for enrollment.

''(c) The amount necessary to pay the premiums for enrollment may—

''(1) in the case of an employee, be withheld from the pay of such an employee; or

''(2) in the case of an annuitant, be withheld from the annuity of such an annuitant.

''(d) All amounts withheld under this section shall be paid directly to the qualified company.

''(e) Each participating qualified company shall maintain accounting records that contain such information and reports as the Office may require.

''(f)(1) The Employee Health Benefits Fund is available, without fiscal year limitation, for reasonable expenses incurred by the Office in administering this chapter before the first day of the first contract period, including reasonable implementation costs.

''(2)(A) There is established in the Employees Health Benefits Fund a Vision Benefits Administrative Account, which shall be available to the Office, without fiscal year limitation, to defray reasonable expenses incurred by the Office in administering this chapter after the start of the first contract year.

''(B) A contract under this chapter shall include appropriate provisions under which the qualified company involved shall, during each year, make such periodic contributions to the Vision Benefits Administrative Account as necessary to ensure that the reasonable anticipated expenses of the Office in administering this chapter during such year are defrayed.

''§ 8989. Preemption

''The terms of any contract that relate to the nature, provision, or extent of coverage or benefits (including payments with respect to benefits) shall supersede and preempt any State or local law, or any regulation issued thereunder, which relates to vision benefits, insurance, plans, or contracts.

''§ 8990. Studies, reports, and audits

''(a) Each contract shall contain provisions requiring the qualified company to—

''(1) furnish such reasonable reports as the Office determines to be necessary to enable it to carry out its functions under this chapter; and

''(2) permit the Office and representatives of the Government Accountability Office to examine such records of the qualified company as may be necessary to carry out the purposes of this chapter.

''(b) Each Federal agency shall keep such records, make such certifications, and furnish the Office, the qualified company, or both, with such information and reports as the Office may require.

''(c) The Office shall conduct periodic reviews of plans under this chapter, including a comparison of the vision benefits available under chapter 89, to ensure the competitiveness of plans under this chapter. The Office shall cooperate with the Government Accountability Office to provide periodic evaluations of the program.

''§ 8991. Jurisdiction of courts

''The district courts of the United States have original jurisdiction, concurrent with the United States Court of Federal Claims,

of a civil action or claim against the United States under this chapter after such administrative remedies as required under section 8983(d) have been exhausted, but only to the extent judicial review is not precluded by any dispute resolution or other remedy under this chapter.

''§ 8992. Administrative functions

''(a) The Office shall prescribe regulations to carry out this chapter. The regulations may exclude an employee on the basis of the nature and type of employment or conditions pertaining to it.

''(b) The Office shall, as appropriate, provide for coordinated enrollment, promotion, and education efforts as appropriate in consultation with each qualified company. The information under this subsection shall include information relating to the vision benefits available under chapter 89, including the advantages and disadvantages of obtaining additional coverage under this chapter.''.

SEC. 4. TECHNICAL AND CONFORMING AMENDMENT.

The table of chapters for part III of title 5, United States Code, is amended by inserting after the item relating to chapter 89 the following:

''89A. Enhanced Dental Benefits 8951
''89B. Enhanced Vision Benefits ..... 8981''.

SEC. 5. APPLICATION TO POSTAL SERVICE EMPLOYEES.

Section 1005(f) of title 39, United States Code, is amended in the second sentence by striking ''chapters 87 and 89'' and inserting ''chapters 87, 89, 89A, and 89B''.

SEC. 6. REQUIREMENT TO STUDY HEALTH BENEFITS COVERAGE FOR DEPENDENT CHILDREN WHO ARE FULL-TIME STUDENTS.

Not later than 6 months after the date of enactment of this Act, the Office of Personnel Management shall submit to Congress a report describing and evaluating options whereby benefits under chapter 89 of title 5, United States Code, could be made available to an unmarried dependent child under 25 years of age who is enrolled as a full-time student at an institution of higher education as defined under section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

SEC. 7. EFFECTIVE DATE.

The amendments made by this Act shall take effect on the date of enactment of this Act and shall apply to contracts that take effect with respect to the calendar year 2006.

AMENDING TITLE 21, DISTRICT OF COLUMBIA OFFICIAL CODE

Mr. McCAIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4302, which is at the desk.

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

The assistant legislative clerk read as follows:

A bill (H.R. 4302) to amend title 21, District of Columbia Official Code, to enact the provisions of the Mental Health Civil Commitment Act of 2002 which affect the Commission on Mental Health and require action by Congress in order to take effect.

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

Mr. McCAIN. 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 bill be printed in the RECORD.

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

The bill (H.R. 4302) was read the third time and passed.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

TRIBUTE TO RETIRING SENATORS

FRITZ HOLLINGS

Mr. REID. Mr. President, I want to spend a few minutes talking about the Senators who will not be here when the Senate starts over again this January. The first I ever heard about Senator FRITZ HOLLINGS was while watching a TV program where Senator HOLLINGS was running for President, and he said, during a Presidential debate, when the issue of the day was whether there should be a nuclear freeze, which had been propounded by Alan Cranston, another candidate, when asked about the nuclear freeze, Senator HOLLINGS said, ''Until a few days ago, I thought this was a new kind of dessert.'' That wit is typical of FRITZ HOLLINGS.

Mr. President, FRITZ HOLLINGS is a man who is, as far as I am concerned, the epitome of what it means to be a Senator. He is a person who looks the role and is everything that I am not—tall, handsome, with flowing white hair, and very articulate. This is a man who was one of the original southern politicians who thought it was appropriate to start talking about the evils of segregation. FRITZ HOLLINGS is tall, handsome, with a great voice, a great sense of humor; and he is somebody for whom I have the greatest respect. I will miss him so much.

He, Peatsy, and I have traveled. He is someone who has been so good to the State of South Carolina. I have been to his home. He has given me a tour of Columbia, SC, where he is a legend in his own time. He showed me the place where he was born.

I want to extend through the magic of this television to everyone within the sound of my voice the fact that FRITZ HOLLINGS is a great Senator and will go down in the history of the Senate as one of the great Senators.

I also want FRITZ and Peatsy to know how much I care for them, and I appreciate very much their generosity and friendship to Landra and me over these many years.

JOHN BREAUX

JOHN BREAUX and I came to the Senate together. We served in the House together. He comes from a State that, of course, is famous for unpredictable politics, and JOHN has done every bit of his work to make sure that tradition is upheld.

When he was running for the Senate, as only JOHN BREAUX could do, his opponent raised a question, and his opponent, who was somebody who also had served in the House of Representatives, said JOHN BREAUX can be bought. They would rush out to JOHN BREAUX and would say: Your opponent said you could be bought. How do you respond to that? JOHN BREAUX said: Well, I can be leased but I can't be bought. Who else, other than JOHN BREAUX, could get away with something like that?

He is a great person, a person of integrity, a person who came to the House of Representatives way back in 1972. He served in the Congress for 32 years. There is no one who is better at making a deal than JOHN BREAUX. I say this in the most positive way. Legislation is the art of compromise, consensus building, and JOHN BREAUX understood that to a T. We need more people such as JOHN BREAUX with the ability to reach across the aisle.

We will miss JOHN BREAUX, Mr. Problem Solver. I appreciate his and Lois's friendship over these years. I will miss him very much.

BOB GRAHAM

BOB GRAHAM and I came to the Senate together in 1986. He first ran for Governor 26 years ago. Since that time, and even before, he has spent hundreds of days working with regular Floridians in their jobs.

The thing we all see in BOB GRAHAM is the little notebooks he carries and everything he does he writes down. I am sure some day after we are long gone, a historian will review those, and BOB GRAHAM will be well known in the history books because he wrote the history of everything he has done for the last 25 or 30 years.

He was a great Governor for the Sunshine State. He has been a tremendous Senator. I served with him from the time we came here on the Environment and Public Works Committee. He has certainly been tremendous on that committee. He is a detail man. He is a person, for example, who worked on the Everglades. He was tireless, persistent, and so smart. He has become an expert on foreign affairs and foreign intelligence. He served as chairman of the Intelligence Committee. He has written a book on the subject. His knowledge and contributions in that area will be hard to replace.

I certainly will miss the Senator from Florida. It is just too bad he decided not to run for reelection.

JOHN EDWARDS

I ask everyone to pull out this week's People magazine, if they have one—if not, get a copy of it—because that tells the story of JOHN and Elizabeth EDWARDS. The story is directed toward Elizabeth because she has now been stricken with breast cancer, but it tells in some detail about this wonderful family.

He was the Vice Presidential candidate and is someone who has tremendous ability. I am a trial lawyer. He is a trial lawyer. He has made such a distinct impression on the country with his oratorical skills. We know why he was a great trial lawyer.

People magazine is so filled with information and inspiration. The last sentence in that People magazine article talks about Elizabeth Edwards. She knew she had breast cancer in the last week of the campaign. She did not tell anybody, but she tells in this People magazine article that was so well written that somewhere at a place she stopped, they were having a cancer survivor program, and one of them asked her: Are you a cancer survivor? She did not answer but, of course, thought to herself, as the article says: We'll see.

We will see. We certainly hope for the Edwards family, which has already had a lot of personal problems due to the death of their 16-year-old son, we really do hope—all of us, all Americans hope for Elizabeth Edwards, this wonderful woman, to recover.

I will miss JOHN EDWARDS in the Senate. He only served here 6 years, but he certainly left his mark as a great Senator from the State of North Carolina. North Carolina is going to benefit, however, from the defeat of the Kerry-Edwards ticket because he is returning to North Carolina.

DON NICKLES

DON NICKLES and I have done some things together in the Senate that I will always remember. There are laws on the statute books of this country. One of the things we did, and people said we could not do, resulted because we were concerned about regulations and how burdensome and overbearing they can become. So we introduced legislation that basically said if the administration promulgates a regulation that we do not think helps the country, then we can overturn that regulation. That is the law.

We have overturned regulations that have been burdensome to this country. I have not always liked the result of the legislation that has been overturned, but it is my law along with Senator NICKLES'. He is a great legislator.

We worked together on the Appropriations Subcommittee on Legislative Branch. We really did some things that have changed what goes on. We have changed things a great deal, such as how Members of the House and Senate do their franking. We changed that.

Senator NICKLES and I were the first to talk about how bad the east front of the Capitol looked, and we did a number of things. We got the automobiles removed from the east front of the Capitol. This was what first got me interested in doing something about having a visitor center on the east front of the Capitol, which is now in the process of being completed.

I have so much respect for Senator NICKLES. He and I have a different political philosophy, no question about that, but I think the work we have done together sets an example of how Democrats and Republicans of totally different political philosophy can work together for the betterment of this country.

DON NICKLES is a good man. He is a young man. He has a great future in the private sector. I personally will miss him a lot. I care a great deal about DON NICKLES and wish him the very best.

BEN NIGHTHORSE CAMPBELL

Everyone has heard me talk about Searchlight, NV, the place of my birth and where I still live. The only Senator who has ever been to my home in Searchlight is BEN NIGHTHORSE CAMPBELL. BEN NIGHTHORSE CAMPBELL one day called my wife and said: I will be in Searchlight and want to come visit you. I will be there in about 40 minutes.

I was out doing a little jog. I thought something was wrong when I came back. She said: NIGHTHORSE is on his way.

He had a vehicle that was so big—I live a little bit off the beaten path—it could not get into my yard. We went up and met him and brought him back to my home. We had a wonderful visit.

BEN NIGHTHORSE CAMPBELL is, among other things, a great artist. He makes jewelry. I wanted to get my wife something very special for Christmas a couple years ago, and I went to BEN NIGHTHORSE CAMPBELL to see if he could do something unique. He said he was making his daughter a belt, and he would make one just like it for my wife.

He did that. It is a beautiful piece of jewelry. There are two of them in the world. My wife has hers, and if you go to the Museum of the American Indian, which is right down the way and just opened, you will see my wife's silver belt in the museum. Actually, it is not hers, it is his daughter's, but there is only one identical to my wife's. BEN NIGHTHORSE CAMPBELL is a great guy, a tremendous athlete.

I have great admiration for his physical prowess. I have always disagreed with his motorcycle riding but he believes he should continue doing that. He is a man who has written a book. I have read his book. It is a wonderful rags-to-riches story. He will be missed and that is an understatement.

TOM DASCHLE

There is no way I can, on the Senate floor in the few minutes I am going to take, convey to my colleagues and the people within the sound of my voice the feelings I have about TOM DASCHLE. He and I came to the Senate together 18 years ago. We served in the House of Representatives before that. The last 6 years we have worked together daily. There may be a day or two that went by without our talking but they were rare. We spoke even during the time we were on break. We have virtually been together every day. The only time we really did not spend a lot of time communicating is when he was in South Dakota and I was in Searchlight. Our BlackBerrys would not work. My BlackBerry now works in Searchlight. His still does not work in South Dakota.

TOM's legislative record is certainly there. It is apparent. He has done wonderful things for the State of South Dakota and this country. I could, but it is really unnecessary, explain what he has done for the farmers, the environment, the military, including the veterans, but what I can try in a very inadequate way is to express to him, through this manner, the things I have tried to say personally to him in the last couple of weeks, and that is express my appreciation to him for the opportunities he has given me.

TOM DASCHLE is a totally unselfish person. I can remember about 6 years ago when I was selected by my peers to be assistant leader I went to Senator DASCHLE and said: What is this job going to be? He said: Whatever you make it.

I took him at his word, and this job is what I thought the assistant leader or the whip should be. I could never have done what I have done and had the good fortune of being in the places I have been and had the freedom to do things on this Senate floor but for the support and authorization of Senator DASCHLE.

I do not think I have ever raised my voice to Senator DASCHLE. We both grew up with three brothers. We are the first to really go to school of any depth in our families. I have learned a lot from Senator DASCHLE.

As I have told everyone, I am not TOM DASCHLE and I am going to be a different kind of person in the new duties I have beginning at the first of the year.

I told TOM DASCHLE earlier this week that earlier this year I lost my best friend. His name was Mike O'Callaghan. He was someone who taught me in high school. He taught me how to fight in the ring and in other places. When I went to law school, he helped me. He was a disabled Korean veteran but he gave me part of his pension money to help me through tough times in school. I was allowed to take the bar before I graduated from law school. I was married and had two children, was desperate for money. I came back to Reno and there was Michael O'Callaghan. He gave me a $50 bill. That was in the fall of 1963. He gave me a $50 bill. I had never seen one before but he gave that to me. He knew I was desperate for money.

Then I held a few offices, and as a very young man I ran for Lieutenant Governor. People kind of thought I was going to win that. He moved back from California to Nevada to run for Governor because there was no Democrat to run sitting for Lieutenant Governor. They knew O'Callaghan had no chance, but he did. He became the Governor of the State of Nevada.

I am trying to paint a picture for this man and how close he was to me. He was so good to me, able to give me advice and counsel. He told me what I needed to hear, not what I wanted to hear, and I did not make a decision important in nature unless I discussed it with my friend Mike O'Callaghan.

He went to church early one morning this summer and died. It was a very

painless death. He went to church every day. He was a devoutly religious man, and somebody whom I have missed more than words can describe.

I told my friend TOM in his office a day or two ago that he was now my Mike O'Callaghan, that I have somebody I will call just as I did my friend Mike, that I will call him often. He said: That is fine. You could not call me too many times.

So TOM DASCHLE and I have developed a relationship that can best be described as two brothers. I have three brothers, one of whom is dead. So TOM replaces my brother Dale. I will call TOM and I will talk to him when I feel it necessary, knowing he will continue to give the advice and counsel to me that he has for the last 6 years.

There are additional things I would like to say, but I will suffice to say that for the 22 years I have known TOM DASCHLE, which has been culminated in the 6 years of intense personal contact where we have dealt with the problems of the country and the world in great depth, that there will never be an opportunity and an experience like that again. I am grateful to TOM and to his wonderful wife Linda for their friendship and TOM's service to our country.

Mr. SANTORUM. Mr. President, I rise today to pay tribute to departing Senators for their service and devotion to the United States Senate. They are not only my colleagues but my friends as well.

The reality of elections for the Senate is that every two years we experience change—current members depart and new members are welcomed. At every transition I am reminded by the reality that life is more than just politics. I am certain the departing Senators—are experiencing a tremendous feeling of sorrow, yet anticipation of things to come, as they leave their friends, colleagues, and this great nurturing institution.

Though we may fight hard during campaigns, we return to the Senate after the election to realize that we are not just losing Senators—we are losing friends. There is a bond—a collegiality and friendship—in the Senate that crosses party lines. We face long hard battles on the campaign trail and sometimes things can get ugly. But after all is said and done, after election day, we must all come back to Washington and work together to do what is best for our country.

I will certainly miss my colleagues with whom I have worked for several years. I have had the honor to serve on the Finance Committee with four of my distinguished retiring colleagues, including Senator JOHN BREAUX and Senator DON NICKLES. Both of these men were instrumental in leading the fight to reform Medicare.

Senator JOHN BREAUX and I have worked side by side on Social Security issues. He is a good friend and he has always been willing to compromise. He is the master of a very noble craft that of bringing people together from both sides of the aisle.

Senator DON NICKLES has been a valuable comrade in protecting intellectual property rights of pharmaceutical companies and reforming health care, specifically working hard to pass the Patients Bill of Rights. He also sponsored commendable legislation to create the Office of International Religious Freedom at the Department of State, which I cosponsored. Senator NICKLES as whip and chairman of the Budget Committee has done more to advocate fiscal conservatism than any other Senator during my tenure. He has a true expertise in these issues, and I thank him for his guidance and leadership.

More importantly, Senator NICKLES befriended me when I first came to the Senate and encouraged me to get involved in the National Prayer Breakfast and the Senate Bible Study. If it were not for his friendship, my time in the Senate would have been drastically different.

BEN NIGHTHORSE CAMPBELL

Senator BEN NIGHTHORSE CAMPBELL is a very kind and humble man and I have had the honor to work with him to assure that nondemocratic forces are unsuccessful in undermining movements for democracy in the Ukraine. But what I remember most about Senator BEN NIGHTHORSE CAMPBELL is a story he told me once about his decision to vote for the ban on partial-birth abortion. While in the hospital recovering from a motorcycle accident, Senator CAMPBELL was touched by the immense effort of doctors to save the lives of babies that weighed only a couple pounds. He was convicted by the significance of doctors going to such great lengths to save babies only a couple minutes old. This picture made him question partial-birth abortions: Why would we not do everything in our power to save babies who were still in their mother's womb? I thank Senator CAMPBELL for his honesty on this issue and for sharing that story with me. I will never forget it.

ZELL MILLER

I had the privilege of getting to know Senator ZELL MILLER as we traveled around the country together this past fall. Senator MILLER and I have worked hard on education issues including the Paperwork Reduction Act. He is a man that believes in the ideals of this nation and understands that we must sometimes take a stand if we want to be heard. I treasure the friendship that Senator MILLER and I have formed during our service together. I want him to know how much I admire him. He is a man with the courage to stand up for his convictions. He did the hardest thing for any man to do—he endorsed the opposing party's nominee in this year's election. I cannot thank him enough for his support. I will always have undying gratitude for him.

Our departing Senators have been lights of inspiration and men who went above the call of duty to serve our country in their congressional capacities. They each have their own unique political perspective that has served the Senate well. Although my philosophies may differ from some Senators, we do not disagree on the greatness of America. We can all agree that we live in the greatest nation in the world, and we all believe that without democracy, life, liberty, and justice cannot flourish.

My departing colleagues are great men and great Americans. They have contributed immensely to our country—making their states and our country significantly better than when they first stepped foot on the Senate floor.

We are all going to miss their presence and wisdom here in the Senate. Their departures will surely leave a hole in expertise and leadership that will be hard to fill. I wish them health and happiness in their future endeavors—wherever the road may take them. May God continue to bless them and their families.

Come January, as we face another transition, I welcome in the new members and look forward to forging new relationships as we continue to work towards making Americans safer, healthier, and more financially secure.

BEN NIGHTHORSE CAMPBELL

Mr. HATCH. Mr. President, I would like to take a moment to honor my good friend and colleague, Senator BEN NIGHTHORSE CAMPBELL of Colorado. BEN is my best friend in the Senate. I know every one of my Senate colleagues would join me in expressing how much we care for Senator CAMPBELL and how much we will miss him here in the Senate.

I have always considered BEN to be larger than life, someone you would read about in a novel about the Senate than someone actually serving in the Senate. He is a high-school dropout who became a United States Senator, a veteran of the Korean war, captain of the U.S. judo team, and an extremely successful horse breeder and jeweler. He doesn't conform to any stereotypes. No other senators—let alone Republicans—wear a ponytail, ride a Harley-Davidson to work, or stubbornly refuse to wear any neckwear more formal than a western bolo tie.

But I am sure I am not surprising any of you by saying BEN is not your typical politician. One of my favorite stories about BEN's independent streak is from a town meeting he held back when he was a Member of the House.

A constituent asked BEN a question, and BEN did his best to answer it. The gentleman didn't like the response, so he tersely rephrased the question and BEN answered it again. The man got very upset, and said ''You have not answered my question!'' BEN firmly told him, ''Look, you asked a question, I answered it. You asked me again, and I answered it. Now I can't help it if you don't like the answer you got, but these other folks are waiting to ask questions of their own, so you and I are just going to have to agree to disagree.''

BEN started to call on another person when the man jumped out of his chair

and yelled to BEN, ''I don't believe you are taking all of the facts that I've stated into account, and you are not going to simply dismiss me like that. I am a taxpayer, and I pay your salary, and I demand an answer!''

BEN, through gritted teeth, said, ''You know, I hate it when people feel that because you're an elected official, they somehow own you. Do you realize that my salary costs every man, woman and child in this country about one-half of one cent each year?'' At that point, BEN reached into his pocket, pulled out a penny, flipped it to the man, and said, ''Here's your refund!'' He turned to the audience and yelled, ''Next question!'' The audience cheered and the man left the meeting.

Now that is a good description of the BEN NIGHTHORSE CAMPBELL that I have come to know and love.

Most of you know that I have sat next to BEN during policy lunches ever since he saw the light and switched parties so many years ago. I still love to tell the story of when he decided to move over to the right side of the aisle.

BEN and I became good friends soon after he joined the Senate, and we repeatedly discussed his growing disillusionment with the policies and politics of those on other side of the aisle. I would point out that power, its accumulation and retention, seemed to be of greater importance to some on his side than finding the right answer, that the worth of an issue should not always be measured simply by political advantage. He would disagree, but over time his protests would grow fewer and less heartfelt.

I was surprised when BEN stopped me one day nearly 10 years ago and said, ''Orrin, you're right. I can't stand it anymore over here.'' He asked whether I could arrange for him to see Senator DOLE, and I said, ''I believe I can''—3 minutes later we were in Bob Dole's office.

Bob had the biggest smile on his face I had ever seen and gave BEN a warm hug. He commented about the courage and principle it took to make such a decision, but he didn't need to make a hard sell. It was obvious BEN had already made up his mind to become a Republican.

I can vividly remember when BEN attended his first Republican policy luncheon. BEN and I had discussed how disappointed he was with the direction and tone of the Democrat policy meetings. He said they had devolved from honest discussions of differences into angry, one-sided shouting matches dominated by some of the most senior and well-known members. If you didn't agree with their liberal positions, your view wasn't welcome.

I assured BEN that the Republicans were different. We showed great respect for one another and there was always considerable deference given to differing points of view.

When BEN and I took our places at the back of the room—where we have sat together since that day—a quiet discussion soon broke out into bitter argument. One person jumped up, anger seething from his face, stared at another very senior member with a snarl on his face, and then called him a derogatory name. Everyone started shouting, and it took Bob Dole several minutes to restore order.

BEN's eyes got larger and larger as he watched what was happening, then without turning his head, he gave me a quick jab in the ribs. ''Gee, Orrin,'' he muttered, ''it's sure good to see how well we Republicans get along compared to those darn Democrats!''

Thankfully, BEN's decision to join the Republican Party wasn't solely based on policy lunches.

I have plenty more stories to tell of my good friend from Colorado, but I will close by saying that I will miss BEN dearly and wish him the very best as he starts the next phase in his life. I know him too well to think that this is really a retirement from public service. This is just the end of one phase of service that will open up several other ways for him to reach out and make a difference in the lives of those around him.

ZELL MILLER

Mr. President, I am grateful for the chance to take a few moments to recognize my good friend from across the aisle, Senator ZELL MILLER of Georgia. ZELL is one of my best friends in the United States Senate. I know every one of my Senate colleagues would join me in expressing how much we care for Senator MILLER and how much we will miss him.

It is no secret that ZELL is his own man, someone who does what he believes is right, not what is politically expedient. His values were shaped while growing up in the South, raised by his strong mother and reinforced through his service in the U.S. Marine Corps.

And for those who say you cannot be a successful politician without sacrificing some of your principles, I point to my good friend from Georgia. When he finishes his Senate term this year, he will complete nearly six decades of publicly elected service, starting with his first election as mayor of his hometown of Young Harris, Georgia, in the late 1950s.

ZELL was a popular two-term Governor of Georgia in fact, he was named the most popular Governor in America by The Washington Post in 1998. His popularity came from his successful programs that found national acclaim among them was passing the Nation's first ''two strikes and you're out'' law against violent felons, starting the Nation's only voluntary pre-kindergarten program for 4-year-olds, and creating the nationally acclaimed HOPE scholarship that has had such tremendous success in Georgia.

My good friend swept into the Senate to complete the remaining 4 years of the late Senator Paul Coverdell. Many political observers call ZELL the last of the Southern conservative Democrats to serve in the Senate. He has certainly established himself as a strong voice for the conservative, commonsense approach to issues, reaching across the aisle to support tax cuts, improve education, confirm judicial nominations, and strengthen national security.

ZELL is widely known for his straight talk on the issues you know where he stands and what he stands for, and everything he says comes straight from the heart. I can't tell you how many times a constituent from my home State of Utah will write to tell me how inspired they were by a speech that ZELL had given on this Senate floor.

I am sorry to see ZELL leave, but I am grateful for the service he has given these last 4 years. He is beloved by Georgians, and I know he would have easily been reelected, and he is beloved by millions in America. And, last but not least, he is beloved by his colleagues here in the Senate.

PETER G. FITZGERALD

Mr. President, I would like to take a moment of the Senate's time, as we near completion of our duties for the 108th Congress, to honor the work and contribution to Republican Party, the Senate, and the Nation of my friend, the Senator from Illinois, Senator PETER FITZGERALD. Senator FITZGERALD has chosen to take his youth and talents and serve in other areas outside of the Senate. Our loss will be, no doubt, the gain of others.

Senator FITZGERALD provided a good, youthful, and modern face to the Republican Party. Our party will only stay strong if we maintain within it our own diversity of perspectives, and I am grateful for the contribution of Senator FITZGERALD.

Elected to the Senate in 1998 at the very young age of 38, the Senator immediately added his vigor, intelligence, and experience in financial markets to address many of the complicated issues faced by your Government and society as the Nation turned into the 21st century.

When corporate scandals erupted early in this century, threatening to undermine confidence in markets, the Senate was, indeed, fortunate to be able to turn to Senator FITZGERALD for his thoughtful and informed guidance. As a former commercial banking attorney, he used his expertise in his positions on the Commerce and Governmental Affairs Committees, particularly his chairmanship of the subcommittee on Financial Management, the Budget and International Security, to chair or support numerous hearings to illuminate the problems and necessary legislation we needed to return probity to financial dealings and confidence in our markets. The modern capitalist system is what provides growth and wealth to all the societies of the world, and the American markets are the most dynamic in the world. They are also the most diversified, and the vast majority of our citizens depend on them for employment, security and retirement. We owe a

great deal of appreciation to Senator FITZGERALD for his work on corporate fraud issues, and I would like to thank him, once again.

Senator FITZGERALD is a reformer, through and through. It is his dedication to our system of Government and economy that drove him to find ways to improve it. He applied his drive to reform to consumer issues, Government affairs, financial management, and the complicated mesh of revenue collection that is the current tax system of this country. And he quite deservedly received numerous acclamations from groups advocating for consumer and tax reform.

Through this all, he never lost his focus on his home State. He didn't work for Illinois to get re-elected, he worked for Illinois because of his dedication to his State and his high standards of public service. A column in the Chicago Tribune, a good paper not known for being ragingly Republican, commended him for ''elevating courage and honesty to new heights.'' That sounds right to me.

I will miss the presence of Senator FITZGERALD, his thoughtful floor statements before this body, and the impeccable manners of a gentleman that are so naturally his. His State can be proud of the Republican they sent to serve too briefly in this body. We will miss his intelligence and dedication, and I will miss a good Senator and friend. I expect that, with his relative youth, we will hear much more of PETER G. FITZGERALD.

DON NICKLES

Mr. President, I rise today to express my sincere gratitude for having had the opportunity to serve with Senator DON NICKLES, and to wish him the very best as he retires from the Senate.

A lot of descriptive words come to my mind when I think of DON NICKLES. Among the most prominent are courageous, knowledgeable, and engaging. All three of these, as well as many other of DON NICKLES' qualities, will be sorely missed in the United States Senate.

I can think of no other Member of the Senate who has been a more rock solid beacon for conservatism than DON NICKLES. His is the kind of courage that leads him to speak up alone against the whole world, if necessary, for what he believes. No matter what the issue or whether it is brought up on the floor of the Senate, in one of his committees, or in some other forum, DON NICKLES is willing to speak up in his earnest yet friendly manner to ask questions, raise concerns, and stand up for conservative principles. Senator NICKLES has been one of the most articulate Senators I have seen in my 28 years of service in the Senate. His voice, in defense for what he and many of us believe to be right, will be noticeably absent in the months and years to come.

Senator NICKLES is also one of the most knowledgeable Members of this body. I have long been impressed with his grasp of minute details of economic, tax, and budget issues. His major committee assignments, Budget, Finance, and Energy, all cover complex issues that can take a huge amount of effort to master. Yet, DON clearly does his homework and seems totally at ease in discussing details of the budget or a comprehensive tax bill. As chairman of the Budget Committee, Senator NICKLES has served with distinction. With all the challenges facing the budget in the recent past, DON has presided over that committee in particularly trying times. Yet, he has exhibited patience and perseverance in the midst of a number of very difficult problems. Every citizen of this country owes him a debt of gratitude for his service on our behalf.

DON NICKLES is also one of the most engaging individuals I have had the privilege of knowing. His quick smile and friendliness to not only other Senators, but also to Senate staff and to everyone he meets marks him as a genuinely fine individual. I know Don has a deep faith in God and strives to do his best to live according to his convictions.

As Senator NICKLES moves on toward the next stage in his impressive career, I wish him the very best and hope that we have the opportunity to see him regularly and to have the benefit of his wisdom and knowledge for many years to come.

TOM DASCHLE

Mr. President, I am grateful for this opportunity to say a few words about our friend and colleague, the distinguished minority leader, Senator TOM DASCHLE.

TOM's commitment to public service, on behalf of the people of South Dakota and America, is an example I hope more citizens will follow. He served here as a Senate staff member before being elected to the House of Representatives in 1978. South Dakota is one of just seven States with a single House member, which required TOM to run a statewide race. That was familiar territory for him when he ran for and won his Senate seat in 1986. Tom is one of 49 Senators who previously served in the other body, experience which I believe enhances their service here and makes the Senate more effective in serving all Americans.

Yesterday, our colleague Senator DURBIN said that it is hard to imagine the Senate without TOM DASCHLE. Some might merit that compliment because of the sheer length of their tenure. TOM merits it because of the presence he quickly established, both as a Member and as a leader in this body. He was only 2 years into a second term when his fellow Democrats elected him their leader by just one vote. Only Lyndon Johnson became his party's leader more quickly.

TOM's 10 years as Democratic leader included periods as both majority and minority leader. Those positions, especially in a narrowly divided chamber, are each very challenging and each very different. TOM served in each post with class and determination, unifying his caucus and working to achieve their agenda. Needless to say, we have not agreed on every element of that agenda. But in this political world, it is really a compliment to say that TOM effectively and skillfully used whatever tools were available to fight for what he believed and for what his caucus wanted to achieve. Even when we were at loggerheads, when it seemed like the irresistible force was meeting the immovable object, civility has always marked TOM DASCHLE's presence in this body, as a Senator and as a leader.

I was gratified to hear Senator DASCHLE's comments on this floor yesterday and a few things really stood out. First, I was struck by the fact that he his number in the chronological list of United States Senators is 1776. TOM offered the valuable reflection that he is, as we all are, part of the broad sweep of American history, from the American revolution to the 108th Congress and into the future.

Second, TOM asked a very important question, whether our power comes just from military might or also from wisdom, compassion, tolerance, and willingness to cooperate. Everyone who serves in this body should maintain that perspective.

Third, TOM spoke of what he called the politics of the common ground. Individual Senators, as well as the two political parties, have certain bottom-line issues, certain fundamental principles or positions on which they just find little room to give. But on others, and I sometimes wonder whether this list is longer than we might think, we must practice the politics of common ground. Reminding us of that was, by itself, an act of leadership by the minority leader.

And finally, he told us of a note he wrote on one of his famous unscheduled driving trips across his State. He wrote, ''Everything was worth doing.'' Each of us who has worked alongside TOM DASCHLE, whether on the same or opposing sides, knows that this is his approach to, and attitude about, public service. That sets a good example for us all.

BOB GRAHAM

Mr. HARKIN. Mr. President, with the close of the 108th Congress, the Senate will lose to retirement one of our most respected and admired Members, Senator BOB GRAHAM of Florida.

I remember how impressed we were in 1987 when BOB came to the Senate after two terms as an enormously popular Governor of Florida. From the start, he made his mark in this body as a serious and diligent legislator—a classic workhorse Senator rather than show-horse Senator.

One of his greatest accomplishments was the passage, 4 years ago, of comprehensive legislation to restore and protect the Florida Everglades. This was BOB GRAHAM at his very best: forging a bipartisan consensus, and crafting a unique partnership among

Federal, State and local governments as well as private industries and landowners. This will be a living monument to Senator BOB GRAHAM: a restored and revitalized Everglades.

I first got to know BOB GRAHAM back in 1977, a decade before he came to this body. At the time, he was a state senator down in Florida, planning to run for Governor the following year. He had heard about my work days, an idea that I originated when I was running for Congress in 1974. I had spent dozens of work days—as a cop on the beat, construction worker, farmer, nurse's aide, and many other professions. It was a great way to get in touch with ordinary working Iowans and their concerns.

I remember BOB coming by my office over in the Cannon House Office Building. He was a very serious man, very analytical and thorough. He asked all the right questions. And a couple weeks later, he sent me his plan to conduct 100 work days during his campaign for Governor. I told him, as tactfully as I could, that was way too many, that he would never be able to do it. But BOB went ahead with his plan. He did, indeed, conduct 100 work days. He did, indeed, get elected Governor of Florida. And I learned never to underestimate BOB GRAHAM.

By the way, BOB's work days didn't stop there. As Governor and United States Senator, he went on to complete nearly 400 work days, serving as police officer, teacher, garbage man, busboy, hurricane relief worker, you name it. BOB swears by the value of these days—as I do. In fact, in 1997, he spent one work day as a U.S. Customs inspector at the port in Tampa. This opened his eyes to the extreme vulnerability of our ports to crime, drug trafficking, and terrorist strikes.

And the work days continue. Last month, Senator GRAHAM spent a day as a high school civics teacher in Miami. And just this past weekend, he spent a day as a bookseller in Coral Gables.

All of which is typical of BOB GRAHAM. He may be retiring from the Senate, but he is not a retiring man. He continues to be a workhorse and a whirlwind of activity. His new book, Intelligence Matters, has stirred up controversy by shining a spotlight on the Saudi royal family's connections to terrorism.

The fact is BOB is leaving the Senate at the very top of his game, especially in the field of intelligence and homeland security. After the September 11 attacks, it was Senator GRAHAM who proposed the creation of a joint House-Senate inquiry into the intelligence failures leading up to the attacks. Senator GRAHAM ended up serving as co-chair of that historic effort, and he did just a brilliant job of keeping the inquiry bipartisan, focused on the facts, focused on solutions.

Meanwhile, events have vindicated Senator GRAHAM's principled stand as one of only 23 Senators to vote in October 2002 against the resolution to authorize the use of force against Saddam. At the time, he argued passionately that the war on terrorism should be our highest priority. He insisted that al Qaeda was the real threat to America, and that an attack on Iraq would be a detour and distraction from the war on terrorism. And, as usual, BOB GRAHAM was exactly right. The Senate failed to heed his warnings. I failed to heed his warnings. And, as a result, Osama bin Laden remains at large, al-Qaida and the Taliban are reconstituting themselves, and our Armed Forces are bogged down in a quagmire in Iraq.

So, no question, with BOB GRAHAM's retirement, the Senate is losing one of its most talented and respected members. Over the years, BOB and Adele have become wonderful friends, and those friendships will continue. But I will miss the day-to-day association on the floor with BOB.

As I said, you have to respect the fact that BOB GRAHAM is leaving the Senate at the very top of his game. I wish BOB and Adele all the best.

JOHN BREAUX

Mr. President, there are not many things on which all Senators agree. But on one thing, there is universal, bipartisan agreement in this body: We are going to miss Senator JOHN BREAUX when he retires at the end of the 108th Congress.

Make no mistake, JOHN BREAUX is a tremendously accomplished Senator, with scores of legislative achievements and accomplishments. He is a Senator's Senator. But when I think of JOHN BREAUX, I think first and foremost of his character, his unique way with people, and his wonderful good nature.

You can disagree with JOHN, but you can never dislike him. He has a knack for taking disagreements and disputes, and turning them into deals to move people forward. This is a priceless talent—a special skill—and I have never met another politician who could match JOHN BREAUX's gifts in this regard.

For JOHN, politics is not something you do with clinched teeth. Politics is a joy. Politics is fun. They used to call Hubert Humphrey the ''happy warrior.'' And that is very much the spirit that JOHN BREAUX has always brought to his work in the Senate. However, JOHN would rather not make war on other Senators; he would rather cut a constructive deal that gets things done for ordinary people.

Of course, these personal qualities have allowed JOHN BREAUX to be an amazingly effective Senator for his State of Louisiana. When JOHN comes to you, when he tells you he needs help on a measure critical to his State, it is mighty hard to say no. Frankly, many times I have had a preconceived notion against the oil and gas industries, and I have opposed what they are trying to do on this or that bill. But JOHN BREAUX would come to see you, he talks it through, and next thing you know, you find yourself supporting him. He is just so effective in that kind of one-on-one persuasion. And, time and again, Louisiana has been the big winner.

Another hallmark of JOHN BREAUX in the Senate has been his commonsense centrism. JOHN is a man of strong principles, but he is not rigid and he certainly is not an ideologue. The questions JOHN asks are, ''What is practical?'' ''What is going to work in the real world?'' ''What can we bring people together on, in order to make a positive difference?''

Typical of Senator BREAUX was his proposal a couple years ago to address the problem of 54 million Americans without health insurance. He called for universal health care. But he kept it practical. He proposed that all Americans have access to a basic, government-defined insurance package similar to what members of Congress and our staffs get from the Federal Employees Health Benefit Plan. And he proposed tax credits to make premiums more affordable for middle- and lower-income citizens.

Perhaps it is symbolic that JOHN BREAUX is leaving the Senate at this time. As we saw this week in the conference on the FSC bill, the spirit of compromise and the art of constructive accommodation seem to be dying in the Senate—and even more so in the House. Increasingly, the attitude around here is ''my way or the highway.'' And that is not the Senate that I have loved over the years. That is not healthy for our democracy.

The shame is that JOHN BREAUX is leaving at exactly the time when we need his talents more than ever. In fact, we need a dozen JOHN BREAUXs around here to heal this body, to show people how to rise above partisanship in the best interests of the country.

So I will miss JOHN's presence in the Senate. We will all miss him. But JOHN BREAUX is the youngest 60-year-old person I have ever met. And you can bet that he has many challenges and opportunities still ahead of him. JOHN and Lois have been, and will continue to be, wonderful friends. And I wish them all the best.

ERNEST F. HOLLINGS

Mr. INOUYE. Mr. President, I rise to join my colleagues in tribute to Senator ERNEST ''FRITZ'' HOLLINGS. I will miss my good friend from South Carolina who in 2003, at the age of 81, finally became his State's senior Senator—after 36 years as a junior Senator.

In addition to being remembered as a coauthor of the Gramm-Rudman-Hollings legislation that cut tens of billions of dollars from the Federal budget deficit, FRITZ HOLLINGS has left an indelible mark on our Nation in the areas of health care, environmental protection, resource conservation, technology development, job creation, transportation security, and law enforcement, to name a few.

Immediately after the September 11, 2001, terrorist attacks on America,

Senator HOLLINGS worked to protect the safety of our traveling public by authoring the Aviation Security Act which created the Transportation Security Administration. Similarly, recognizing that America's ports and borders were our Nation's weak security links, Senator HOLLINGS championed legislation to increase security at America's ports.

As the father of the National Oceanic and Atmospheric Administration, Senator HOLLINGS recognized the extent to which the ocean environment sustains us—from human uses in commerce and recreation to being the original cradle of life on our planet. He knew the importance of taking appropriate steps to be responsible stewards of this rich, yet fragile resource.

His oceans legacy includes authorship of the National Coastal Zone Management Act of 1972, which established Federal policy for protecting coastal areas, and the Marine Mammal Protection Act, which also became the model for other countries, for the protection of dolphins, sea otters and other mammals. In a continuing effort to do what is best for our ocean environment, Senator HOLLINGS created the U.S. Commission on Ocean Policy in 2000, to review the accomplishments of the last 30 years, and recommend actions for the future. Upon the issuance of the report, Senator HOLLINGS laid the groundwork for legislation to adopt the recommendations of the Ocean Commission. I am the proud cosponsor of two of those measures, S. 2647, the Fritz Hollings National Ocean Policy and Leadership Act, and S. 2648, the Ocean Research Coordination and Advancement Act.

Beyond the oceans, Senator HOLLINGS worked to make our communities and schools safer, through programs such as Community Oriented Policing Services—COPS—that put more than 100,000 police officers on the streets in 13,000 communities across the country. The COPS program is also the largest source of dedicated funding for interoperable communications for public safety officers.

Senator HOLLINGS brought competition to the telecommunications arena which resulted in new services to consumers at affordable rates.

I will miss Senator HOLLINGS' wisdom, vision, and wit, but, most of all, his friendship.

I wish FRITZ and his wife Peatsy a fond Aloha.

DON NICKLES

Ms. COLLINS. Mr. President, DON NICKLES first came to the Senate in 1980 as a young man of 31 with a vision. He now leaves us, 24 years later, with a record we all can envy and a reputation we all should emulate. There are a lot of words that can be used to describe this man. Perhaps these five describe him best: ''As good as his word.''

In his eloquent eulogy to Ronald Reagan this summer, DON said that those who came to Washington after the watershed election of 1980, ''considered ourselves part of the soldiers in the field trying to get an agenda done to expand freedom.''

There is no more noble an agenda than the expansion of freedom, and he has been a devoted soldier to that cause. He has been a strong advocate for our Armed Forces, dedicated to the defense of our Nation and to the expansion of liberty around the world.

He has been equally devoted to the freedom that comes from responsible, less intrusive and more accountable government. He is a champion of effective economic-growth policies, and of tax reform that encourages investment and helps build strong families and communities. DON NICKLES has always been of the side of the American people. His tenure as chairman of the Budget Committee will long be held up as a model of effective leadership, a cooperative spirit wedded to rock-solid principles.

DON comes from a small State and from a background in small business. That we have not always agreed on every issue is insignificant. What does matter is the values we share and the friendship that is the result.

DON is much more than just an especially effective legislator and a very good friend. When Oklahoma City was struck by a heinous act of terrorism in 1995, he was there for the people of his State, offering comfort and support. The rebuilding, both material and spiritual, would not have been so quickly and thoroughly accomplished without the strength of DON NICKLES.

He came here as a young man and, despite the passage of 24 years, leaves as a young man. And, I might add, as a pretty fast man. In the New York Marathon last weekend, Oklahoma's senior senator finished in the top half of a field of more than 36,000 runners. If there was a caucus for Senators able to run more than 26 miles in less than 4½ hours, I believe it would be the smallest in the history of the republic.

Thank you, Senator DON NICKLES, for your service to this institution and to this country. Whatever path the future sets before you, I know you will be at the front of the pack.

ERNEST HOLLINGS

Mr. LEAHY. Mr. President, I rise today to pay tribute to a legend of a man who has spent his career dedicated to working for the great people of South Carolina. There is nothing small about Senator HOLLINGS. From his height, to his storied career, to his large booming voice and southern drawl you can always hear calling ''yea'' or ''nay'' during rollcall votes, Senator HOLLINGS is a giant. A reporter once said that if you sent to central casting for a Senator, you got FRITZ HOLLINGS. I have had the pleasure of serving with Senator HOLLINGS for all 30 of my years in the Senate and during that time he, and his wife Peatsy, have been dear friends.

Before setting foot in this Chamber, Senator HOLLINGS had amassed a career that any man would be proud of. He attended the Citadel, the Military College of South Carolina, and upon his graduation in 1942 accepted a commission in the U.S. Army. He served our country honorably in the campaigns in North Africa and Europe during World War II, and received a Bronze Star for his valor. Senator HOLLINGS began his political career when he was 26 as he was elected to the South Carolina House of Represenatives. During his second term he was voted Speaker pro tempore and a short 4 years later he was elected lieutenant governor. In 1958 at age 36 was elected as Governor, the youngest Governor of South Carolina in the 20th Century.

Senator HOLLINGS was first elected to Senate in 1966 and has subsequently been re-elected to six additional terms, making him the ninth longest serving Member of this body. Throughout his entire career the Senator has been a leader, fighting to protect our ports, our neighborhoods and American manufacturing jobs. He has been an outspoken advocate for fiscal responsibility, civil rights and against hunger.

In 1974, he led the creation of the Women, Infants and Children—WIC—nutritional assistance program. In 1978, he sponsored legislation and helped secure funding for South Carolina's first National Park, Congaree Swamp. He has stood tall in protecting our oceans and coasts, he authored the Marine Mammal Protection Act and the Oceans Act of 2000, which created the U.S. Commission on Ocean Policy.

Since 1967 Senator HOLLINGS has been a member of the Commerce Committee and from his coauthorship of the 1996 Telecommunications Act that deregulated the telecom industry to his work on the FTC ''Do Not Call List,'' he has consistently looked out for the best interest of consumers. In 2000, Senator HOLLINGS and I, along with Senators SARBANES and WYDEN, were successful in beating back the wholesale federal preemptions of State consumer protection laws during negotiations of the E–Commerce bill which I sponsored.

Senator HOLLINGS is the longest serving Democrat on the Budget Committee, and is the only Democrat to have served on the committee every year since its creation. In 1984 Senator Hollings collaborated with Senators Phil Gramm and Warren Rudman to establish the Gramm-Hollings-Rudman deficit reduction legislation that helped reduce the deficit by $70 billion in its first year of enactment.

I have had the pleasure to serve with Senator HOLLINGS on the Appropriations Committee, where he has served since 1971, and is currently 3rd highest ranking member. From this position he has helped important initiatives both in South Carolina and nationally, such as a cause I have always strongly supported, the battle against cancer. Senator HOLLINGS helped create a nationwide program to screen women for breast and cervical cancer and worked to establish a cancer center at the Medical University of South Carolina that bears his name.

Earlier this fall more than 600 friends came together to celebrate Senator HOLLINGS's career in the Senate, an event that raised $2 million for the Hollings Cancer Center. We toasted his accomplishments and his incredible career of public service that has spanned more than five decades in State and national politics. I joined this body in 1974 and I immediately learned that Senator HOLLINGS is a man that always speaks his mind. His straightforward manner, dynamic personality and unwavering integrity are qualities that make me proud to call him my friend. I have valued his friendship and his camaraderie over these past 30 years, and I wish FRITZ and his wife Peatsy the best of lives in their beloved South Carolina.

JOHN BREAUX

Mr. President, the State of Louisiana has a proud history of sending remarkable public figures to serve in the Senate. Louisiana has elected leaders that have been influential in guiding the direction of our country. Our colleague JOHN BREAUX is a man from this same mold. For more than 30 years the senior Senator from Louisiana has represented his State in Washington, with 18 years as a Member of this body, and 14 years of service in the House of Representatives. In that time, he has always been willing to reach across the aisle to bring our colleagues together and his leadership has produced a list of impressive legislative accomplishments.

As chairman and then as ranking member of the Special Committee on Aging, Senator BREAUX has fought tirelessly for the rights of older Americans, working to reform and protect both Social Security and Medicare. The senior Senator from Louisiana has also provided strong leadership within the Senate during his 8-year tenure as deputy chief whip. His repeated election to this position speaks to the respect that our colleagues have for Senator BREAUX's ability to routinely bring together Members with differing opinions to build a consensus.

One of Senator BREAUX's lasting legacies will be the leading role he has taken with regard to environmental conservation. In 1990, the Senator authored the Coastal Wetlands Planning, Protection and Restoration Act, which provides for the restoration of the vital coastal wetlands of Louisiana and has since become known as the Breaux Act. This legislation was passed during his first term in the Senate and has since been renewed. More recently, Senator BREAUX has supported legislation that would help protect coastal regions from the impact of offshore oil and gas exploration.

In our many years of service together, Senator BREAUX and I have had the opportunity to work closely on a wide range of issues. We both have been actively involved in telecommunications legislation, and collaborated on legislation that authorized reform of the telephone industry. I am particularly appreciative of Senator BREAUX's unwavering support for legislation opposing the use of antipersonnel landmines, an issue of great significance to me personally and to the safety of millions of people around the world.

I am proud of the body of legislation that Senator BREAUX and I advanced together throughout our shared time in the Senate. I commend Senator BREAUX for his dedication to being a watchdog for American seniors, for his legacy of environmental protection in Louisiana, and for his record of public service on behalf of his fellow Louisianans. The Senate and the people of Louisiana are losing a dedicated public servant and exceptional leader. I congratulate the Senator on a remarkable congressional career and wish him continued success in his future endeavors.

On a personal level, JOHN and Lois BREAUX are good friends. Marcelle and I share the joy of telling grandchildren stories—and even of borrowing Mardi Gras costumes. I quickly realized in wearing one that you needed the special Cajun flavor of Louisiana to carry it off. JOHN can do that one day at a Mardi Gras party and the next day handle on the floor the most complex issue facing the Finance Committee. He is a Senator's Senator.

BOB GRAHAM

Mr. LEAHY. Mr. President, at the end of this Congress we will bid farewell to distinguished members of this body who have served their States and their country with honor. I rise today to pay tribute to the Senior Senator from Florida, a man who has been a leader in the Senate on national intelligence issues, prescription drugs and the environment and has been a strong voice in this body on behalf of the interests of his fellow Floridians.

For more than four decades Senator GRAHAM has been a leader in Florida politics, serving his State as a State representative and Senator, as Governor and as a United States Senator. For 18 years Senator GRAHAM has compiled an impressive record of leadership while serving as chairman and ranking member of the Veterans Affairs Committee, chairman of the Intelligence Committee, chairman of the Democratic Senatorial Campaign Committee, and as a senior member of the Senate Finance Committee.

Since 1974, Senator GRAHAM has completed more than 400 ''Workdays,'' with Floridians around his State. During these workdays the Senator spends working alongside his constituents, the personal interaction helps him understand the challenges that Floridians face. These visits clearly have provided Senator GRAHAM with an opportunity to recognize the community values and hard work that are exhibited and shared by his constituents. These jobs have gone everywhere from garbage loader to short order cook. No Senator has done anything similar.

From his position on the Senate Finance Committee, Senator GRAHAM has picked up the torch for causes supported by another respected Floridian Claude Pepper, the former Senator and Congressman. He has supported providing affordable prescription drugs to Americans and has advocated for a common sense approach to Medicare that focuses on wellness and preventative health. Senator GRAHAM has increased access to the Children's Health Insurance Program and has pushed Congress to live up to its commitment to support social services.

Both as Governor and Senator, BOB GRAHAM has been dedicated to protecting the environment. He has helped direct millions of dollars to protect the Everglades, restore wetlands and promote responsible development. In the Senate, BOB GRAHAM has voiced opposition to drilling on the Outer Continental Shelf and for an end to the harmful practice of dredging in the Apalachicola River.

For those of us that have served with Senator GRAHAM in the Senate we have admired his hard work and dedication to his constituents. We join him now in celebrating his eighteen successful years in this body, a period of time that is one part of a career of service to the State of Florida. As Senator GRAHAM moves out of the public eye, he leaves behind a legacy of accomplishment that will be forever remembered by his fellow Americans and Floridians. He also leaves a reputation of integrity and insight. History will show that this country should have listened to his warnings about the failed intelligence leading up to the war in Iraq.

JOHN EDWARDS

Mr. President, I rise today to recognize the service of Senator JOHN EDWARDS of North Carolina.

Because of his time on the campaign trail, Senator EDWARDS' biography is well known to most Americans. He is the son of a mill worker and was the first in his family to attend college. Before coming to the Senate, JOHN fought for victims' rights against insurance companies for more than 20 years in North Carolina. He enjoyed great success in that career, but seeking to do more for the people of his State, he decided to run for the Senate in 1998. JOHN ran against, and defeated, an incumbent Senator, Senator Faircloth. Immediately upon arriving in the Senate, Senator EDWARDS began to make an impact.

Only a few days after Senator EDWARDS was sworn in, I asked him to help depose witnesses in the impeachment trial of President Clinton. I wanted to make sure we had the best, and I thought he was. It was JOHN's career experience that made him an ideal choice to assist in the depositions, and he had recent experience working in the trenches. In that pressure filled situation JOHN won the respect of all of his colleagues, both on this side of the aisle and the other.

From his seat on the Health, Education, Labor and Pensions Committee,

Senator EDWARDS advocated for lowering the cost of prescription drugs for all Americans by improving access to generic medications. In 2001, he authored the Patients' Bill of Rights which would have guaranteed that people in HMOs and other insurance plans get the health care they pay for. Unfortunately, this was passed in the Senate but blocked by the White House. In addition to serving on the HELP Committee, Senator EDWARDS served on the Intelligence, Small Business, and Judiciary Committees.

As a member of the Judiciary Committee, Senator EDWARDS worked closely with me on a number of legislative efforts. He was a cosponsor of the Innocence Protection Act, the National Amber Alert Network, and a strong voice on judicial nominations. Senator EDWARDS has stood up to efforts by this President to pack the courts with people whose records do not demonstrate that they will be fair judges to all who come before them, rich or poor, Democrats or Republicans, or any race or background.

In September of 2003, Senator EDWARDS announced that he was running for President. JOHN ran a great campaign, raising issues important to the American people. He frequently referred to the division of America into two halves, that of the haves and that of the have-nots. JOHN focused on the struggles of the middle class and many of the same issues that he was a leader on during his time in the Senate. Throughout the campaign, JOHN was a positive voice for our party, and he was an excellent choice as a running mate for JOHN KERRY.

In an interview, JOHN once said that he had an ideal image of what a U.S. Senator should be. He said that ''I think about a fiery advocate, someone who works passionately for his constituents.'' For the past 6 years, JOHN has been exactly that. Be it health or education reform, supporting farmers or North Carolina's economic interests, JOHN EDWARDS has been an incredible leader and advocate for his State. I will miss JOHN's friendship here in the Senate. I know that he has a wonderful wife and three beautiful children, and that whatever steps he takes next that he will be just fine as long as he has their support.

BEN NIGHTHORSE CAMPBELL

Mr. LEAHY. Mr. President, for the past 12 years, the Senator from Colorado has served his State with distinction as a member of this body. Throughout that time, I have been pleased to join my friend and colleague in a number of legislative efforts. He has been a tireless advocate on behalf of Native Americans, for the protection of police officers, and for preserving public lands and natural resources. It is because of his leadership on these, and many other issues, that the presence of the senior Senator from Colorado will be missed in this Chamber.

In 1989, Senator CAMPBELL, then Congressman CAMPBELL, sponsored legislation to create a new museum that would ensure the recognition and celebration of Native American culture and history. I am thrilled that earlier this summer we were able to join in the celebration with Senator CAMPBELL as the Smithsonian Museum of the American Indian opened in Washington, DC. I know that none of us will ever forget the sight of our colleague in full chief's regalia speaking on the Senate floor on the day the new museum opened.

Before serving his State in Washington, Senator CAMPBELL represented his country as the captain of the U.S.-Olympic Judo team, competing in the 1964 Tokyo Summer Olympics. While I have never had to witness him use these skills on a fellow member of the Senate, he once helped subdue a suspect that had shoved Senator Thurmond until the Capitol Police arrived.

One of Senator CAMPBELL's most noted passions is his enthusiasm for motor vehicles. Senator CAMPBELL has a well documented love of Harley-Davidson motorcycles, and Washingtonians have occasionally caught a glimpse of the Senator riding around town on his motorcycle. As the Capitol Hill newspaper The Hill noted in April of 2003, the Senator added to his vehicle collection last spring when he replaced his 20-year-old Dodge Plymouth last spring with a brand new Mini Cooper. While most Americans may know how the Senator gets around town when he is in Washington, far fewer probably know that Senator CAMPBELL was behind the wheel for most of the trip when the 2000 National Holiday Tree was transported from Colorado to Washington, DC on a Mack truck.

Senator CAMPBELL and I share a background in law enforcement, he as a former Sacramento County sheriff's deputy in California, and I as a State's attorney in Vermont. This background helped bring us together to develop the Bulletproof Vest Partnership Grant Acts of 1998 that has since been reauthorized in both 2000 and 2004. Since its inception in 1999, this highly successful Department of Justice program has provided law enforcement officers in 16,000 jurisdictions nationwide with nearly 350,000 new bulletproof vests.

Earlier this year, Senator CAMPBELL and I collaborated to produce the Law Enforcement Officers Safety Act, which will allow qualified active-duty law enforcement officers to travel interstate with a firearm, provided that officers are carrying their official badges and photographic identification. I was proud to team up with Senator CAMPBELL in writing and introducing the Senate version of the Law Enforcement Officers Safety Act that will enable law enforcement officers nationwide to be prepared to answer a call to duty no matter where, when, or in what form it comes.

Senator CAMPBELL has a long and distinguished legislative history as a Member of the United States Congress. I am proud to have served with him on the Agriculture and Appropriations Committees, and I am proud of our partnerships to protect police officers, fight against landmines, and to provide funding for the WIC and Head Start programs. I applaud the Senator for his 12 years of service in the Senate and 6 years of service in the House of Representatives, and I congratulate him on a remarkable career.

Mrs. DOLE. Mr. President, today I want to take a moment to pay tribute to my friend and my colleague, Senator BEN NIGHTHORSE CAMPBELL.

Long before I arrived in the Senate, BEN had proven to be a trusted friend. In my early days as a Senator, our friendship was furthered as I sought wise counsel from veteran members like BEN. I found that his wisdom and insight on the rules and idiosyncrasies of Capitol Hill were invaluable to my adjustment here. And I must say, I just thoroughly enjoy his company. It goes without saying that having to say farewell to BEN certainly pulls at my heartstrings.

I also sought BEN's aid when I introduced my first legislation to finally offer the Lumbee Indian Tribe Federal recognition. This significant bill would not have moved forward without the strong assistance of the Senator from Colorado. I was moved by BEN's interest in the bill, and to this day, I am touched that he remains invested in something so close to my heart. I am eternally grateful for the role he's played in moving Lumbee recognition one step closer to becoming a reality. BEN's commitment to the Native American community is unparalleled and is certainly to be commended.

BEN's legacy will linger in the halls of the Senate long after he has shut the door to his offices. He leaves behind a record of service that one can only hope to emulate. Coloradoans have benefited from BEN's character, conscientiousness and compassion for years, and I know they will welcome him home with open arms.

My warmest best wishes to my dear and treasured friend, Senator BEN NIGHTHORSE CAMPBELL. There is no doubt that he will be sorely missed, not just by me, but by all of us who have been blessed to call him our colleague and our friend.

DON NICKLES

Mr. President, it is an honor to pay tribute to a good friend and colleague who has had such a stellar and effective career in the United States Senate. I am so proud to have worked alongside a man of such character and knowledge, and I am certain that I speak for all my colleagues when I say his leadership in Congress will be sorely missed.

DON NICKLES' career is the classic American success story. After working his way through Oklahoma State University by starting a janitorial service, he was elected to the United States Senate in 1980 at the age of 31. While serving in Congress, his peers haveconsistently shown their confidence in his abilities, electing him to

several leadership posts including senatorial committee Chair, chairman of the Republican Policy Committee, assistant majority leader and Budget Committee chairman.

The day after DON announced he would not seek a fifth U.S. Senate term, the Oklahoma City Daily Oklahoman stated that his retirement ''will leave Oklahoma without its most powerful Washington advocate.'' How true that is. Over his two-decades-long career, the good that DON has done for his constituency is immeasurable.

As a Senator, DON has amassed a tremendous record as an advocate for taxpayers. When our economy was in need of recovery because of a recession compounded by the events of September 11, DON was a leader in pushing the economic growth and tax relief package through Congress. Thanks to his efforts, today our economy is on the upswing with jobs being added, homes being built and small businesses expanding. DON gets great credit for his role in making that happen.

I will always remember DON coming down to Eastern North Carolina to campaign with me at a tobacco warehouse. Asked to speak on stage in favor of the tobacco quota buyout, which of course he did not support, he graciously spoke about how hard I would work to get this done for the State. DON demonstrated his character that day, as he did on so many other days during his many outstanding years as a servant of the public.

DON has always used the power of his office for good. I admire the way that he has stood for what he believes, no matter the challenge. He has brilliantly served the people of Oklahoma and all Americans with courage and conviction, a stellar example for those who follow in his footsteps. May God bless Senator DON NICKLES and his family for many years to come.

Ms. SNOWE. Mr. President, I rise to join my colleagues today in paying tribute to a man who, in the President's words, ''has left his mark on virtually every major issue'' during his service in this body, the senior Senator from Oklahoma, the Budget Committee chairman, our colleague DON NICKLES.

For more than two decades, Senator NICKLES has served the people of Oklahoma and America with strength of conviction, wisdom, and hard work, every day. I have had the good fortune of serving with the Senator from Oklahoma for a decade, particularly closely on the Budget and Finance Committee, and for 6 years as his counsel while he was majority whip. I have gotten to know well Senator NICKLES' passion and insight, his firm understanding of policy matched with ability to plainly articulate it, and his generous sense of humor and warm personality that have made him a colleague no one will soon forget.

Oklahoma sent DON NICKLES to the Senate in the year of the ''Reagan Revolution''—1980. In many ways—and I know the Senator has said so himself—his start in public service was molded and defined by President Reagan's inspiring vision and love of freedom. Our new 69-year-old President projected a contagious, even youthful optimism. So did the new Senator from Oklahoma, but in DON NICKLES' case, it was the optimism of youth. At 31, he was the youngest Republican elected to this chamber in American history.

Senator NICKLES' contributions shepherding the Reagan agenda through Congress were immediate and his rise was meteoric. After 6 years he had served as NRSC chairman and was at the helm of the Republican policy council.

I must say that as Chair of the Small Business Committee, I think it is an invaluable asset to the Senate to have a colleague such as Senator NICKLES who has been there on the front lines of job creation as an entrepreneur—starting his own janitorial service to work his way through Oklahoma State. Before Senator NICKLES came to Washington, he was a small businessman from Ponca City, OK. He was already allergic to needless red tape and gridlock. So when Senator NICKLES sees a problem, he sets out to solve it—guided by his deeply held principles and informed by a firm grasp of the legislative process.

Like the leader he counts as his mentor, President Reagan, the Senator from Oklahoma brings to public life his firmly rooted beliefs, a can-do Heartland optimism, and that rare ability to disagree without being disagreeable. Senator NICKLES is a colleague I will miss, and I wish him, his wife Linda, and his family much happiness in the new endeavors that lie ahead.

I am pleased to join my colleagues in thanking and honoring Senator NICKLES for over two decades of distinguished service to the country he loves and the State he has made proud.

JOHN BREAUX

Mr. President, I rise today to honor my friend and incomparable colleague in both the House and Senate for 26 years, Senator JOHN BREAUX. The senior Senator from Louisiana leaves this institution stronger for having lent his voice and his leadership to these Chambers. Senator BREAUX's commitment to bipartisan statesmanship has enriched the Senate, improved the lives of Louisiana families and resulted in landmark accomplishments for the American people.

Churchill said that ''A pessimist sees the difficulty in every opportunity; an optimist sees the opportunity in every difficulty.'' By that definition, none can doubt which camp Senator BREAUX falls in. He is the Senate's most irrepressible optimist. He steps into the breach, not merely in words, but in countless efforts over his tenure in both the House and Senate to make the process work for the people it is intended to serve. Where some see hopeless gridlock, Senator BREAUX always sees a glimmer of hope and acts on it. Never settling for complacency, he uses his trademark tenacity and energy to move the deliberative process forward. His is a record of achievement over acrimony.

I personally was privileged to work closely with Senator BREAUX for more than two decades. He and I have always shared a vision of politics and public life as positive and constructive endeavors. And we have a long history together, dating back to our days serving in the House of Representatives, of reaching across the aisle to reach consensus and produce results.

In fact, we worked together on such fundamental issues as the Federal budget when Senator BREAUX was a member of a moderate, southern Democrat group called the Boll Weevils, and I a member of the northeast Republican Gypsy Moths. Some still wonder why both our groups carried the names of ravenous insects.

But it was fortuitous that Senator BREAUX and I had this record of cooperation because it seemed only natural when we later teamed-up as cochairs of the Senate Centrist Coalition, which Senator BREAUX founded along with the late Senator John Chafee in 1995 during the Government shutdown.

So there is no question that I will miss him—we will all miss him—because we need more leaders such as Senator JOHN BREAUX in Congress. He has proven that we can cultivate common ground even out of sometimes barren partisan landscape. And his ability to forge compromises has made possible many signature accomplishments of both Democrat and Republican administrations. Senator BREAUX views public service as an opportunity to get things done for the people he serves, to make a difference in their lives—whether it was reforming welfare to help families move from public assistance to self-sufficiency, strengthening and saving Medicare and Social Security, preserving wetlands like the Louisiana Bayou, or providing tax relief to stimulate to job creation.

What has made Senator BREAUX so effective is not only his legislative acumen, but also his personal bonds with colleagues. The Senator has brought people together with his self-effacing wit, his candid approach, and his eagerness to reach out to colleagues on both sides of the aisle. So it is not surprising that he departs the Senate with the respect, trust and affection of Senators across the political spectrum.

I am grateful for the opportunity to have served alongside Senator BREAUX, and I wish him, his wife Lois, and their entire family all the best in their future endeavors.

Mr. DASCHLE. Mr. President, nearly 26 years ago, I arrived in Washington as a newly elected Congressman with an urgent desire to help the people of my State but not nearly as much knowledge as I wanted about exactly how to do that.

Having good ideas and getting those ideas enacted into law, as my old friend Paul Wellstone used to say, are often

two very different matters. I decided to call on some of my heroes men who were serving in Congress then who had contributed greatly to the life of our Nation and whom I admired. One of those men was Claude Pepper. Another was Mo Udall. Both shared their time and wisdom generously with me and gave me advice that has guided me all these years.

In 1988, Mo Udall wrote a wonderful book entitled ''Too Funny to be President.'' I recommend it to anyone, especially those who have the privilege of serving in elected office in our great democracy. The ability to see humor in one's own circumstances and to share a good-natured laugh with others is essential if you are going to last long in public office.

Mo Udall dedicated his book ''to the 3,000 members of Congress living and dead with whom I served for nearly three decades.'' As I prepare to end my own nearly three decades in Congress, I, too, am deeply grateful to all of the Members of Congress living and dead with whom I have had the privilege of serving and from whom I have learned so much.

The list of such members is long. In addition to my early mentors, Claude Pepper and Mo Udall, it includes members who were gone long before I was born, but whose legacy is still felt today giants like Webster, Clay, and Calhoun.

It includes Senators such as Margaret Chase Smith, who had the courage to take on the red-baiting and bullying Senator Joe McCarthy in 1954 in her famous ''Appeal to Conscience'' speech not far from where I stand now.

The list includes two Senators who first inspired me to pursue a life in public service John and Robert Kennedy and it includes their brother and my friend, Senator EDWARD KENNEDY, one of the finest, most capable Senators America has ever produced.

The list also includes earlier Senate leaders—men such as Lyndon Johnson, the ''master of the Senate;'' Mike Mansfield, one of my personal heroes, who showed that progress and bipartisanship are not mutually exclusive; and Howard Baker, a master of the art of principled compromise.

The list of those who have inspired me includes George Mitchell and Bob Dole, the two leaders who taught me the most about this job.

It includes my fellow South Dakotan, George McGovern; Mark Hatfield, who offered to resign from the Senate rather than cast a vote he could not square with his own conscience; and Jim Jeffords, who showed the world that one person can change history. It also includes Paul Wellstone, the soul of the Senate; ROBERT BYRD, as eloquent and determined defender of our Constitution as has ever lived; and many others.

Today, I would like to say a few words about eight additional Senators with whom I have served these last historic 6 years, all of whom will be leaving when this Congress ends.

Senator NICKELS, Senator CAMPBELL, Senator FITZGERALD, and Senator MILLER, it has been a privilege to work with each of you. You have each sacrificed much to serve our Nation and I am sure you will continue to serve America well in the years to come.

Six Democratic Senators are leaving at the end of this Congress. Among them is our friend, the senior Senator from Louisiana.

JOHN BREAUX

I was joking with another friend recently that the good thing about JOHN BREAUX retiring is that maybe now he will finally be able to loosen up a little.

JOHN's ability to make us laugh even in tough times is a gift we have all treasured. Another gift of JOHN's is his ability to find workable compromises on even the most difficult issues. He really is a master of the art of the compromise.

A couple of years ago, I read a newspaper article in which JOHN talked about what he might do if he ever left the Senate. He pointed out that Huey Long had actually served as Louisiana's Senator and Governor at the same time. I thought when I heard that that maybe John would never leave the Senate; he would just diversify. Regrettably, he is leaving now.

I know that serving as Ambassador to France has always been high on JOHN's list of post-Senate dream jobs. I understand that a few years back, JOHN asked President Clinton, ''Do you think I could handle France?'' to which President Clinton replied, ''The question is whether France could handle you.''

Whatever JOHN BREAUX decides to do next, I have no doubt that he will continue to find ways to serve the people of Louisiana and America. And I know he will have a heck of a good time in the process. JOHN and Lois are special members of our Senate family, and we wish them all the best in the future.

JOHN EDWARDS

We also say goodbye to JOHN EDWARDS.

I think it is probably no coincidence that JOHN EDWARDS holds Sam Ervin's old seat in the Senate. Like Sam Ervin, John has a brilliant legal mind and a deep love of justice.

In 2001, the first bill Democrats brought to the floor after we retook the majority was the Patients' Bill of Rights. I couldn't believe my luck: My first bill as majority leader—the Patients Bill of Rights and I was able to tap as floor leaders TED KENNEDY and JOHN EDWARDS. It was like looking down the bench and seeing Babe Ruth and Willie Mays. You just knew the Patients' Bill of Rights was finally going to pass the Senate. And it did—in large part because of JOHN EDWARDS' remarkable skill and deep personal commitment.

I think one of the great lines in American literature is the line near the end of ''Death of a Salesman'' where Willie Loman's wife Linda says her husband wasn't famous or powerful, but he was a good man to whom respect must be paid. That same conviction is what has motivated JOHN EDWARDS' whole life: The belief that there is dignity and worth in every person, including people who work hard every day in mills, and factories, and farms.

In his race for the Democratic Presidential nomination and with JOHN KERRY as our party's Vice Presidential nominee, JOHN EDWARDS brought a sense of hope and optimism to millions and millions of Americans.

JOHN and Elizabeth Edwards both won places in our hearts immediately, and our hearts and prayers are with them and their wonderful children today as Elizabeth continues her recovery from breast cancer. We look forward to spending many more happy years with them. We also look forward to the good work we know they will do for our Nation in the years ahead.

BOB GRAHAM

The best way I found to stay in touch with the people who elected me was to drive through every county in South Dakota every year and just talk to whomever I ran into about whatever was on their mind. BOB GRAHAM found an equally effective way of staying in touch with average Floridians. He calls them workdays. He would spend a day working in another job.

This year, he worked his 400th workday. He spent that day the same way he spent his first workday 30 years ago: as a teacher. That is appropriate because, in fact, BOB's entire career has been a living lesson in public service.

A while back, I was looking over the list of BOB's workday jobs and I have to tell you, I am amazed! Think about all the things he has done: NASA payload specialist, firefighter, bagel maker, bullet-proof vest maker, pea picker, phosphate miner, Air Force Special Operations gunner, circus worker elf!

Clearly, it wasn't lack of other career options that has kept BOB in the Senate for 18 years. What is kept him here is simple. It is his love of Florida, and of this country. It is a sense of responsibility that he inherited from his father and that has animated his whole life.

BOB GRAHAM is a moderate with a capital M. And he is one of the nicest people you could ever meet. But when it comes to the people of Florida, when it comes to doing right by America, strengthening America's economy, creating good jobs, investing in children, and standing up for America's veterans and military families, BOB GRAHAM is a fierce fighter. And when it comes to protecting our Nation from terrorism, he is a heavyweight fighter. America is safer today because of his courage and tenacity.

I suspect the only people who could possibly be sadder about BOB's retirement than the members of our caucus are the people who make those Florida ties! We wish BOB and Adele the very best of luck in all their future endeavors.

ERNEST HOLLINGS

Another remarkable Senator who is retiring this year is FRITZ HOLLINGS.

I used to joke with FRITZ HOLLINGS that he is the real reason CSPAN first started its closed-caption broadcasts. FRITZ's deep Charleston accent, like the man himself, is an American classic.

When you look inside FRITZ HOLLINGS' desk on the Senate floor, you see the names of giants: John Calhoun, Huey Long, Russell Long, Wayne Morse—courageous men who never hesitated to speak their minds. FRITZ has earned the right to stand with those legends.

He was 36 years old when he was elected Governor of South Carolina. As Governor, he wrote the book on governing in the New South. He raised teacher salaries, invested in education and training, and laid the foundation for South Carolina's economic transformation from an agrarian State to a high-tech, high-wage State.

One of the amazing things about FRITZ HOLLINGS is how often he has been able to see the future before others—not just on matters of race, but on issue after issue.

He was the first Deep South Governor to acknowledge the existence of widespread hunger in his State. He was also the first southern Governor to understand that you can't create a modern economy simply by cutting taxes, you have to invest in education and training.

He has been a relentless advocate of balanced budgets and fiscal discipline since long before they became political buzzwords. In 1984—years before Ross Perot uttered the words FRITZ HOLLINGS made deficit reduction a central plank in his Presidential bid.

He has been fighting for fair trade, and against the export of American jobs, his entire career. He has been calling for a long-term, comprehensive energy plan since before the first OPEC oil crisis in 1973. He wrote America's first fuel-efficiency standards—in 1975.

He was in the forefront of the movement to protect America's oceans in the early 1970s. He saw the future of telecommunications before a lot of Americans knew what ''surfing the Internet'' meant. He was pushing for increased port and air security before September 11.

If some people have occasionally found FRITZ a little difficult to understand, I suspect it was not so much because of his wonderful Charleston accent but because he was so often ahead of his time.

Now FRITZ and Peatsy are moving home to live full time in their beloved South Carolina, but they will always have a special place in the Senate family. We wish them the very best.

I have to be honest, Mr. President, it was not my wish to depart with these fine Senators. But it has been my honor and a joy to serve with them, and one that I will remember all the days of my life.

The PRESIDING OFFICER. The Senator from Ohio.

HONORING OUR ARMED FORCES

STAFF SERGEANT CHARLES ''CHUCK'' KISER

Mr. DEWINE. Mr. President, over a week ago we celebrated Veterans Day. In countless parades, ceremonies, and prayer services, Americans honored and remembered the service and sacrifices of all of those who have answered the call of duty. In the days that have followed, I continue to be reminded of something President Ronald Reagan said more than 20 years ago, something he said about the brave service men and women who did not return from the field of battle. This is what he said:

> Their lives remind us that freedom is not bought cheaply. It has a cost; it imposes a burden. And just as they whom we commemorate were willing to sacrifice, so, too must we—in a less final, less heroic way—be willing to give of ourselves.

That is an important lesson, our willingness to repay the debts we who are left behind owe our fallen soldiers, this notion of giving of ourselves. It is a lesson the students of McNicholas High School in Cincinnati have taken to heart.

On June 24, 2004, 37-year-old Army SSgt Charles ''Chuck'' Kiser, an Ohio native and former McNicholas High graduate, lost his life in Iraq while saving the lives of his comrades.

The current students at McNicholas wanted to honor and remember Chuck Kiser this year on Veterans Day, so they went about raising enough money to hold a ceremony and fly Chuck's wife Deb and their two children, Alicia and Mark, from Wisconsin to Ohio, for the services. In their own way, these students gave of themselves. They reached out to the Kiser family and said we will not forget your husband. We will not forget your father. We will not forget him either.

Chuck Kiser was a loving husband, doting father, and courageous soldier. He grew up in Amelia, OH, in a home with his father Charles and six women—mother Glenda and sisters Chris, Denise, Patty, Teresa, and Joy. Some say that living with all those women is what toughened him up and made him into such an outstanding soldier. I imagine that is very true.

Their father passed away in 2002. Chuck and his dad were very close. Chuck followed in his dad's footsteps when he entered the military. The elder Charles had served in the Navy and was a Korean War veteran. Chuck's brother-in-law, Bill Grannen, said that ''[Chuck's] father instilled that kind of love of country and commitment in him. I'm sure they're together now.''

Chuck was a runner—and a good one, at that. He began his track career in the third grade at St. Bernadette School and continued running through college. At McNicholas High School and at the University of Cincinnati, he was a champion sprinter. As a high school senior, he finished in second place in the 200-meter run at the state Class AA meet. In fact, he also holds the University of Cincinnati records for the 300 meter and the 300 yard dash indoors. His former coach, Brett Schnier remembered Chuck as his top recruit and that ''he could run about anything.''

After a year at the University, Chuck decided to join the Navy, where he would eventually meet and marry the love of his life, Deb. Chuck spent seven years in active duty in the Navy, stationed mostly in Italy. It was there that he met Deb, and they fell in love. They started a family while Chuck continued his military service.

Following his time in the Navy, he spent seven years in the Naval Reserves. Later, he entered the Army Reserve because the base was near their eventual home in Cleveland, WI.

Not only was Chuck Kiser a model soldier, he was a model father. He loved his children dearly. He was a great dad. He took joy in coaching Mark and Alicia in various sports. Last year, Chuck coached a Little League championship team and would often volunteer to work with youth at the Zion United Church of Christ in Sheboygan.

Chuck Kiser loved all kids and felt especially strong about helping the children in Iraq. According to his brother-in-law:

> Charles really felt like he wanted to secure their freedoms so they could live without the fear they lived under during the dictatorship. He said that if the situation were reversed, he would hope people would come to liberate his children. He believed that in his heart.

That is why Chuck never hesitated when he and the rest of his Army Reserve unit—the 330th Military Police Detachment—were deployed to Iraq earlier this year. He wanted to defend our Nation, and he wanted the Iraqi people to have the same freedoms he and his family enjoyed. Chuck was proud to be serving his country. He was proud to help the Iraqi people in whatever way he could.

Staff Sergeant Kiser lost his life helping the Iraqi people and saving the lives of his Comrades. He was on guard duty in Mosul, Iraq when insurgents began firing from a truck loaded with explosives. Chuck returned fire, but was killed when the truck crashed and exploded. Army Major Mark Magalski noted that Chuck saved countless lives in his final act of bravery.

Upon Chuck's death, hundreds in his hometown of Amelia gathered to show their support for the Kiser family. At the Clermont County courthouse, signs hung that read, ''God Bless Chuck and the Kiser Family.'' Flags were placed in yards and the community came out to help the Kisers in any way they could.

I had the privilege of meeting Chuck's family at the memorial service held in his honor, and I want to thank them for sharing their memories with me. The service was fitting for a man

so full of life. The family requested that the service be a celebration of Chuck's life rather than a time of mourning. As patriotic music played, thousands paid tribute to this American hero. The service was a testament to the love his community had for this brave man—and a testament to the number of lives he touched.

Staff Sergeant Charles Kiser was a good, decent, loving man, who protected our Nation bravely. We will remember him always. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ASSESSING THE LAST TWO YEARS

Mr. MCCONNELL. Mr. President, as we near the completion of the 108th Congress, it is an appropriate time to look back over the last 2 years and assess where we are. I think by any standard these have been 2 years marked by great achievement.

We have kept Americans safe at home, strengthened our economy, and vigorously pursued the war on terror. I would like to take a look back, as I indicated, at the legislative accomplishments of the 108th Congress.

Last year the Senate passed 11 appropriations bills left over from the previous Congress, and then pushed through all the normal 13 appropriation bills as well as the emergency wartime and Iraq reconstruction supplemental appropriations bill. We responded with the necessary funds to suppress the California fires through a supplemental appropriations. In all, the Senate passed 27 appropriations bills into law last year in the first session alone.

The Senate also pushed through the economic growth package, cutting taxes on American families by $350 billion, as well as a revolutionary new Medicare prescription drug bill for all of our seniors. The Senate banned the horrific practice of partial-birth abortion. We passed the Do Not Call registry at the Federal Trade Commission. We provided tax relief to military families. We passed the Healthy Forests Act, to stop the catastrophic wildfires that have raged across our country. We enacted free trade agreements with Chile and with Singapore, and passed the African Growth and Opportunity Act.

The Senate passed the Federal Aviation Administration reauthorization to revitalize an air transport industry suffering from the effects of the terrorist attack of 9/11.

After witnessing more than a decade of repression, the Senate passed the Burmese Freedom and Democracy Act.

We secured significant resources to improve our nation's election systems, making it easier to vote and harder to cheat.

We passed the President's faith-based initiative, funded the effort to eradicate the scourge of global AIDs, and acted to guard our children against abduction and exploitation by passing the PROTECT Act.

We expanded NATO to include most of the former Warsaw Pact Countries and passed a significant arms reduction treaty with our enemy-turned-ally, Russia.

We took steps to bridge the digital divide by providing needed funds to historically black colleges, awarded a Congressional Gold Medal to UK Prime Minister Tony Blair, and affirmed the constitutionality of using the term ''under God'' in the Pledge of Allegiance.

And that was last year. This year, in the second session of this Congress, we passed into law a pension relief and stabilization plan for private sector businesses, workers, and their retirees.

We passed into law a bioshield act to improve countermeasures, like vaccines, to protect our people from biological, chemical or other terrorist attacks.

We passed into law the Unborn Victims of Violence Act.

We passed into law a Defense appropriations bill, the Defense Authorization bill, a Homeland Security appropriations bill, and a Military Construction appropriations bill.

We passed a supplemental funding bill for operations in Iraq.

And we are about to complete work on the nine remaining appropriations bills which successfully concludes action on all Fiscal Year 2005 spending bills.

We have expanded trade opportunities with new free trade agreements with Australia and Morocco.

We have also passed expanded assistance to families with the Working Family Tax Relief Act.

We passed the Internet tax bill to prevent the imposition of capricious taxes on internet transactions.

We expanded the educational opportunities for disabled children by passing an improved IDEA reauthorization.

Also, we responded to the findings of the 9/11 Commission by implementing reforms in the Senate and are still considering as we finish this session intelligence reorganization measures which are in conference now and being discussed on both sides of the aisle.

Last, we passed legislation to revise our tax laws to comply with international trade agreements and, thus, will remove the European tax on U.S. manufacturers. Of particular interest to the Senator from the Commonwealth of Kentucky, that measure included a buyout to aid our long-suffering tobacco growers, many of which reside in my State.

These are the legislative accomplishments of a very productive Congress, of which we can be justifiably proud. I want to salute the effort of my colleagues who made it so, especially the members of my deputy whip team: LAMAR ALEXANDER, WAYNE ALLARD, CONRAD BURNS, BEN CAMPBELL, JOHN CORNYN, MIKE CRAPO, MIKE ENZI, LISA MURKOWSKI, GORDON SMITH, JOHN SUNUNU, JIM TALENT, and CRAIG THOMAS.

I can't thank them enough for all their hard work, their sound counsel and their tireless effort to help win so many close votes. I particularly want to thank my chief deputy whip, BOB BENNETT, my trusted adviser and dear friend for many years here in the Senate.

But one man deserves particular recognition. During these tough times of economic challenges and armed conflict, America has had to decisively confront some monumental questions.

Yet here, in the Senate, the majority had just a one vote margin—one vote.

But America steered a steady course during the 108th Congress only because this Senate was able to deliver a ''yes'' when ''yes'' was needed—yes to economic recovery, yes to funding the war on terrorism, yes to a Medicare prescription drug benefit,—a resounding ''yes'' to getting the business of America accomplished.

And here in the Senate, with the smallest of margins, on the toughest possible terrain, on the most pressing questions of our time, it was the tireless BILL FRIST who delivered that ''yes'' time and time again.

A truly remarkable performance by Senator FRIST. He has earned certainly my greatest respect and I think the respect of virtually everyone in this body. We are also proud to call him our good friend.

I also wish our good friend across the aisle, HARRY REID, great success as the new Democratic leader. He is a very able man, a very skillful legislator, and a worthy opponent. I and my colleagues look forward to working with him in the next Congress.

Finally, we cannot conclude the 108th Congress without a sense of sadness. There are many—in fact there are too many—great Senators who are leaving this institution. I have already had an opportunity to express my goodbyes to Senator NICKLES, Senator CAMPBELL, and Senator FITZGERALD.

I also wish a happy and healthy future to our colleagues across the aisle, Senator DASCHLE, Senator BREAUX, Senator HOLLINGS, Senator BOB GRAHAM, Senator JOHN EDWARDS, and Senator ZELL MILLER. Each of these men has made a lasting contribution to this marvelous institution.

In closing, I also remember the greatest public servant of my lifetime, President Ronald Reagan, who, after 93 luminous years, departed the Nation he never lost faith in and that loved him so well.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

TRIBUTES TO RETIRING SENATORS

FRITZ HOLLINGS

Mr. STEVENS. Mr. President, I have served here long enough now that I have witnessed a lot of the comings and goings of many fine public servants whom I have known on the floor of the Senate.

Today, I would like to comment about those who are leaving us, and I want to start, first, with my good friend from South Carolina. FRITZ HOLLINGS and his wife Peatsy are very close friends of ours. They have been friends since we first came to the Senate. FRITZ and I served in World War II. We have traveled to places where he served and I served in World War II, and we are comrades in the deepest sense of that word.

He is a very interesting man. I remember earlier this year, when I was asked to cut a tape to be used at a retirement dinner for Senator HOLLINGS, I told my press secretary I did not think I could do it. As a matter of fact, I ended up appearing in person. As I told my staff, I really cannot conceive of the Senate without FRITZ HOLLINGS. It will be a different Senate. We have not always agreed, but we have always been friends.

There have been good times together. I can remember some of the fish that FRITZ and Peatsy caught in Alaska, and I can remember tales about some that they did not catch, the big ones that got away.

But I do know that having visited with them in their home in South Carolina, and visiting with their friends in Charleston, they have a really great life to go home to. They are wonderful people, and we are going to miss them a great deal.

I will say this, that when I first heard of Senator HOLLINGS, it was in a story about his role as Governor of South Carolina. He had become Governor, and as he entered the grounds of the Governor's house, he found there were places inside the grounds where prisoners were kept. There were literally, at that time, I think, cells that were partially underground. FRITZ did not like that any more than I would have, and he found ways to free those people and to give them another life. As a matter of fact, I remember meeting one of them who was very devoted to Senator HOLLINGS.

Senator HOLLINGS is a man with a great heart and a great mind and a great spirit and a temper almost as bad as mine. We are going to miss him, miss him terribly.

I hope he will come back often and visit us. I think he has the longest career of all of those who are retiring, obviously, because he is the oldest. But he was one of the Ten Outstanding Men of the Year in the United States when he was young. I don't like to tell stories about him, but I think he actually attended a Republican Convention at one time.

As a member of the statehouse, as Governor, and as a member of the Hoover Commission, he distinguished himself in many ways, in commissions where he was appointed by both President Eisenhower and President Kennedy.

We are losing a man who has had a great role in public service. I hope we will all wish him well as he departs the Senate.

DON NICKLES

Mr. President, another Senator who is leaving us is Senator DON NICKLES. Senator NICKLES is a man I first met when I was traveling through Oklahoma with my friend, Senator Bellmon. Senator Bellmon had served here as a Senator. He served as Governor of his State.

Senator NICKLES, obviously, is a man of great capability, too. As a matter of fact, he is the first Oklahoma Republican Senator to be elected for four terms. He has had a commitment to his constituents and to his colleagues. He, as I, served as assistant Republican leader. That is the highest leadership position ever held by a Member of the Senate from Oklahoma.

I particularly remember his role as chairman of the Budget Committee and his role in the Finance Committee because no one has been more strenuous in expressing his views concerning the level of spending in the United States and the necessity to have firm budget control over the processes of the Senate, particularly the appropriations process where I have served a great many years.

I do believe his commitment to making Federal Government more responsible and less intrusive, his commitment to the basic Republican principles that government nearest the people is best, has been demonstrated by his service in the Senate. We are going to have a tough time without his guidance. He, I am sure, will be somewhere near us—at least that is indicated.

But having met him even before he ran for the Senate, I felt really a great warmth of friendship for him because I know how hard he worked to become a Member of the Senate, and I know his commitment, having left his business and coming here to make a new life.

Linda and their four children have been known to all of us in one way or the other. I think he has a wonderful family, a wonderful wife, and we wish them well.

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

The PRESIDING OFFICER. The Senator from Alaska yields the floor and suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. 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. HARKIN. Mr. President, parliamentary inquiry. I am going to give a speech on the floor regarding wellness and obesity. Is there a time constraint we are operating under now?

The PRESIDING OFFICER. There is a 10-minute time limit in effect now, but it has not been strictly enforced. The Senator may ask for more time.

WELLNESS AND OBESITY

Mr. HARKIN. Mr. President, as the 108th Congress comes to a close, many of us are looking back and asking whether we accomplished all that we might have. Now, of course, we are looking ahead to the next Congress for opportunities to move forward with some bipartisan agendas. What can we work on together to really do something good for our country?

The last year has been a challenging one. The campaign season always makes it a little more difficult to accomplish tasks that are already a challenge. It is not surprising, then, that many Members of this body look back on the 108th Congress with mixed feelings. I personally view it in which some important opportunities have been missed. But I also think some have been offset by what I detect as an emerging bipartisan concern and interest in some issues that have previously not received much attention.

In particular, I have been heartened by the degree of interest shown by my colleagues on both sides of the aisle on the issue related to obesity, health promotion and prevention of premature death and chronic disease.

This is very heartening that we see on both sides of the aisle strong interest in promoting wellness, in promoting disease prevention. As I have often said, we in America do not have a health care system; we have a sick care system. If you get sick, you get care, but there is precious little out there to keep you healthy in the first place. All the incentives are to patch you up, fix you, and mend you once you are ill. There are very few incentives to keep you healthy in the first place.

Now with all of the recent revelations on obesity and what that is doing to our society, more and more interest is being shown in what we can do as a Congress to change this paradigm, to change us from a sick care system to a truly health care wellness system in our country.

I am confident that in this area, we can make some historic progress, again, on a bipartisan basis in the new Congress that will convene in January.

I have been working for a long time in this area, but I am not the only one who appreciates the urgency of these issues. For example, the distinguished majority leader, Senator FRIST, has shown a keen interest in finding ways

to fight obesity, and he has taken some leadership positions on this, as has the Senator from New Mexico, Mr. BINGAMAN, who is my colleague on the Health, Education, Labor, and Pensions Committee. In fact, Senators FRIST and BINGAMAN teamed up to pass the Impact bill in the Senate and, if enacted, that bill will be a very positive step forward in the fight against obesity.

Our colleague from Indiana, Senator LUGAR, who has always been a well and very active and fit person himself as a devoted jogger, has also introduced a health promotion bill. It would establish the prevention of chronic disease as a major priority for the Federal Government. Our colleagues Senator WYDEN, Senator DODD, Senator CORNYN, and Senator KENNEDY have all been very active on the issues of wellness and obesity prevention.

My aim right now is not to provide an exhaustive list of Senators who are active in this area but to show there is a broad bipartisan interest in the Senate on wellness, health promotion, disease prevention, a health care paradigm.

We have made some progress this year, but given the scope of the obesity epidemic, given the spiraling cost of chronic disease, we need to act more robustly, more aggressively in the coming Congress. We currently spend in excess of $1.8 trillion a year on health care in the United States. Fully 75 percent of that total is accounted for by chronic diseases, including heart disease, cancer, diabetes, and depression.

What these diseases all have in common is that in so many cases, they are preventable. In the United States, we fail to make an upfront investment in prevention. So what do we do? We spend hundreds of billions of dollars on treatment and disability, hospitalization that, in many cases, could have been avoided.

Again, as we look globally, we Americans take a great deal of pride in our system. We have the best hospitals. I also tend to think we have the best doctors. We certainly excel the rest of the world in biomedical research through the National Institutes of Health and disease prevention through the Centers for Disease Control and Prevention, which is the premier body in the world in terms of disease control. In fact, other countries look to our own CDC for guidance and direction in that area. If you want to get a heart transplant, a hip transplant, or a lung transplant, you come to America. Or if you want to get cancer treatment, you come to America. People come from all over. Kings, princes, heads of state, the wealthy, and the well-to-do all around the world come here to get treatment.

I would say if we are keeping a scorecard or report card in terms of treatment, we get an A. In terms of prevention and health care and keeping people healthy, I would say we are down around a D minus, close to an F. This is what has to be changed.

We can take great pride in how we treat, cure, fix, mend, and replace parts. Those are great technological advancements. As I said, in so many of those cases, they are preventable, if only we will invest a little bit upfront.

The way we do things in this country is not only foolish, it is financially unsustainable. We cannot continue down the path on which we have been going for the last 30 to 50 years. We need this new paradigm in American health care, a prevention paradigm, a genuine health care system that concentrates, focuses resources on wellness and prevention.

Health care costs are out of control. Health insurance premiums are skyrocketing. More and more people in America are not covered with health insurance, and we have a raft of new studies documenting the obesity epidemic and consequences of our failure to emphasize wellness and prevention.

I have some charts. Caution: Public health crisis ahead. People a lot of times say, what business is it of the Government? Do we want a nanny Government to take care of everybody? No. Shouldn't people be in charge of their own wellness? Yes. But when it becomes a public health crisis, when it is not just me or you, but it is all of us, and when it means our tax dollars are going to take care of people with chronic diseases—75 percent of the costs of illnesses in America are due to chronic illnesses, most of which are preventable. So it is not just you smoking and not exercising and having a bad diet, it is the fact that you are going to consume health care dollars, and we are going to have to pay for it—all of us.

It is a public health care crisis. Two-thirds of Americans are overweight. Thirty percent of our kids are overweight. That is a public health care crisis.

I would like to cite several of the major caution signs that have flashed this year to remind us of the sense of urgency, and the reason I am taking the time on the Senate floor today, perhaps our last day of the year, is because it is urgent. As I said, I sense a willingness to work across the aisle, a bipartisan effort to do something about this. I remind people of the sense of urgency we have.

In March, a Centers for Disease Control and Prevention study determined that poor diet and lack of physical activity are now the second leading cause of death in the United States, leading to over 400,000 deaths annually. This study warned that poor nutrition and physical inactivity would soon overtake smoking as the leading preventable cause of death in America.

And by the way, if anyone had any lingering doubts about the dangers and destructive forces we are up against, yesterday, Hardee's, the fast food restaurant chain, unveiled its newest offering. And do you know what it is called? The Monster Thickburger; just what we need—the Monster Thickburger.

This new product apparently is designed to make a Big Mac look like an hors d'oeuvre, a snack. The Monster Thickburger consists—are you ready for this?—of two one-third pound slabs of hamburger, four strips of bacon, three slices of American cheese, and mayonnaise, all served on a buttered sesame seed bun. Wow, can't wait to sink my teeth into that one. Well, this death-defying sandwich clocks in at 1,420 calories and contains a whopping 107 grams of fat.

Again, does anybody have any doubt on where we are headed? A couple of those every week, and one will be in our sick care system pretty soon, too.

Also in March, the Food and Drug Administration released its report called ''Counting Calories,'' which offered a blueprint for confronting the obesity epidemic. Among other things, the FDA recommended increasing the amount of information available to consumers through food labeling. It called for enhanced Federal Trade Commission authority to police false or misleading product claims. It recommended that the Federal Trade Commission take steps to improve nutritional information available to consumers at restaurants, increase the information available to consumers through food labeling and nutritional information at restaurants.

Now, some restaurants do that, I have to admit. If one looks at the menu, it tells them how many grams of fat, how many grams of transfat, how many calories, carbohydrates, perhaps, salt, sodium. So one can be a little bit more informed about what they eat. We do that in the Senate servery. We can go through and see how many grams of fat is in everything.

I have been told by those who run our servery that since we started that about 3 months ago, one would be amazed at how many more people are picking up salads, how many more people are picking up the skinless chicken or turkey and things like that, taking skim milk instead of whole milk. It is information. But if one does not have the information, how do they know? So I am just saying that the Food and Drug Administration recommended increasing this information available to consumers.

In April, after years of careful analysis, the World Health Organization recognized the growing problem of obesity. They issued their global strategy on diet, physical activity, and health. It urged governments to review the role of food advertising and marketing, particularly with regard to children. It encouraged schools to implement policies that support children in adopting healthful diets and engaging in physical activity. The WHO report expressly stated that the role of government is crucial in achieving lasting change in public health.

Now, I will address this a little bit further. It urged governments to review the role of food advertising and marketing, particularly with regard to children. It encouraged schools to implement policies that support kids in healthful diets and physical activity. Eighty percent of elementary school kids in America today get less than 1 hour of physical activity a week.

Now I will bet that the occupant of the chair, the Senator from Missouri, and I, the Senator from Iowa, when we grew up, we had PE in small schools. I went to a two-room schoolhouse. We had 15 minutes of recess in the morning, we had 45 minutes at lunch, and we had 15 minutes in the afternoon. We had to go outside. The only time we did not have to go outside is when it was like 20 below. It had to be 20 below in the wintertime and then we could stay in, but other than that we had to get out and run around. And it was not competitive sports.

We have gotten off the track. If one is not involved in the high school football team, the basketball team, the soccer team, wrestling, whatever, swimming, they do not get anything. Every kid needs physical exercise and physical activity. We have seen some schools—there are some great schools out there—that ensure that every child, kids with disabilities, get physical exercise and physical activity, if not on a daily basis, two or three times a week. But we have now found elementary schools being built in America without even a playground, no indoor gym, no playground. So there is a role for government in ensuring that schools teach and have access to physical activity for kids.

So, again, the role of government in many ways is to support, not as a nanny but basically to set up systems so that people will be healthy starting early in life. We know what kids learn early is what they carry through, and with the obesity epidemic now among kids in America, with their lack of physical activity, it bodes ill for the future of our country.

We have also seen a number of new reports on the costs of obesity and chronic disease. One study by health economist Ken Thorpe in the Journal of Health Affairs determined that in the year 2000 we spent $200 billion more on the treatment of disease and chronic conditions than we did just 13 years ago.

Five conditions accounted for one-third of the $200 billion increase: heart disease, pulmonary conditions, mental disorders, cancer, and hypertension. All of them are preventable. Even more startling, some 27 percent of the rise in health care spending between 1987 and 2001 is attributed to the costs of treating obese patients. Twenty-seven percent of the rise is attributed just to treating obese patients. Five conditions, one-third of the $200 billion increase, all of that preventable. Want to save money? Want to save the impact on our budgets? Want to help families in terms of keeping their taxes down? This is the way to do it. We have to have better prevention.

Perhaps most compelling, we have also seen fresh evidence again that we are failing to teach our children about the importance of a healthy lifestyle. Perhaps most compelling of all is that the National Institute for Health Care Management Research and Educational Foundation found that only 16 percent of kindergarten programs meet the daily recommendations for physical activity by the Centers for Disease Control.

The Institute of Medicine of the National Academy of Sciences issued a major report just last month, October. The report was on preventing childhood obesity, a clarion call to action, urging a comprehensive national response to the childhood obesity epidemic where they focus on wellness and prevention. It sets forth the blueprint for a multifaceted national campaign against childhood obesity. This was just last month.

The Institute of Medicine of the National Academy of Sciences, the preeminent scientific medical body in this country, just last month, issued this warning.

So we need to act. We cannot twiddle our thumbs any longer. We cannot say, well, that is just the way things are. We cannot just say, well, it is free enterprise, and if someone wants to sell a monster thick burger and people want to eat it, let them. I am not saying Hardee's cannot put out a monster thick burger. They can do it. But I want to make sure that everyone who goes there and eats one of those has information to tell him or her how many calories, how many grams of fat, and what it means to them if they eat that. We need to start teaching our kids how to eat right. Experts are saying that this generation of kids growing up today, if we do not change rapidly, may be the first generation to live a shorter lifespan than their parents. Think about that. Our kids will have a shorter lifespan than what we have, the first time ever in history.

So we have had warnings from everywhere. The Centers for Disease Control, Health and Human Services, Food and Drug Administration, Federal Trade Commission, National Institutes of Health, National Academy of Sciences, Institute of Medicine, World Health Organization—on and on and on. Every single one of them urges that we use the power of the government to promote healthier lifestyles. Yet Congress has, thus far, failed to take any comprehensive action.

(Mrs. DOLE assumed the chair.)

Mr. HARKIN. The Institute of Medicine report on childhood obesity offers us a comprehensive approach to fighting obesity. It doesn't say that fighting obesity is the responsibility of government alone, or just one sector of society. It calls on all sectors of society to play a role in fighting obesity. In fact, the Institute of Medicine blueprint bears striking similarities to the approach called for in a bill that I introduced earlier this year, the Healthy Lifestyles Prevention Act, known as the Help America Act of 2004.

As you can see from this report, the Institute of Medicine's recommendations mirror my bill in a number of ways. Over here is what the Institute of Medicine recommended to support nutrition and physical activity grant programs. That is in our bill. Nutrition labeling for restaurant foods, that is in our bill. The Federal Trade Commission should have authority to monitor food marketing—how it is marketed to kids. That is in our bill.

Let me digress for a moment on this marketing to kids. We now have counting books for kids who are just learning to count, 3 years old, 5-year-olds—a simple counting book, learning your 1–2–3–4s and 5s. Do you know what they are? They are called M&M counting books. You count by learning how many M&Ms there are.

I saw an Oreo cookie counting book. You count by how many Oreo cookies there are. So what happens? That will have little kids associate learning, associate getting better and progressing, with eating Oreo cookies or M&Ms, and thus begins a lifestyle and a habit pattern at a very early age. I found that hard to believe when I saw it, that these companies would actually go that far, to put in unhealthy food. I like an Oreo cookie as much as anyone else, don't get me wrong. You take them apart and eat the inside, you know how to do that. I love Oreo cookies. But let's be honest about it, it is maybe a little treat you have later on sometime, but to start getting kids in their counting books to count according to how many Oreo cookies there are, I am sorry, that sends the wrong message.

The Institute of Medicine recommended that community and child and youth-centered organizations promote healthful eating and physical activity. That is in our bill, too. Help get the YMCAs all over America focused on wellness, and I am happy to report the YMCA is in the forefront of this battle, and I am proud of them. They are in the forefront of this fight against childhood obesity and for wellness.

Improving streets and sidewalks to encourage walking and biking. Imagine the Institute of Medicine recommending that we build sidewalks.

There are housing developments being built in America today that don't even have a sidewalk. You want your kids to walk to school or to ride a bike? I happen to have a house out in rural Virginia. My wife and I have lived there for a number of years, since I have been privileged to serve in the Congress. So my kids, when they were growing up, went to a public high school in Fairfax County. It was a good school a mile from our house. A mile, that is a great walk for my kids to go to school, high school, but there is only one problem. There is no sidewalk, on a

busy street. I wouldn't even let them ride a bike down there. You are not going to ride a bike down that street. There are no sidewalks.

Again, every highway bill we pass here, every highway bill in which we take dollars out of the road use fund, the gas tax, and put it out to States for building highways and streets, ought to have provisions in it that you have to build sidewalks or you have to build walking paths. I am told in Europe today you cannot build a bridge unless it has a walking path, bike path, adjoining the bridge across the river or thoroughfare or wherever you build it. We ought to be doing that in America. If people want to ride bikes or walk, they can't get across the bridge. So that is in our bill, too.

Insurers should include screening and obesity preventive services in routine clinical practice. It is in our bill, but how many insurers do that? How many provide that you can go in and have screening, counseling, and you can have preventive services under your insurance premium, under your insurance program? I can count the number on two hands, probably—maybe one.

Schools should draw up nutritional standards for competitive foods in schools—competitive foods. I did see one school in Iowa this year in which they had set up their competitive foods. Competitive foods is a fancy name for snacks or vending machines, that kind of stuff. I saw one school in Iowa that took all that stuff out and only had healthful snacks, 100-percent juice drinks, granola bars, different kinds of fruits, things like that. That is the way we ought to be going.

Develop school policies to create schools that are advertising free—get advertising out of our schools. If you walk down the hallway, there is a big Pepsi machine, a big Coke machine. If you walk around the corner, there is your competitive foods, advertising all the candy bars and soft drinks and everything else. Why should we allow advertising in our public schools? I could never figure that one out.

Why don't we advertise here in the Senate? I have an idea, we will put up a sign: A Hardee's steakburger right here. Sell some wall space here. I'll bet it would be priceless. These cameras would pick it up every day. If we don't have advertising in the Capitol, why do we have it in the schools? Why do we bombard our kids every day with advertising for unhealthy habits?

I didn't mean to go through all of these. Those are some of them. But this is what the Institute of Medicine is saying that we ought to do.

I mentioned the bill I introduced, the Help America Act. I am going to reintroduce it next year. We spent many months working on this, on a comprehensive approach. You just can't address the obesity problem, the increase in chronic illnesses in America by just focusing on what we do or what you do in a school. It has to be comprehensive. It has to start from the earliest time of our lives, in daycare centers, kindergarten, elementary schools. So it has to be home-based so we get more information to our families. It has to be school-based from kindergarten right on through high school and college. It has to be workplace-based so that people on their jobsites can have physical activity and wellness support. It has to be governmentally based so that we do not build housing developments without sidewalks or bridges without walking paths or bike paths; that we build more walking trails in our country.

It has to be Government based and making sure that we have Federal Trade Commission monitoring truth in advertising. It has to be community based. Communities have to pull together with their local YMCAs and others to have wellness programs for the entire community.

One of the great things popping up all over America today is mall-walking programs for the elderly, especially in my part of the country. In the wintertime, it is hard for the elderly to get out and malls have set up walking programs where elderly people will meet. They can walk and they have distance markers. They go around the mall, half a mile, three-quarters, 1 mile. They have a little place where they can stop and have water or coffee or tea or whatever they want. You would be amazed at how many of our elderly are now doing these mall-walking programs. By the way, it is not bad for the mall either. Sometimes they stop and shop, too.

These are the kinds of things we have to do on a community basis, workplace basis, a community basis to help promote a healthier lifestyle in America.

I could go on and on about the Institute of Medicine, what they recommended. The point is, we do have an authoritative blueprint for action. We have a bill that reflects that blueprint. The bill we introduced earlier this year, we will introduce again next year.

So the ball is really now in our court. I intend to reintroduce the HELP America Act in the 109th Congress.

We need a serious, ambitious probusiness, bipartisan effort to build on the steps we took this year. There is no question in my mind that the HELP America Act is a bill whose time has come to tackle some of the biggest health challenges of our day, in particular the obesity epidemic.

We have had report after report and warning after warning on the national level. But we have responded in only an incremental and piecemeal fashion. It is as though we were in the midst of a five-alarm fire but we stubbornly keep the hook and ladder engine in the firehouse relying instead on the garden hose to fight the fire. This is unacceptable.

When we reconvene in January, we need to come together on a bipartisan basis to address the obesity epidemic, to stress wellness and prevention in all aspects of our society. My goal is that the new 109th Congress will be remembered as the Congress that replaced America's sick care system with a genuine health care system.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

THE EMMETT TILL CASE

Mr. TALENT. Madam President, I rise today to talk briefly about a resolution Senator SCHUMER and I have cosponsored in the Senate which we introduced yesterday. It is about the Till case.

I want to summarize for you the Emmett Till case. I don't normally read things on the Senate floor, but, in reviewing the notes from our office for the press conference that we had the other day, I really could not find a better statement for the background of this case than the notes. So I am going to read just a couple of paragraphs.

It is a story that I will preface by saying it has to shame every American. It is a hard story to listen to—a story from a time that thankfully was a very different time in this country but a story that has reached across the 50 years since it happened and is calling for action now.

In August 1955, Emmett Till, a 14-year-old African American was visiting family in Money, MS, from Chicago and allegedly whistled at Carolyn Bryant, a white woman. On August 28, Roy Bryant, Carolyn's husband, and his half brother, J.W. Milam, kidnapped Emmett from his uncle, Moses Wright's, home. They beat him, dragged him to banks of the Tallahatchie River and shot him in the head. Bryant and Milam then fastened a large metal cotton ginning fan and dumped his body into the river. Three days later, Emmett's body was pulled from the river and returned to his mother, Mamie Till, in Chicago. Mamie Till made a very courageous decision at that point. She decided to leave his casket open for 4 days to show the public what had happened to her son.

Tens of thousands of people paid their respects in person and the press published photos of Emmett's mutilated corpse around the world. In September 1955, Roy Bryant and J.W. Milam stood trial for Till's murder in Mississippi. An all white, male jury acquitted both men, after several women and African Americans were barred from serving on the jury; they reached their verdict after only 67 minutes of deliberation. Emmett's uncle Moses Wright, and another resident of the town, Willie Reed, both testified in court. As a result they were forced to flee to Chicago because their lives were in danger following their testimony. Worldwide, there was tremendous outrage at the murder and subsequent acquittal. In November, Wright and Reed returned to Mississippi and testified before a grand jury investigating the pending kidnapping charges against Bryant and Milam. But the grand jury refused to indict those men.

On January 24, 1956, Look magazine published an article in which both Bryant and Milam described the murder in detail. They received $4000 to tell their story. Look published a subsequent article, where Milam stated that he did not regret the killing.

Both Roy Bryant and J.W. Milam lived the rest of their lives as free men and died of natural causes; Milam died in 1980 and Bryant in 1990. Mamie Till died in January 2003. Keith A. Beachamp—a documentary film maker from Fort. Greene, Brooklyn—found new evidence about the case, including never-before-heard eyewitness accounts, while making his documentary which will air soon, ''The Untold Story of Emmett Louis Till.'' The witnesses claim that there were several other people involved in the murder plot and that some of these individuals are still alive.

Mamie Till lived in Chicago until she died in January of 2003. She was rather close to Congressman BOBBY RUSH who was a colleague of mine when I served in the House. When Congressman RUSH found out about this documentary, he introduced a resolution calling for the Justice Department to reopen this case and determine whether it was still possible to prosecute some of these other individuals who, according to Mr. Beachamp, were indeed involved in this crime. Since these other individuals were never tried, much less acquitted, it would still be constitutionally possible to prosecute them, especially in the Federal court, because there had never, unfortunately, been Federal actions or Federal indictments brought against any of these individuals who were involved.

Senator SCHUMER was considering filing a companion resolution in the Senate earlier this year. He approached me to see if I wanted to cosponsor it with him. I was very interested in doing that. We both had contacted the Justice Department before we were able to sponsor that resolution. I am pleased to say the Justice Department did reopen the case, that was in May, and the Justice Department has been investigating ever since.

This week Congressman RUSH, Congressman CHARLIE RANGEL, Senator SCHUMER, and I have sponsored in the House and in the Senate a new resolution calling on the Justice Department to devote whatever resources are necessary to investigate this matter expeditiously and report back to the Congress and to do justice after 50 years.

I am sorry to say—I am ashamed to say—that Mamie Till tried over and over again for almost 50 years to get the Federal Government to do something, which she was unable to do so, particularly in the 1950s when this evidence was fresh, when a Federal charge could have been brought without violating the constitutional rule against double jeopardy, but it was not brought. For that, the Federal Government has to accept responsibility.

We do not know what an expeditious and complete investigation will reveal. I suppose it is possible either other people were not involved in this or that a case cannot be made against them at this late date. What we do know is that any remaining witnesses, people who might have been coconspirators in this terrible tragic crime, are getting older. If a case is to be made, it must be made soon because witnesses may die, evidence may become even more stale and unusable.

Justice needs to be done for a lot of reasons, in part because, as Congressman RANGEL says, you have to confront these kinds of crimes, these kinds of tragedies, these wrongs if you are ever to get past them, in part because there may be murderers at large who need to be brought to justice, in part because it is only through the courage of Mamie Till and the courage of Moses Wright who, in 1955, followed their convictions and protested publicly about this. It took enormous courage for that mother to keep that casket open so the world could see what happened. It took enormous courage for Moses Wright to walk into that courtroom and testify against these white men, but he did it.

As a result, this whole incident was one of the seminal events that led to the civil rights movement in the 1950s and the 1960s with all the progress we have achieved as a result of that.

It is owing to these individuals and to their courage that we do the right thing after all this time. I certainly intend to continue doing whatever I can to make certain the Justice Department is held accountable for taking action. I know Senator SCHUMER feels strongly the same way. This is a subject I intend to bring up with Mr. Gonzales as his confirmation process moves through the Senate. I certainly hope he is confirmed and I do intend to support that. I think he will make a great Attorney General. But I want to make certain that he is personally aware of this and personally committed to devoting such resources as are necessary, as expeditiously as possible, to see that justice so long delayed is now done in this case.

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

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

TRIBUTES TO RETIRING SENATORS

FRITZ HOLLINGS

Mr. HARKIN. Madam President, when the man who sits right next to me across this aisle over here, the senior Senator from South Carolina, FRITZ HOLLINGS, retires at the end of this Congress, this body will lose one of its most distinctive and eloquent voices. We will lose a master legislator, a person who will go down in history as one of the truly consequential Senators of the second half of the 20th century. Of course, we will lose the presence of a great friend, a colleague whose passion and wit burn just as intensely today as when he first entered this Chamber nearly four decades ago.

As I said, Senator HOLLINGS sits directly across the aisle to my left, at the desk that was once occupied by another extraordinary individual from South Carolina, Senator John C. Calhoun. But Calhoun was a voice of the Old South, a defender of slavery in the great debates prior to the Civil War. FRITZ HOLLINGS, first as Governor, and for the last 38 years as a Senator, has epitomized the New South.

FRITZ HOLLINGS became Governor in 1958, at the tender age of 36. He immediately set about diversifying South Carolina's textile and farming economy. He planted the State thick with technical colleges. He aggressively recruited new industries to the State. But, most importantly, he set in motion the peaceful transformation of racial relations in South Carolina.

Now, remember—I remember it well; I was a senior in high school just going into college at that time—this was a time when other Southern Governors were pledging massive resistance to integration. They literally stood in the schoolhouse door. They incited people to keep African Americans from going into school or sitting at lunch counters or riding on buses.

But FRITZ HOLLINGS charted a different course as Governor. He showed tremendous leadership, real political courage, as he orchestrated the peaceful integration of Clemson University. So FRITZ HOLLINGS epitomizes the New South.

He also epitomizes the Greatest Generation. In World War II, right out of the Citadel, he served as an Army officer in North Africa and later in Italy earning seven campaign ribbons and the Bronze Star.

But I have always believed that what made the Greatest Generation truly great was not just what they did during the war but what they did after the war. As I said, FRITZ HOLLINGS played a transformational role in South Carolina. Then he came to the Senate, and he played an equally dramatic role on the national stage.

In 1968, he conducted a series of ''hunger tours'' across South Carolina, exposing poverty and Third World living conditions. He went on to coauthor national legislation that created the Supplemental Food Program for Women, Infants and Children, which we now know today as the WIC Program. He championed the Community Health Center Program, bringing medical care to the poor and underprivileged. And now thousands of community health centers dot the landscape in every State of our Union.

FRITZ became a passionate advocate for medical research and the National Institutes of Health, especially cancer

research. I know how proud FRITZ is of the nationally respected cancer research and treatment center at the Medical University of South Carolina, now known appropriately as the Hollings Cancer Center. In fact, at his farewell gala a couple months ago that I went to downtown, FRITZ HOLLINGS raised more than $2 million for the center's programs.

Well, it would take a long time to stand here and do justice to Senator HOLLINGS' legacy of legislative accomplishments. I will not do so. I am tempted to do so because there is so much there. But those of us who have served with him over the decades know there is no more dedicated fighter for fiscal conservatism in this body or anywhere in this Congress. There is no one who has fought harder for what I call fiscal rationality in our spending and taxing programs than FRITZ HOLLINGS.

There is no one who has done more when it comes to protecting our oceans and coasts. It was Senator HOLLINGS who passed the Coastal Zone Management Act in 1972, the Marine Mammal Protection Act of 1972, the Oceans Dumping Act of 1976, and the Sustainable Fisheries Act of 1996. So the next time you go out to look at whales or you see the dolphins swimming, the next time you walk along a beach and you don't see all that junk washing up on the shoreline, thank FRITZ HOLLINGS. He led the charge on it.

And long before it became fashionable, FRITZ HOLLINGS was speaking out against the indiscriminate outsourcing of American jobs, first in the textile industry, then jobs in the steel industry and manufacturing. In literally scores of speeches on this floor, he has educated Members of this body about the fallacies and human costs of so-called free trade. That is not fair trade. He has spoken out with passion and persistence for fair trade and a fair shake for American workers.

FRITZ HOLLINGS leaves a personal legacy in this Senate. We will always remember his sharp mind in debate, his wit, and a very sharp tongue that could cut to the quick and get at the essence of what the debate was all about. And there is no one who had a greater sense of humor or was more generous and more kind than FRITZ HOLLINGS. He could craft humor about others, and he could craft humor about himself—a great individual, FRITZ HOLLINGS.

I would be remiss if I did not also publicly pay a big thank you to FRITZ HOLLINGS for the opportunity he gave me 16 years ago. I had just been elected to the Senate. I was in my first term. It was 1988. Lawton Chiles, who was then a Senator from Florida, was retiring as chairman of the Appropriations Subcommittee on Labor, Health and Human Services, and Education.

I was a freshman Senator. I was at the bottom of the ladder. So Lawton left that position and went back to Florida. Most of the Democrats ahead of me—the Democrats were in charge at that time—had other subcommittee chairmanships they didn't want to give up. So it came down to FRITZ HOLLINGS and me. I knew of the passion that FRITZ had for health and education issues. So I assumed he was going to take chairmanship of that subcommittee. But I called up FRITZ. I let him know that if he didn't take it, I was next in line, that I always had a great interest in this area. Well, he said he would take that into consideration. I will never forget it. I was at home on a Sunday night. He called me up and said: Well, TOM, I have been thinking about this. He said I would really like to have the Labor, HHS, Education; this is in my interest. I have spent so much time on health issues.

Well, I thought this was his nice way of telling me, I am sorry, TOM, I am going to take the chairmanship, tough luck. But at the end, he said: Well, I want you to know I am going to stay with the Commerce-State-Justice Subcommittee.

I could hear him laughing. He had kind of strung me out during this whole phone call, leading me to the point where he was going to say, I am really sorry, TOM, but I am going to take it. Then he turned 180 degrees and said: I am going to stay with Commerce-State-Justice. I could hear him chuckling in the background, knowing that he had given me a great gift.

It was a huge opening for me as a freshman Senator to chair the second largest Appropriations subcommittee. I will always be grateful for the confidence and the trust that he had in me at that time. I hope I have not disappointed him.

FRITZ HOLLINGS has cast more than 15,000 votes here. He has passed major bill after major bill. He has spoken out courageously on issues of war and peace, trade and budget, civil rights and human rights. He has been a voice for the poor and for the sick and for those who have no voice in the political arena. I know FRITZ is very fond of a particular quote from Elibu Root, Teddy Roosevelt's Secretary of State. Those of us who were at the farewell banquet for FRITZ in September heard him repeat it on that occasion. He said:

> Politics is the practical art of self government, and someone must attend to it if we are going to have self government. The principal ground of reproach against any American citizen should be that he is not a politician.

For more than five decades, FRITZ HOLLINGS has been a proud politician, an extraordinary public servant, one of the truly magnificent Senators in the history of this body. We will remember his legacy. I am going to miss him as a friend and as someone I could converse with, gain insight from, and share a laugh with, listening to FRITZ go on about fiscal responsibility.

Peatsy and FRITZ have been a team. I was fortunate to have taken a congressional delegation trip with FRITZ and Peatsy last December. We went down to Brazil, looking at all the different things in Brazil—everything from rain forests to agriculture to labor conditions. It was truly a magnificent week to spend with FRITZ and Peatsy. I will never forget it. I will never forget both of them. So I wish both FRITZ and Peatsy a long and wonderful retirement in their beloved Charleston, SC.

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

A DEEPLY FLAWED PROCESS

Mr. CONRAD. Madam President, we are here late on a Saturday afternoon as part of what has become truly a deeply flawed process.

We have been presented with this huge stack of paper. I think this is well over 3,000 pages. We got it in the middle of the night. We didn't have a hard copy until somewhere after noon today. We are being told that we will vote on it shortly. It reminded me very much of attending one of the State of the Union Addresses in my first years in the Senate. It was in 1988. President Reagan was talking to the Nation, and he held up what was then a conference report that he reported was over a thousand pages long, weighing 14 pounds. Then he held up a reconciliation bill that was 6 months late and was 1,200 pages long, weighing 15 pounds, and a long-term continuing resolution of over 1,000 pages, weighing 14 pounds. He reminded us that was 43 pounds of paper and ink, and you had 3 hours—yes, 3 hours—to consider each. He said it took 300 people at his Office of Management and Budget just to read the bill so the Government would not shut down. He concluded that Congress should not send him another one of these. He said: If you do, I will not sign it.

President Reagan was right. This is not the way we should do the people's business. We should not have, late on a Saturday, 3,000 pages; and there are not more than a handful of people here who know what is in it. I know what is in it for the State of North Dakota. I know that. But I don't know what else is in here.

I have found one thing that is in here that I think will shock every one of my colleagues. There is a little nugget tucked away in this package that says the Appropriations Committee chairmen, or their designees, can call up the tax returns of any individual, any company and, without civil or criminal penalty, do whatever they want with those returns.

Madam President, think about that. Are we really going to pass legislation that says an Appropriations Committee staffer can look at the individual returns of any American, any company, and there are no civil or criminal penalties for their release of the contents of that return? I don't think so. That is in this stack of papers.

We have provisions saying that the chairman of the Finance Committee

and the chairman of the Ways and Means Committee can look at individual returns. They are the only Members of Congress who can do that, and there are very severe civil and criminal penalties if they were to release what they saw there. Those are privacy protections for every American taxpayer, every individual, every company. We protect the privacy of those returns with stiff civil and criminal penalties for the release of the information gained in those returns.

All of that is thrown right out the window in this stack of paper because it provides that the Appropriations Committee chairman, or their designees, can have access to the returns of any American, any individual, any company; and there are no civil or criminal penalties for the release of the information contained therein. I say to my colleague from Idaho I don't think this is his idea of protecting the privacy of the American people.

Mr. CRAIG. Madam President, if the Senator will yield, the Senator brings up a critical point. Would he cite the page and the subparagraph to the body? Clearly, the Senator is stating a charge, if you will, that is very critical and very important for all of us to understand. No one, without court order or subpoena ought to have that kind of authority.

Mr. CONRAD. Madam President, there are so many different page numbers on this page, I am not sure which of these page numbers is the relevant page number.

There are at least three page numbers on the page. That is how slapdash this whole thing is. There is a page number 802, there is a page number 1112, and there is a page number 85. Take your pick. This is what it says, and I quote it to my colleague, section 222:

> Notwithstanding any other provision of law governing the disclosure of income tax returns or return information, upon written request of the chairman of the House or Senate Committee on Appropriations, the Commissioner of the Internal Revenue Service shall hereafter allow agents designated by such chairmen access to Internal Revenue Service facilities and any tax returns or return information contained therein.

That is the provision that is in this stack of paper. That is an outrage. That is absolutely beyond the pale to allow staffers here the access to tax returns of any American citizen, of any American company with absolutely no civil or criminal penalties for the release of that private information.

What is going on here that we have a stack of paper that has a little nugget like that stuck in? That cannot be.

Mr. LEAHY. Will the Senator yield for a question without losing his right to floor?

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Vermont.

Mr. CONRAD. I will be happy to yield.

Mr. LEAHY. Mr. President, does that mean—it just boggles the mind—this goes way beyond the wildest dreams, for example, of J. Edgar Hoover. Does that mean, for example, if somebody in the press criticizes the chairman or if a constituent wrote in and criticized some action of the chairman or, let us say, that some Member of Congress dared to vote against a bill of the chairman, their staff could just go and grab all their tax returns and then just give it to anybody and have no penalty?

I realize this is not the old former Soviet Union, but this could possibly happen in America?

Mr. CONRAD. Unfortunately, it is contained in this bill. This bill is very clear:

> Notwithstanding any other provision of law governing the disclosure of income tax returns or return information, upon written request of the chairman of the House or Senate Committee on Appropriations, the Commissioner of the Internal Revenue Service shall hereafter allow agents designated by such chairmen access to Internal Revenue Service facilities and any tax returns or return information contained therein.

And there are no provisions in the civil law or the criminal law that would protect the release of that information.

I tell you, when my staff came upon this and brought it to my attention—I used to be a tax commissioner, and one of the things that is understood by anybody who deals with tax information is that there are rights to preserve the privacy interests of any taxpayer. We have long held in this body and in the body on the other side of the Capitol the people's right to privacy would be protected.

This provision, I am told, was stuck in at about midnight last night. Without any debate, without any discussion, without any Democrat in the room, it was stuck into this monstrosity of a bill. I think that is just one more indication of how dangerous this process has become—3,000 pages dumped on our desks, and we are told to vote in just a few hours.

There is nobody here, other than those who have been in the room, who can understand what is in this bill. If we gave our colleagues a quiz on what is contained here, I do not think very many of them would pass.

Something has to be done here. This cannot become the law of the land.

Mr. MCCAIN. Will the Senator yield?

Mr. CONRAD. I will be happy to yield.

Mr. MCCAIN. Madam President, my only question to the Senator is, is he really surprised that something egregious should be in this long package that none of us have seen or read until a few hours ago? Does it really surprise the Senator when we find it packed full of goodies for special interest and policy changes and all kinds of things that are passed into law that otherwise would not bear scrutiny? Is he really surprised that all of a sudden now we just pass some other barrier?

Isn't it also the fact this is in a bill that none of us have seen or read? Should it surprise us that finally happened when we have a system that is broken? The system is broken. This is 9 of the 13 appropriations bills that have never seen a debate or discussion or amending. None, never. So now we find something that—thank God for somebody's staffer who found it buried on page—what did the Senator say, page 1,000-something?

Mr. CONRAD. Madam President, I say to my colleague, my friend, you cannot even tell what page number it is because on these pages there are three different page numbers. Page 802, page 1112, page 85—take your pick.

Mr. MCCAIN. If I can finally ask my colleague, doesn't it really argue again that we have to fix a system that is broken? Here we are, everybody trying to get home for the Thanksgiving recess, and we are going to debate and vote on this ''as quickly as we can'' and anybody who extends the debate is being terribly unfair to their colleagues. I have already had four colleagues who have airline reservations come up to me and say: Please don't talk too long this time; you're not going to hold up this bill, are you?

I am not the one who caused this bill to not appear before us when we have been here for the entire year without acting on nine of the appropriations bills. The system is broken, and sooner or later we better fix it.

I am going to identify billions of dollars of pork that are in this bill that have had no scrutiny, no competition, no nothing except a testimony of the influence of some member of the Appropriations Committee.

I ask my colleague if he is surprised this should happen.

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

Mr. CONRAD. First, let me answer the question of the Senator from Arizona. Am I surprised? I am not surprised there are things in here almost nobody knows about. I started out by going back to President Reagan's admonishment to us never to permit this to happen again. That was in 1988. This is 2004, and here we are again 16 years later with over 3,000 pages dumped on our desks, and we are told to vote on this in a few hours. Nobody knows what is in here. We have been scouring this bill—thank goodness some sharp-eyed aide of mine saw this little nugget.

I must say, I am surprised something such as this could even get through a flawed process like this one. I am amazed we are about to pass in the Congress of the United States a provision that would allow some staffers to look at any tax return of any individual, of any company, and not have civil or criminal penalties apply to them for the release of that information.

I tell you, that is serious. That is serious.

Mr. LEAHY. Madam President, will the Senator yield for a question?

Mr. CONRAD. I will be happy to yield to the Senator from Vermont.

Mr. LEAHY. Madam President, the suggestion has been made that the system is broken. Of course, I thought it would work far more smoothly with a Republican President, a Republican House, and a Republican Senate. We had actually passed a budget back last April, which by law we are required to do.

Madam President, will the Senator from North Dakota agree that there is at least one glimmer of hope here on the system working? This was put in by the Republicans in the House, and at least the Democrats in the Senate discovered it. So to that extent, there is at least a glimmer of hope.

Mr. CONRAD. I say, in answer to my colleague, I agree with the Senator from Arizona, the system is broken. The system is completely broken when we have 3,000 pages dumped on our desk and we are told to vote in 3 hours.

Now, that does not make sense. Members do not know what is in this. We find egregious provisions such as this one tucked away that people did not review, did not debate, did not discuss, did not have a chance to amend, have not had a chance to vote on, and all of a sudden it is contained in here. That cannot be.

The PRESIDING OFFICER. We are currently in morning business with a 10-minute time limit, and the 10 minutes of the Senator from North Dakota has expired. The Senator from Montana.

Mr. MCCAIN. I have a parliamentary inquiry. Where are we on the bill?

The PRESIDING OFFICER. We are in morning business.

Mr. MCCAIN. When do we expect to take up the legislation itself?

The PRESIDING OFFICER. That has not been determined.

Mr. MCCAIN. I thank the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I happen to be the ranking member, that is the most senior Democrat, on the Finance Committee. In years past, I was chairman of the Finance Committee when this side had the majority.

Mr. SARBANES. Those were the halcyon days.

Mr. BAUCUS. Yes, those were the halcyon days when this country was represented really well.

But I might say the provision we have been discussing; namely, the degree to which Members of Congress should have access to any American's income tax returns, is really an outgrowth of the Nixon years. That is, in the Watergate years, when too many Government officials had access to individuals' income tax returns and we enacted so-called Watergate reforms, one of the reforms was a section in the code which basically provides that no one in Congress has access to any American income tax return—as well they should not—except for the chairman of the Finance Committee and the chairman of the House Ways and Means Committee, the committees that have jurisdiction over our tax laws.

Someone might ask, why should they have jurisdiction? Why should the chairman of the Finance Committee have the right to look into an individual's tax returns? That is a question that should be asked very seriously and it is one we should take very seriously.

But the reason that is in the law today is so the Finance Committee can exercise jurisdiction or proper oversight over our Tax Code, especially looking into how companies, maybe individuals but certainly companies, use the tax system to shelter their income—what do they do; how do they do it—so we in the Congress can enact legislation that closes those loopholes. That is what we have done.

Within the last couple of years, with the so-called Enron reforms as we looked at Enron's tax returns, we found a lot of provisions where actually the company was overstating assets in a certain area and understating in another, sheltering a lot of income, clearly not in the spirit of the income tax returns.

I might say, too, that, frankly, the Tax Code is so complex and the returns are so complex it is difficult for the enforcement agency, the IRS, to look at all of these shelters and to enforce the tax law.

As we know, a low percentage of tax returns are currently audited, and it is very difficult for the Joint Tax Committee because they do not have the resources to look at all of this.

The long and short of this is that we in the Finance Committee, the chairman of the Finance Committee and his staff, looked at income tax returns, including Enron, and we made appropriate deletions to protect proprietary interests. Nevertheless, we thought we should exercise that responsibility and we did, very carefully and professionally, and the result was not to use individual tax returns but, rather, closing a lot of loopholes of which companies, in this case Enron, were unfortunately taking advantage.

The current law also provides for civil and criminal penalties for any unauthorized disclosure by the chairman of the committee or authorized staff of any unauthorized information, which there well should be. If any of us were to divulge any of the information we might have, we go to jail, and we should.

The provision we are talking about here, that is, in this big appropriations bill right in front of me, basically says the chairmen of the Appropriations Committee, House and Senate, have the same authority, and that they can also exercise that authority and have access to income tax returns without any penalty whatsoever, no criminal penalties, no civil penalties, for any unauthorized disclosure.

Well, what does that mean? It does not take a rocket scientist to know that means anybody on the staff of the Appropriations Committee can just take that tax return information and can go to the press, can use it however they want on anybody, without any penalty. That is an outrage. Even in the dead of night, who would try to enact a provision like that? And that is what the majority has done very late at night.

My staff happened to find this provision several hours ago. I called them this morning to see what they found in the conference report. They said: We are still trying to download it. We divided it into different parts. We are not going to be able to go through it all until 5 o'clock today, not even see what is in this conference report until 5 today. That is about eight or nine people in my office, each downloading from the House Ways and Means Web site various portions of what is in this conference report.

I am informed that the House has gone out. I do not know if that is accurate, but I am informed the House has adjourned and that is highly, highly reprehensible. They passed this provision in the middle of the night, did not tell a soul, did not consult with the Finance Committee, did not consult with the House Ways and Means Committee. They certainly did not consult with the Finance Committee. The chairman of the Senate Finance Committee found out about this a few hours ago and he is as upset as I am. The chairman of the Senate Appropriations Committee, Mr. STEVENS, I am told he did not even know this was in there until a couple of hours ago when he was informed about it. That is what I am told. He did not know it was in there. Come on.

It seems to me that the one resolution yet available is for the Senate to amend—it is a procedural motion here—the enrolling resolution, to strike that language and send it back to the House.

I have to figure out there is a way for the House to stay and meet. I am told they are just doing special orders or something like that. I am told they have not adjourned sine die. It is clear that if they want to change this, the House of Representatives can find a way to change it. They can find a way if they want to. If they do not, I have to reach one conclusion, they do not want to. They want to give the Appropriations Committee chairman this unfettered access to individual income tax returns and the ability to release it to anybody in the world without any punishment, without any civil penalties, without any criminal penalties.

I ask the House of Representatives, I ask the Speaker of the House, I ask the leadership of the majority party in this body, to find a way to get the House of Representatives to accept our resolution.

I have been told we will have a colloquy or we will take this up later. We all know what happens when we take things up later—it does not happen. Things have a way of getting lost. One has to strike when the iron is hot. The iron is really hot now.

When the American public hears about this—we can bet dollars to

donuts there is probably nobody in the press gallery right now because they are out writing their stories about this—we are going to hear about this and I would think that the majority party would like to nip this thing in the bud and get it done right now and not have it in the press for weeks and months because it is on the doorstep of the majority party of the House and the Senate. It is on their doorstep. If they want to change it and delete it, they can do that. If they do not want to change it or delete it, then they are not doing it.

Since I have been in this body, I cannot think—I am sure there are others but I cannot think of an outrage as reprehensible as this one. Can my colleagues believe it, unfettered access to individual tax returns which are supposed to be private income, that can be divulged to anybody without any sanctions? Come on. How can anybody even conceive of suggesting something like that? Somebody did it in the middle of the night, and I might say we still do not know what is in this legislation. As I said before, the chairman of the committee did not even know about it. The chairman of the Appropriations Committee did not know about it. They do now, and I call on them to do something about this to get this problem solved right now.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, this is what happens at the end of a session when things go bump in the night and on your desk you find a stack like this. I am a member of the Appropriations Committee. A lot of work has gone into this, but by waiting until the end of the session to put all of this in front of Members of Congress, it becomes literally impossible for us to meet our responsibility to say to the voters we represent that we know what is here; it is good for America, and we are voting for it. You have to operate on faith.

That faith is shaken if not destroyed when something comes through like this. If there is anything we are supposed to respect in this country, it is the right of privacy, particularly when it comes to Government records. To slip in this section 222 in the Treasury appropriation, and give to certain Members of Congress and their staff access to individual income tax returns which they can order up from the Internal Revenue Service and then use the contents with impunity, in other words, without any threat of civil or criminal prosecution if they disclose them, is to create a situation which, frankly, is beyond description.

We talked about enemies lists 40 and 50 years ago in America, where administrations would decide which Americans were not friendly and there was a hint or suspicion that the Internal Revenue Service was going to look at their tax returns. That is as far as it went.

Forget the hint of suspicion, this is an outright delegation of authority to elected officials in Congress and their staff to order up the tax returns of any person they choose. Could it be their opponent in the last election? Or maybe the candidate who might run against them next time? Could it be a whole branch of contributors to certain causes? All of those things are possible under this.

It strikes me as odd, if we are going to respect the right of privacy for individuals in this country, that we would delegate this authority and then say that the staff people and Members of Congress who use it can disclose the contents to the public without any fear of prosecution. They could turn them over to the press. They could use them on these talk shows. It could happen.

In case this sounds as if it is in the realm of the ridiculous, it happened to be on the Senate Judiciary Committee on Capitol Hill that a staffer hacked into my computer and stole 2,000 documents from my computer and turned them over to the press and special interest groups in Washington. He was caught, thank goodness, and now there is an investigation underway. But he was using material from my staff and my office in an effort to not only try to anticipate what might happen in the committee, but to use it against me politically. That happened at the Senate Judiciary Committee, the committee responsible for reviewing and designating future Justices in the Supreme Court. It happened within our committee.

Now what we are saying is we will write into law the access of Members of Congress and their staff to, not just the computer memos generated in my office, but income tax returns; that they could have access to an individual income tax return and disclose it with impunity, without any possibility of being held accountable for that fact. That is a troubling development.

I do not know who is responsible for it. It happened in an appropriations bill that it turns out at least Members on this side of the aisle were not aware it was included. But think about the fact that we are dealing with some 3,400 pages of legislation here. It is not possible for us to read through every word of this, every paragraph, and to find out if we can trust the contents of this to be something that is good for America and something about which we can cast our vote in favor.

I thank my colleagues for coming to the floor—Senator CONRAD from North Dakota, Senator BAUCUS from Montana and others, Senator MCCAIN from Arizona, for bringing to light this outrage.

It is not enough for us to limit this outrage to the point where we say we will pass it today and take care of it tomorrow. What happens in the meantime, after this is signed into law? What will happen? I don't know.

But we will be giving legal authority to individuals to misuse income tax returns of individuals, families, and businesses across America. That, in my mind, crosses a line which we should never allow to be crossed.

The Government serves us. We are the masters of this country because, in a democracy, the voters rule. When it reaches a point that you have to worry about the tyranny of a government invading your privacy, disclosing information which they have no business to publicly disclose, then we have crossed a line which we should never cross.

Mr. SARBANES. Will the Senator yield for a question? As I read this provision, the chairman of the Appropriations Committee could send what are called agents—which I take it means staff?

Mrs. BOXER. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senate is not in order.

Mr. SARBANES. Then the Commissioner of Internal Revenue is required to give them access to the Internal Revenue Service facility and access to any tax returns or return information contained therein. So they, in effect, have a carte blanche to gain access to any tax information involving any tax return. Is that correct?

Mr. DURBIN. That is my understanding. I would say to the Senator from Maryland, as you read it, it is even more expansive than I described it. I talked about asking for a tax return. As you read this language, they could ask for all of the tax returns of certain individuals or people living in certain areas or people working for certain companies or people contributing to certain charities or contributing to certain political candidates. They could go in and ask for all the information, and can do it without any penalty under law if they disclose that information or misuse it.

To think that we would give this authority in an appropriations bill of 3,400 pages, and we stumbled upon it in the last few moments, is an indication of some of the troubling possibilities in this piece of legislation.

Mr. SARBANES. The Senator is absolutely correct. I thank the Senator for answering the question.

Mr. DURBIN. I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I want to say to my colleagues who read this bill—I don't know if I can hold it, but here it is. I asked that it be put on everybody's desk. That is a rule in the Senate. You can require that because I think just looking at this you see how not to legislate. I think Senator MCCAIN has made that point eloquently.

I am going to speak for about 5 or 6 minutes now. I am going to speak more later.

I thank my colleagues who found that ''Big Brother is watching you'' language in this massive bill. It is a horrific thought that some person working for the Government can identify a taxpayer and go after him or her, or go after a business without penalty. This is unheard of. If this is a new America, then let me say we have a lot

of work to do around here, and things are going to be slowed down because as much as everyone wants to get home and get with their families, not the least of which is the folks on the floor right now, we may have to sacrifice a little bit if this is the kind of legislation that comes before us in this huge packet.

I am going to take just a few minutes to run through another piece of legislation that was thrown in here without any vote in the Senate, without any hearing in the Senate, without any discussion in the Senate, and that is the so-called Weldon amendment which has very many adverse consequences for millions and millions of women of reproductive age in our country.

The Weldon amendment is a sham conscience clause. It takes a good conscience clause that was put in place so that doctors who have a moral or religious objection to performing abortion do not have to do that, but what this does is says anyone who wants can claim a conscience clause without giving any reason, and expands it to HMOs and insurance companies. Imagine giving an HMO a conscience clause. Since when do HMOs have a conscience? I haven't met one that did so far.

Now, any business entity can decide to tell its doctors who work for it that they cannot give women information about their constitutional right to choose, even in the cases of rape, incest, and life of the mother. In this bill, millions of American women are now at risk, if they are the victim of incest or rape or their life is at stake, they will be denied services and referrals. It is extraordinary to me.

Women will be left abandoned in emergency by overriding the Federal Medicaid law. It abandons women in emergency rooms who have life-threatening pregnancies. It overrides title X requiring referral to appropriate clinicians or clinics. It overrides State laws.

Now you have from my colleagues who run this place, the Republicans, who always say they don't like Big Brother—first, you have them going after your tax return, and now you have them overriding State laws that respect a woman who may be in deep trouble because of incest, or rape, or her life may be threatened.

Can you imagine that? When the American people learn about this—that a woman could stagger in, having been raped by a relative, and she does not have to be told her constitutional rights. Let me tell you, that treats women worse than criminals.

Let us see what we do about criminals. We make sure criminal suspects have to be told their constitutional rights. These folks could be suspected of the most heinous crimes. We have to tell them they have a right to remain silent; anything they say could be used against them in a court of law; they have a right to an attorney before they can be questioned; if they can't afford an attorney, one will be appointed. And then they are asked, Do you understand these rights?

A woman who may be quite poor, who may not know all of her constitutional rights, up to now has been protected because all the laws we have on the books say she needs to be told what her rights are. Look what we do here to women. Women don't have their constitutional rights explained to them. Under Roe v. Wade, a woman has a right in the first 3 months of her pregnancy to be told that the decision is hers, without government interference. After that, she has to be told that her health and life must always be protected throughout her pregnancy. These are the constitutional rights of women.

Yet with this Weldon language which was put into this bill, without a Senate hearing, without Senate debate, without a Senate vote, a woman will be treated worse than suspected criminals.

Mr. LAUTENBERG. Mr. President, will the Senator yield for a question?

Mrs. BOXER. I am happy to.

Mr. LAUTENBERG. In our State of New Jersey, public hospitals are not allowed to deny abortion services to a woman. What effect will this new Federal law have on those women's rights accorded to them under State constitutions?

Mrs. BOXER. The State law will be overridden, my friend. And your State—and I know you and Senator CORZINE are here to fight for your State. You fight for your State every single day. Right now, in this package, without one hearing, your State, if this bill passes, is going to be told from now on they cannot in any way have protections for women in the law if that State takes Federal funds. Of course, they all take Medicaid funds. They will not be able to protect women. Not only won't they be able to protect women in the sense that the woman can have a legal procedure, but the woman won't even be able to get a referral.

Mr. LAUTENBERG. Can a doctor who works at a hospital that doesn't provide abortion services be prevented from providing a patient with a simple direction to say we don't do it, I won't do it, but there are places you can go and you ought to check the directory, or check Web sites and see if you can find a place to get this done?

Mrs. BOXER. Yes. There is a gag rule on doctors. The way it would work would be this: If an organization, an HMO, or a hospital, or an insurance company decides it no longer wants to either provide abortion services or even refer a woman to abortion services, they can say to the doctor who works for them, if you want to work here, forget about it. You cannot refer a woman for an abortion. You can't tell her about her constitutional rights. It is a gag rule that will now be permitted on the doctors of this country to the detriment of the patient.

I will go over this quickly.

Under current law, doctors can choose a conscience objection to provide abortion services. We all support that. If a doctor personally declares a conscience objection problem, he or she does not have to perform an abortion. However, if a doctor doesn't have a conscience objection, under the Weldon amendment, HMOs and insurance companies who no longer wish to provide women with information on their constitutional rights can prohibit doctors from performing them and referring women; they will lose their job.

Mr. CORZINE. Mr. President, if the Senator will yield, it is my understanding this provision now being described not only deals with conscience issues but also deals with what potentially HMOs or insurance companies can choose to not inform, not because of an issue of morality or religious beliefs, but because they just flat out believe it is not in their best business interests to do that. So we are changing the whole generic and fundamental reason on how we are addressing this issue.

Mrs. BOXER. Yes. That is why I call it a sham conscience clause. It took a conscience clause we passed in 1997 that was very fair, because none of us, pro-choice or not, wanted to say to a doctor you must perform a procedure that you have a religious objection to, and now we have taken that and thrown it out. We say for whatever reason or for no reason, not only a doctor but an HMO, an insurance company, can decide they don't want to offer the service regardless of State law, regardless of local law, and regardless of Federal law.

The PRESIDING OFFICER. The Senator's 10 minutes has expired.

Mrs. BOXER. Mr. President, I ask unanimous consent for 4 more minutes.

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

Mr. CORZINE. Mr. President, to put this in the context of this 3,500-page bill that we are legislating outside of the Constitution, of the formal processes of hearings, not unlike the abomination of the IRS where we are creating policies that are changing both State law and privacy issues, both in the case of a woman's right to have access to protecting her health, and dealing with things like the Federal privacy laws with regard to the IRS—what we are doing with these 3,500 pages is the American people are getting legislation tucked into bills without any kind of debate or transparency.

Mrs. BOXER. Absolutely. What we have going on here is this enormous spending bill, and buried in it is legislation that was tacked on, in many cases never discussed, such as this one Senator CONRAD discovered, where a committee staff can look at Senator GRASSLEY's tax returns or my tax return, or Senator CORZINE's income tax returns, or anybody's tax return, and give it to the press. They could choose someone who is a constituent of ours. They could choose someone and find out what charities they are contributing to.

This is the big government watching us, and the Weldon amendment is tucked in here without any vote by this Senate, either in committee or on the floor. I will tell you right now, talk about big government watching you. This is big government overriding State laws in many States. It is big government that is abandoning women in the emergency rooms who have life-threatening pregnancies, who walk into emergency rooms, and under a different law that protects this woman, she has to be stabilized. No more; not with the Weldon amendment.

I wanted to say to my colleagues that I was willing to stand on my feet as long as it takes because of the outrage I feel for the women in this country because of the way they are treated in this bill. But I have been able to work with Senator FRIST, Senator REID, and Senator DASCHLE, and it looks as though we will be able to reach an agreement to have a vote on my bill to repeal this Weldon amendment within the next couple of months. At that time, we will shed light on it. I will have far more to say about it. I wanted to tell my friends here—and I thank Senator FEINSTEIN, Senator LAUTENBERG, and Senator CORZINE, who are on the floor—how much I appreciate your leadership on this.

This is an outrage.

Mr. LAUTENBERG. If I may ask the Senator from California, the Senator is saying she has a commitment. Will that be expressed?

Mrs. BOXER. I will not allow a vote until we have a colloquy read on the floor between myself, Senator REID, and Senator FRIST which promises we will be able to have an up-or-down vote on the Weldon amendment sometime around April, sometime before that, where we can debate this on both sides, where we can share our views on it. Then I will feel in my heart we have done the right thing by the women in America, at least protecting them by letting the light shine on this piece of legislation, which is a shame for the women of this country, overriding State law, overriding laws that protect a woman who might walk into an emergency room, practically at death's door, and no longer would receive treatment.

I thank my colleagues.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I speak in strong opposition to a very troubling provision in this bill that will potentially take away American taxpayers' right to privacy regarding their personal income tax return.

The section I refer to is Section 222 of the bill. This section will allow any agent designated by the chairman of the Appropriations Committee access to tax returns and tax return information.

Section 222 provides this sweeping new authority while at the same time it throws aside years of detailed strict statutory protections for taxpayers that also ensure the privacy of taxpayer information.

Given that the language in this section can be interpreted to eliminate all restrictions on access to taxpayer information and publication of taxpayer information, there is nothing to prohibit the Appropriations Committee from obtaining taxpayer information, information about a corporation, information about an individual and releasing it to the press without fear of penalty.

There is no reason that the Appropriations Committee cannot obtain taxpayer information, your 1040, and just posting it on the Web.

This poorly drafted and even more poorly conceived legislation will bring us back to the doorstep of the days of Nixon, Truman and similar dark periods in our tax history when tax return information was used as a club against political enemies.

My colleagues may find these concerns over the top but I can assure you that when it comes to protection of taxpayer information the history has been a very troubling one and it is only through constant vigilance that we have been able to give Americans confidence that their tax return information will be protected and private.

I find it especially troubling that this language which will harm the volunteer tax system and make the work of the IRS harder comes in an appropriations bill that fails to even provide the the full funding requested for the IRS by President Bush.

What is more important, providing more money to the IRS to combat tax shelters, or allowing Appropriations staffers the right to dance through private citizens' tax returns at will? This is an outrage.

Just so my colleagues understand the claim for this language is that it is to allow the appropriations committee with access to IRS facilities for oversight purposes but not the ability to examine individual tax returns, data or information.

This is the statement that was made in colloquy between the chairman of the Ways and Means Committee and the Chairman of the Appropriations Committee in the other body.

The statement between the two members further states that it is the intent of the Appropriations Committees that all access to taxpayer information remains governed by the disclosure and privacy rules of Section 6103 of the Internal Revenue Code.

For my colleagues information, Section 6103 of the Internal Revenue Code generally governs and protects taxpayer information.

What is particularly frustrating is that Section 6103 already provides the Appropriations Committee a means to have access to taxpayer information—within the protections and limitations provided by law to protect taxpayer privacy.

The Appropriations Committee can seek permission for access to taxpayer information from the chairman of the Ways and Means Committee or myself, in the Senate, the chairman of the Finance Committee. I have received no request for access to taxpayer information from the Appropriations Committee during my time as chairman.

However, I would say that my colleagues know my reputation for oversight and encouraging oversight and I have been very open minded about granting such requests. In addition, any committee can appeal for such authority to the House or Senate for authority—that also has never taken place by the Appropriations Committee to my knowledge. Again, if that authority is granted the protections provided under Section 6103 are still in place.

This provision in the omnibus bill reflects a mindset that Members or, more likely, their staff—don't want to be bothered with such longstanding successful mechanisms to provide access for legitimate congressional oversight and have instead opted for the ''easy way out.''

And let me be clear, the ''easy way out'' contained in this bill will jeopardize taxpayer privacy and taxpayer information.

Let me make a final point. This section places the Commissioner of the IRS in the position of possibly forcing him to violate the law under Section 6103. The Commissioner of the IRS is still covered by Section 6103 and the penalties for improper disclosure.

It is my early review of this language that this Section 222 will put the Commissioner in the position of an improper release of tax information in violation of 6103. In such a case it is my view that the Commissioner should not release any tax information under this Section 222.

They say haste makes waste. In this case, with Section 222, haste has made a hash of years of efforts to protect taxpayer information and ensuring that taxpayer information is kept private. It is disgraceful that all this is being done because some Members of the Congress can't be bothered with following the simple rules in place to protect taxpayer information. Now, I have been satisfied since this has come to our attention that this goes much further than what the chairman of the Appropriations Committee has desired, or even more so, that he was not aware of the sweep of this legislation and that it will be corrected shortly in other action taken by this body under the leadership of the Senate Appropriations Committee—and presumably, I am also told, with the adherence of the chairman of the House Appropriations Committee. So this may no longer be an issue.

Mr. STEVENS. Will the Senator yield?

Mr. GRASSLEY. I yield.

Mr. STEVENS. I would like to tell the chairman of the Finance Committee as chairman of the Appropriations Committee, I checked with Chairman YOUNG, BILL YOUNG of the House

Appropriations Committee. Neither of us was aware this had been inserted in the bill. It was inserted at the request of one staff to another, reliance on the statement made by one that the front office had been briefed and is fine with this.

That was not right. No Member had ever seen it. It came out during the readout. I am pleased that after it was presented to the body, it was found. It does not represent the policy of the Appropriations Committee. None of us have even ever discussed in a meeting either on this side or the House of Representatives any further access to taxpayer information. It came strictly from a staff request to another staffer.

It is absolutely a mistake. I apologize to the Senate. I am sorry that both the Senator from Iowa and his colleague, Chairman THOMAS in the House, properly were exercised over it. It is a mistake. It will be deleted. We have made an agreement it will be totally deleted from this bill.

Mr. MCCAIN. Will the Senator from Iowa yield for a question?

Mr. GRASSLEY. Yes.

Mr. MCCAIN. Would this not be, the explanation just provided by the chairman of the Appropriations Committee, incredibly disturbing, that we would have a bill before us, that we would have a few hours of debate, and if it had not been for the alert staff, one of the staffers over here, this would have been passed into law?

This would have been passed into law. Now we find out how it happened. One staffer had an agreement with another staffer, and it was placed into a multithousand-page document that none of us had ever seen or read.

Doesn't the Senator from Iowa find this incredibly disturbing, that there will be all kinds of pressure we vote as soon as possible on this bill because we all want to get out of here, that it is just discovered, but it was done by two staffers?

Has this system broken down completely here in the U.S. Senate?

Mr. GRASSLEY. To the Senator from Arizona, I cannot disagree with what he says. But we do have a bill before us. And the fact is, the chairman of the Senate Appropriations Committee has assured me—and he is a man of his word—that he is going to take action to get this out of here. That does not detract anything from what the Senator from Arizona said about the bill, but I am satisfied as far as this egregious provision being taken care of.

Mr. STEVENS. Will the Senator yield further?

Mr. GRASSLEY. Yes, I do. But I want to say thank you.

Mr. STEVENS. The Senator from Arizona is absolutely warranted in his comments. As I said, I apologize to the Senate. We thought we had these bills read through twice. Both sides read them through twice by people who are involved in them.

I have to tell the Senator from Arizona, I do not sit there for 10 hours as that is being read. I rely on the people who have been with us now for years and years to tell us that it has been checked properly, that there is nothing in the bill that has not been approved by the bodies respectively and in conference.

But this error happened. I do apologize to the Senate. It is unfortunate. And it is more than a mistake; it is a terrible disaster, and we will have to examine our whole procedures to see if there is any way we can prevent it in the future. But it has happened now, and we do apologize.

Congressman YOUNG is as disturbed about it as I am, and his statement was: ''Take it out now.'' And that is what we are going to do.

Mr. GRASSLEY. I think the Senate should be assured.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Thank you very much, Mr. President.

I was present in the caucus when the Senator from North Dakota raised this issue and read the language, and I think I have listened to all of the commentary. I very much respect the chairman of the Appropriations Committee. I have served on that committee for 10 years now.

I have a very hard time accepting that this is just an inadvertent staff submission, and I wanted to say why. Because this section 222, if you read it in its entirety, is really an egregious abuse of power. If you go down to line 17, it says: ''allow agents.'' We are not talking—this is not even staff. This is anyone the chairman of the Appropriations Committee would designate, in written form, would have ''access [to all] Internal Revenue Service facilities and any tax returns or return information'' such as legal information, cases brought.

I cannot believe that some staffer, for some technical reason, wanted to insert this in the bill. I think this is an egregious overreach of power. I think we ought to do the right thing by it, and the right thing, for me, is to vote down this bill, call the House back, have them reconference the bill, and do it the right way. I do not think this language should be active for 1 minute, let alone 1 day. It is just a terrible, egregious abuse of power.

I do not tend to be suspicious. But I see the Senator from Idaho there, and I see the new chairman of the Judiciary Committee here. Does anyone believe, really, that some staffer, without any permission, thought up a scheme by which a chairman's ''agent'' could have access to every IRS facility anywhere in this Nation, and every single IRS filing of every citizen of this Nation?

I mean, you know, we were not born yesterday. We did not come down with the first snow. I think that is asking for an impossibility. How can we believe that? I think to just shuffle this off——

Mr. LAUTENBERG. Will the Senator from California yield for a quick question?

Mrs. FEINSTEIN. Yes, I will.

Mr. LAUTENBERG. Could you see that this information might be used in a political campaign?

Mrs. FEINSTEIN. Absolutely. Absolutely. I can even see it being used to go after some district attorney in Texas.

I find this an egregious abuse of power. I think we ought to spend some time on it. We ought to talk about what it means. I do not think any Member of this body ought to accept the fact. And if some staff does have the power to simply put something in that is so widespread, have the House of Representatives already pass it—and a bright staffer of Senator CONRAD's found this. What if we had passed this bill?

Senator MCCAIN is absolutely right. This place is broken. And it starts by having one party left out of conference, which has become more and more an accepted trait. That is how this place is broken. You are going to have one party where one person can insert things in the dead of night, in huge bills, which come to this Chamber. It has already passed 345 Members of the House of Representatives.

Mr. HARKIN. Will the Senator yield for a brief question?

Mrs. FEINSTEIN. I am happy to yield.

Mr. HARKIN. I thank the Senator. It has been floating around here that this is somehow a staffer who put this in. I do not know the answer to that question. But certainly someone is responsible and certainly it should not take an investigation lasting a year to find out who. Someone was responsible for this.

I ask the Senator from California, does the Senator feel we ought to know who the person responsible is, and certainly anyone who would exceed his or her authority as a staff person to put in that kind of language, I ask the Senator, does the Senator think that person ought to continue employment in either the U.S. House or the U.S. Senate?

Mrs. FEINSTEIN. I think there certainly ought to be an investigation. I cannot conceive of a staffer doing this without authorization. I cannot conceive of a staffer—if this is so staff can go and look at tax loopholes, in the first place, the Appropriations Committee does not need this. The Finance Committee can do that. Why does the Appropriations Committee need this authority? It does not make any sense.

Not only that, if you are going to copy the legislation that relates to the chairman of the Finance Committee, there is a sanction there, a very heavy sanction for misuse of that information.

Mr. HARKIN. Civil and criminal.

Mrs. FEINSTEIN. If you are going to copy it, why not copy that part of it? This is not a copy job. This is somebody's innovative thinking of how they

could get their minions access to the tax returns of individuals who might be political opponents or who might come up against them in some way or for general resource information to use against an individual, against a company, against a member of the press, at any given time.

Everything we have tried to do, with Social Security numbers, with privacy, is to protect individuals' rights to their own privacy. Every stricture of the IRS is to protect an individual's right to privacy.

Mr. CONRAD. Will the Senator yield on that point?

Mrs. FEINSTEIN. Let me just finish. I am just getting wound up. Let me just finish this windup.

Here, in the dead of night—this is not poorly thought out. This is very carefully thought out. Whoever did this knew exactly what they were doing, and they got it through one House.

Please, don't shuffle this under our desks with a resolution. This bill should be defeated. It should go back. The House of Representatives, which passed it, should at least have to come back to Washington and correct their error. This is the way I feel. I think the American people would be just appalled if they knew this was in the bill.

Mr. CONRAD. Will the Senator yield?

Mrs. FEINSTEIN. I will yield, certainly.

Mr. CONRAD. It was represented on the floor that there was a colloquy on the House side, and in that colloquy they suggested there was no intent for this language to permit access to individual tax returns.

In that colloquy, they suggested, there was no intent. Now, the Senator has read this language. Do you believe the representation that has been made on the House floor that this didn't intend to access individual tax returns?

Mrs. FEINSTEIN. Absolutely not, because twice on line 14 and lines 19 and 20, it reinforces that it is a tax return or return information. It broadens it from tax return.

Mr. CONRAD. I might say to the Senator, if you go to lines 18 and 19, that says '' . . . allow agents designated by such Chairman access to Internal Revenue Service facilities and any tax returns or return information contained therein.''

Mrs. FEINSTEIN. It gives them free access to every IRS facility anywhere in America, to go and rummage through and do whatever dirty work they want to do.

Mr. CONRAD. I will ask a second question. On the House floor, they made the representation that this was intended to preserve the protections for individuals' rights to privacy. Now, I ask the Senator from California, is there anything in here that has a protection for taxpayers of their private return information?

Mrs. FEINSTEIN. I worked on privacy legislation, and this absolutely does not have any protection for an individual.

Mr. CONRAD. In fact, it completely sweeps aside all of the protections that are in law because what it says is:

Notwithstanding any other provision of law governing the disclosure of income tax returns or return information, upon written request of the Chairman of the House or Senate Committee on Appropriations, the Committee of the Internal Revenue Service shall allow agents designated by such Chairman access to Internal Revenue Service facilities and any tax returns or return information contained therein.

There is no protection; it is out the window. There is no criminal penalty, no civil penalty. They could call up the return of the Senator from Arizona, if they didn't like the speech he gave on the floor of the Senate; they could get that return and they could release it to the press and have absolutely no penalty.

Mr. MCCAIN. I think I would be the first.

Mrs. FEINSTEIN. Mr. President, if I may make a comment—and then I will defer to a question by the Senator from Idaho. I think this is so Machiavellian—to realize this power is being given to just one Member of the House and one Member of the Senate, and it is a power that I think is broader than that which now exists with sanctions for the Chairman of the Finance Committee. It is not just a staffer, it is an agent that can go. You can hire an investigator. You can have your campaign chairman designated to go in writing. That is the broad fashion in which this phrase or this section is written. It is a very frightening thing.

As I say, I don't often get exercised or upset about things, but the more I read, the more I saw that it was very carefully put together. It is extraordinarily dangerous and a real abuse of power.

I am happy to yield to the Senator.

Mr. CRAIG. Mr. President, I share the Senator's outrage. I agree that the Appropriations Committee chairman and ranking member and/or their staffs or designees do not need this authority. You heard the Finance Committee chair speak, and the ranking member has spoken; they have this authority. But in them gaining this authority, there are very real sanctions against any disclosure.

I know this is an opportunity to make a substantial amount of hypotheticals. Agents are also our staffs. That is what is intended within the law, and that is what is in the law today as it relates to the Finance Committee. I agree with the Senator; this ought to come out. You heard the chairman of the Appropriations Committee say it will come out. It is now not law, nor will it become law. I think that is what is most important.

Is the system broken? Yes. This represents a broken system. What is not broken about it are the keen eyes of all of us and our staffs. The ranking member of the Budget Committee and his staff have found this, so the system is not broken; it just got discovered. It is not in the dark of night; it is a dark early evening. It is 6 o'clock and we are doing the business of the country.

The Senator from California is absolutely right in what she says. I am not going to play hypothetical. That is the politics I will not enter into. But I agree with her and I suggest that we can talk a great deal about this section, but it will never become law because you and I and the Senator from North Dakota, and everybody else on this floor, by a vote of probably 100–0, will not allow it to happen. I thank the Senator for his diligence.

Mrs. FEINSTEIN. I appreciate the comments of the Senator.

Mr. President, I will wrap this up. I commend my friend and colleague, the junior Senator from California, Senator BOXER, for her indefatigable effort and perseverance on the Weldon amendment. I want to say how strongly I agree with her. I will submit for the RECORD a letter I circulated, signed by Senators BOXER, SNOWE, CLINTON, LINCOLN, MIKULSKI, STABENOW, MURRAY, CANTWELL and COLLINS. I think if I could probably sum it up for everybody, this is just one more step in removing a woman's right to choose. It is a terrible step because it also subjects a woman without resources to a situation where she cannot find help, particularly in a rural area.

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:

U.S. SENATE,
Washington, DC, November 19, 2004.

Hon. TED STEVENS,
Chairman, Senate Committee on Appropriations, Washington, DC.

DEAR SENATOR STEVENS: We are writing to oppose a provision called the federal refusal clause from being included in the FY 2005 Omnibus Appropriations bill. This provision was included by Representative Dave Weldon in the FY 2005 House Labor-HHS-Education Appropriations bill and it would allow a broad range of health-care companies to refuse to comply with federal, state, and local laws and regulations pertaining to abortion services.

Should this provision become law, federal, state, or local government may no longer require any institutional or individual health-care provider to provide, pay for, or refer for abortion services. This will mean that medical providers in hospitals and clinics across the country will likely be victims of demonstrations and intimidations as this provision allows that they be forbidden from providing abortion care to women who need it, and also to deny women referrals to another provider. It will interfere with the authority of Attorneys General to reject, approve or impose terms on the sale or transfer of assets by nonprofit health entities as under current law. For example, an Attorney General could no longer reject a merger proposal on the grounds that the result would be diminished community access to full reproductive health services.

This provision has never been considered in the Senate. There have been no hearings held and no debate about this provision. Further, this provision puts all states' Labor-HHS-Education funding at risk and will require them to change existing laws.

The federal refusal clause is harmful to women and denies women access to reproductive health services. We ask that you oppose

its inclusion in the FY 2005 Omnibus Appropriations bill.

Sincerely, Thank you for your consideration.

Dianne Feinstein, Barbara Boxer, Olympia Snowe, Hillary Rodham Clinton, Blanche L. Lincoln, Barbara A. Milkuski, Debbie Stabenow, Patty Murray, Maria Cantwell, Susan Collins.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I just ran up here. I thought I heard the Senator from California say the chairman had sought this power?

Mrs. FEINSTEIN. No, I did not say that.

Mr. STEVENS. I hoped that was not the case. In any event, the Senator from California did say it was a one-sided review, with the Republicans reviewing this. The staff reads out our bills—joint staff, House and Senate, Republican and Democrat. I don't want to embarrass anybody here tonight. I am sure every Senator and Congressman will talk to their staff about this mistake. I assure the Senate that there were members in the minority from the Senate and from the House and members from the majority from the Senate and House that read this bill through twice. It wasn't just the majority; it was the minority and the majority staff.

This is a mistake. It is clearly a mistake. It is an unfortunate mistake. I have talked to the chairman of the House committee. He was appalled, as I was, when we found it was in there. To my knowledge, no Member of the House and Senate was asked about this staff request. A representation was made that the front office had cleared it. Actually, we have to have a signoff from the minority as well as the majority staff for their section of these bills. We have that signoff.

If the Senator from California wishes, I will tell her the members of the staff on the Democratic side who reviewed this section and signed off on it. I don't want the RECORD to show it was a partisan review. We do not have partisan reviews of our bills. As a matter of fact, there is no committee that works on a bipartisan basis more than the Appropriations Committee.

Again, I apologize to the Senate. Members of my staff are going to answer to me tomorrow. I want the Senate to know it was a bipartisan staff from the House and the Senate that made this mistake, a terrible mistake. I question any staff member who would ever approve this language without referring to a Member of the Congress to whom he or she is responsible.

I hope the Senator from California understands it is not something we sought, not something we wanted. Both the chairman of the House committee and I sought to delete it the minute we found it. It was too late. The House had already passed it.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. TALENT. Mr. President, I will take a few minutes to discuss a provision in the bill about which I think there was strong bipartisan agreement, because it will lift a significant burden off of minority contractors around the country who wish to do business with the Government.

Now, as Senators know, the program under which you get certified as a minority contractor in the Federal Government is called the 8(a) Program. State and local governments have similar certifications for contracting as a minority contractor with those governments. This presents a serious problem for minority small businesses seeking to do business and to take advantage of goals or set-aside programs because they are, after all, small businesses. They have to get recertified today, having gotten recertified under the Federal Government, under State government, and recertified under local government. It is a time-consuming and expensive process.

The provisions in the bill which reauthorize several of the Small Business Administration programs also contain a provision about which we had unanimity on both sides of the aisle which provides that once a business is certified as an 8(a) contract on the Federal level, it does not have to go through recertification on the State and local levels in order to do business in programs which are federally funded.

This is going to save minority small businesspeople many thousands of dollars and, in many cases, make it possible for them to participate where otherwise they would not be able to, and enlarge their opportunities to do business with the Government.

It is a piece of legislation that I have worked on throughout this Congress, and I am very pleased and grateful to the chairman and ranking member, as well as the chairmen and ranking members of the Small Business Committee in the House and Senate for agreeing to it.

I want to establish for the purpose of legislative history that the purpose of it, again, is to make clear that once a minority small business is certified as an 8(a) contractor on the Federal level, they are automatically certified as a minority contractor in State and local programs which receive Federal funds.

I ask unanimous consent to print in the RECORD letters of support from the National Black Chamber of Commerce, the National Hispanic Chamber of Commerce, the Hispanic Chamber of Commerce of Greater Kansas City, the Minority Business Council of St. Louis, and the Hispanic Chamber of Commerce of Metropolitan St. Louis.

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

From: Harry Alford,
Sent: Thursday, Aug. 7, 2003,
To: Hall, Heath, (TALENT)
Subject: Section 8(a) Language.

HEATH: The National Black Chamber of Commerce is in strong support of your language for ''Section 1. PARTICIPATION IN FEDERALLY FUNDED PROJECTS''.

We surveyed 7200 8(a) companies and received responses from 1227 which is a 17% response rate. The first question was: Would you approve of official 8a certification being accepted at local government entities such as city, county, state and even private corporations who are federal contractors? The response was positive 1183 versus 44 which is a Yes vote by 96.4%.

The second question was: Do you find the current system where you must get certified at various places redundant, time consuming and costly? The response was positive 1165 versus 62 which is a Yes vote by 95%.

Based on the response of the survey and on behalf of over 1 million Black owned businesses in the nation, we support Sen. Talent's effort on this matter. This will truly be helpful, economical and fair.

HARRY C. ALFORD,
President/CEO, National Black Chamber of Commerce, Washington, DC.

UNITED STATES HISPANIC CHAMBER OF COMMERCE,
Wasington, DC, July 31, 2003.

Hon. OLYMPIA SNOWE,
Chair, Senate Small Business Committee, House of Representatives, Washington, DC

DEAR SENATOR SNOWE:

On behalf of the 1.2 million Hispanic-owned businesses represented by the United States Hispanic Chamber of Commerce (USHCC), I wish to express support for the Section 8a Certification amendment to the House Small Business Act Reauthorization legislation proposed by Sen. James M. Talent (R-MO). The USHCC supports this critical amendment because we believe it will streamline the 8a certification process for many Hispanic-owned businesses, greatly enhance their efficiency, remove barriers to certification and increase their access to federally funded projects.

The majority of Hispanic-owned businesses we represent are small businesses that are eligible for 8a certification. Currently, small businesses are required to obtain multiple certifications—at the federal, state and/or local levels. This can be costly and time-consuming. This is particularly burdensome for our members because most Hispanic-owned businesses are small businesses with fewer than 25 people, limited budgets and limited time. For many Hispanic businesses, this requirement has also proven to be a barrier to certification. The amended language would eliminate the need to obtain state and/or local government certification if a small business has already obtained federal 8a certification. We believe our members would benefit greatly from this because it would help focus their efforts, resources and energy where it is needed most—on growing their business, rather than on paperwork and procedures.

Not only would this amendment alleviate regulatory burdens, and ensure that more Hispanic businesses enter the certification process, but we believe that it will also help increase business for Hispanic firms. Currently, federally certified 8a small businesses must be certified by their particular state and sometimes by the local government to have access to projects that are funded by the federal government. This amendment would provide federally certified 8a small businesses with access to all state and local projects entirely or partly funded by the federal government.

As you know, Hispanic-owned businesses comprise a vital part of our nation's economy. The more than 1.2 million Hispanic-owned firms employ 1.3 million people and generate $200 billion in annual gross receipts. With Hispanics now officially the largest minority in the country with a population of 38 million, we must ensure that Hispanic businesses have every door open to them so they

can continue to be powerful contributors of the U.S. economy.

The USHCC joins the many other trade and professional associations in supporting the Section 8a Certification Amendment. Thank you for your tireless efforts in confronting this issue.

Sincerely,

GEORGE HERRERA,
President & CEO.

HISPANIC CHAMBER OF COMMERCE OF GREATER KANSAS CITY
Kansas City, MO, Sept. 5, 2003.

Senator JAMES M. TALENT,
Russell Senate Office Building, Washington, D.C.

DEAR SENATOR TALENT: We are pleased to inform you that the Board of Directors of the Hispanic Chamber of Commerce of Greater Kansas City is unanimously in support of the Section 8(a) Certification Amendment of the Small Business Act (15 U.S.C. 637(a)) for the participation in federally funded projects so that a business that is 8(a) certified shall not be required to be certified by any State, or political subdivision thereof, in order to participate in any project that is funded, in whole or in part, by the Federal Government.

Eliminating the multiple certification process and providing more access to all State and local projects funded in whole or in part by the Federal Government will certainly decrease business costs and increase the system efficiency.

Thank you for your continuous support to the business communication and in particular the small business community, which is the backbone of the national economy.

Sincerely,

CICI ROJAS,
President, Hispanic Chamber of Commerce.

CARLOS ORTA,
Legislative Chair, Hispanic Chamber of Commerce.

MINORITY BUSINESS COUNCIL,
St. Louis, MO, Sept. 5, 2003.

Hon. JAMES M. TALENT,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR TALENT: On behalf of the 300 members and their 8800 employees, the St. Louis Minority Business Council wishes to express support for your proposed Section 8(a) amendment to the Small Business Act.

This critical amendment will remove one of the most significant barriers to our members gaining access to federally funded projects—multiple certifications. The elimination of the multiple certification process will provide our members with greater access to all State and local projects funded in whole or in part by Federal funds. In addition, this will greatly decrease business costs and improve the Section 8(a) program.

Thank you for your continued leadership and support of minority small businesses in the St. Louis area. We look forward to working with you in securing the passage of this very important amendment.

Sincerely,

JAMES B. WEBB.

HISPANIC CHAMBER OF COMMERCE OF METROPOLITAN ST. LOUIS,
St. Louis, MO, Aug. 8, 2003.

Senator JAMES M. TALENT,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR TALENT: We are pleased to inform you that the board of directors of the Hispanic Chamber of Commerce of Metropolitan St. Louis is unanimously in support of the Section 8(a) Certification Amendment of the Small Business Act (15 U.S.C. 637(a)) for the participation in federally funded projects so that a business that is 8(a) certified shall not be required to be certified by any State, or political subdivision thereof, in order to participate in any project that is funded, in whole or in part, by the Federal Government.

Eliminating the multiple certification process and providing more access to all State and local projects funded in whole or in part by the Federal Government will certainly decrease business costs and increase the system efficiency.

Thank you for your continuous support to the business community and in particular the small business community, which is the backbone of the national economy.

Sincerely,

RAFAEL NUN MARIN,
President.

Mr. TALENT. I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I rise to speak in opposition to this sweeping gag rule with which we have become familiar. It is against women's health. It has just been slipped into the omnibus spending bill. Even though most of this country is pro-choice, the House Republicans have inserted radical anti-choice language into this legislation.

One thing I have learned in my time in politics is that if one of the parties is shameless, the other party cannot afford to be spineless. I am pleased that my colleagues have caught on to what is going on here and are trying to make sure we all understand what is in this huge bill we are looking at. It deserves a thorough examination.

I think the Senator from Maryland indicated that if you recognize some mistakes in this pile of paper, one thing you know is that there are many others that lurk in the voluminous bill before us. So the effect of this Republican provision to allow doctors to be gagged from even discussing abortion with their patients is outrageous.

This morning, I heard our majority leader, Senator FRIST, say that the Senate should focus on ''putting the doctor-patient relationship first.'' But here the Republican majority is inserting language that would block doctors from even talking to their patients about legal medical procedures.

Under current law, if a doctor's religious beliefs prevent him or her from providing abortion procedures, then he or she cannot be forced to perform the procedure or even discuss it. That is called the conscience clause, and I think it makes sense. But what is in this omnibus bill goes way beyond the conscience clause. It is a gag rule that allows a hospital or an HMO to order its doctors not to perform, discuss, or even provide basic information on abortion, and that certainly is not putting the doctor-patient relationship first. That is putting politics first.

Even if a doctor believes that the information on abortion would be critical to saving the life of the mother, this new provision could be used to prohibit that doctor from providing such life-saving information.

To put it simply, this is an outrageous attack on women's health and women's rights.

In addition, this Republican provision overrides State laws. I asked the Senator from California a question as she was making her remarks: Would this eliminate the possibility that even though in the State of New Jersey, my State, for example, if we allowed under our State constitution the right for a woman to have an abortion, that it could be overridden by Federal law if this becomes law. And the answer is yes—state's would not be able to enforce their own constitutional protections. I guess the Republican Party suddenly wants to preempt State or local law from ensuring a woman's access because it does not suit their agenda.

My State of New Jersey has such a law, but now our law would be overridden by this Federal gag rule, and that is totally unacceptable.

The provision goes so far as to say that any State or local government that attempts to enforce its own laws or policies in the area of abortion could have all of its Federal labor health and education funding canceled—cancel the funding for those essential services.

My only complaint is this is not States rights, it is State bullying.

One year ago, President Bush—how well I remember it, and I am sure most of my colleagues do—signed an anti-choice bill into law. It was an extraordinary event not just because of the terrible bill that he was signing into law, but also it was quite an image that appeared in newspapers across the country.

This is the image. Look at the image again: Smiling faces of all men—all men. Not one woman Republican or Democrat stood with them when the President signed that bill. They are all men, and it is downright frightening. I call this photo a ''male-a-garchy.'' This photo says to women: Your right to make choices about your health and your body is being taken back from you, and these men are doing it, right here, with smiling faces, and the President, with pen in hand, is signing the bill.

This trend is going to continue to be enforced by this bill today. The bill before us takes away the decision-making power from women and doctors, and puts it into the hands of men who lead hospitals, insurance companies, and HMOs. Supporters of this gag rule claim this policy change is necessary to make sure that health care providers are not forced to perform abortions.

I want to make it crystal clear that under current law, no doctor or nurse in this country is required to provide or discuss abortions against their will. Unlike the conscience clause, this gag rule does not protect doctors' rights, it takes doctors' rights away. Doctors have a duty to ensure that patients

have access to accurate information so that they can make the medical decisions that are best for them.

This bill would gag them from providing that information and denies women the right to understand all of their medical options.

Women have the right to access to medical information about all of their options, not just those that the ''male-a-garchy'' wants them to hear. So I say to women across this country: Be aware, the right to choose is in dire jeopardy. This bill today is yet another attempt to chip away at the right to reproductive choice.

Look at the size of the bill that we have just received. It is thousands of pages. Hidden within these pages is the attack on a woman's right to choose.

It is wrong to take away people's rights by slipping it into a giant spending bill without any debate, without any discussion, and concealing it in such a way that if we were not lucky and did not catch it, even though it was suggested we are studying all of these bills—believe me, when there is that much paper and it arrives so late, one does not have time to do it, and it is just luck when it is found. To put it bluntly, it is not becoming of a democracy.

I am pleased the Senators from California have secured an ironclad agreement from the majority leader to take up this issue before the end of April of next year. We look forward to that debate. The American people deserve better. Open up the records. Talk about it plainly. Debate it fairly, and then if it comes to a vote, the people in the country will see who voted for and who voted against women's rights.

I yield the floor.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from Arizona.

Mr. MCCAIN. Mr. President, I ask unanimous consent that I speak for 10 minutes now and then when we go to the bill for an additional 20 minutes.

Mr. STEVENS. No objection.

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

The Senator from Arizona.

Mr. MCCAIN. Mr. President, beginning this year, during consideration of the fiscal year 2004 Omnibus appropriations bill, I stood on the floor and spoke about how our economic situation, our vital national security concerns, required us to take greater effort in prioritizing our Federal spending and we could no longer afford business as usual. Little has changed since January. Here we are again, nearly 2 full months into fiscal year 2005 and we have before us another appropriations monstrosity. Let me remind my colleagues that because of our inability to get much done under the regular order, this is the third year in a row we have had to pass a mammoth consolidated appropriations bill. In fact, we have been forced to consider huge Omnibus appropriations bills for 6 of the last 8 fiscal years.

This is a remarkable package. This is a remarkable thing. I would argue that not one Member of the Senate or our loyal staffs is physically capable, even if they wanted to, to read this many-thousand-page document. This system cannot continue.

Another thing that is very dispiriting, it always is considered at the last minute before we go out or the last hour or the last 2 hours. Why? Because the members of the Appropriations Committee know it will not bear scrutiny.

We were able to uncover an egregious action on the part of the committee that has been fully ventilated, but if we were going to go out next Monday night, we would be debating this Omnibus bill next Monday night. If we were going out Christmas Eve, we would be debating Christmas Eve. It is in the appropriators' benefit for us to do it at the last minute.

This many-hundred-page document deserves a lot more than my half-hour and the chairman of the Appropriations Committee's 20 minutes. Why? Why are we going to talk so little about it? I would like to talk for hours about it, but I do not have the courage to hold up the travel plans of all of my colleagues. So I am only going to talk for half an hour about a $388 billion, 1,632-page document. That is disgraceful. We are not doing what we should do for our constituents. We have an obligation to oversee their tax dollars.

I am going to talk about a number of the provisions. Some are fairly entertaining: The Clemson University, South Carolina Call Me Mister Program. We are going to spend money on the curriculum development on the study of mariachi music. I am going to go over some of them. They are remarkable.

The good old Rock and Roll Hall of Fame is back. We are going to give them some money again. The Rock and Roll Hall of Fame is hurting badly.

It goes on and on and on: beautification projects, libraries. We are back to the old snake management in Guam. That is only $515,000; $175,000 for research into tree fruits quality. All of them, of course, have a specific location. We are going to spend $443,000 to research and develop baby food containing salmon; $3 million for the Center for Grape Genetics in Geneva, NY; $2.3 million for an animal waste management research laboratory in Bowling Green, KY; $100,000 for the Puerto Rican Traveling Theater in the Bronx; $100,000 for the Cedar Creek Battlefield Foundation. By the way, the Cedar Creek Battlefield Foundation proudly proclaims on their Web site that they receive no Government funding and will continue to operate as an independent organization.

Then there is $100,000 for the Belle Grove Plantation, an 18th-century grain and livestock farm. Here is a great one, $1 million for the Norwegian American Foundation to fulfill its charter. What is the charter of the Norwegian American Foundation that they need $1 million of my taxpayers' money?

It goes on and on. The energy and water, of course, is $1.796 billion for construction of inland waterway projects; $12.5 million for the Dallas floodway extension; $24 million for portions of the Big Sandy and Upper Cumberland River Project. A couple of these projects that caught my eye are because they direct the Corps to continue with the construction of harbor projects in accordance with ''the economic justification.'' In other words, no cost-benefit analysis but economic justification. Then there is $324.5 million for Cape Girardeau, MO; $12 million, if it is going to continue, another one of the worst projects ever conceived by Congress, the Yazoo Basin, Yazoo Backwater Pumping Plant in Mississippi, in which the Clarion Ledger, a Mississippi newspaper, had to say in an editorial, ''Death of This Boondoggle Long Overdue'':

> So why does the Yazoo Pump Project survive-very few people would benefit and the plan is so costly . . . running it would be an ongoing destruction of wealth and wildlife. Yet pump proponents were at it again trying to resurrect this Frankenstein monster.

Core support for the International Fertilizer Development Center, $2.3 million. I had no idea we had an International Fertilizer Development Center, much less that it needed $2.3 million for core support of it.

I guess $500,000 for Idaho weed control; $2 million for Atlantic salmon grants; $790,000 for the Bering Sea Fisherman's Association. I guess the Bering Sea Fisherman's Association cannot raise their dues enough to sustain themselves. We have to give them $790,000. We go through this every year. Three million for Wheeling Jesuit University for the National Technology Transfer Center for a coal slurry impoundment pilot project; $20 million to Project GRAD-USA in Houston, TX, for continued support and expansion of the program focusing on school reform; $350,000 for the Rock and Roll Hall of Fame Museum in Cleveland for music education programs. Being a fan of rock and roll myself, I guess that is well justified.

The fact is we are looking at a deficit of enormous proportions where Alan Greenspan as recently as the day before yesterday warned us about the impact on our economy. Some of these, such as what is being done on NASA funding, is harmful to the mission and capabilities of NASA itself. According to information compiled from the Congressional Research Service, the total number of earmarks has grown from 4,126 to 14,040 in fiscal year 2004. In terms of dollars of earmarking, it has gone from $26.6 billion to $47.9 billion. That is in the space of 10 years.

If you extrapolate that, we are really on a remarkable path. I was shocked when I read a recent report ''Is Pork Barrel Spending Ready to Explode? The Anatomy of an Earmark'' by Ronald D. Utt, Ph.D., published by the Heritage Foundation, which details a new scheme by lobbyists to sell earmarks.

I ask unanimous consent that article be printed in the RECORD.

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

[Published by the Heritage Foundation, Nov. 10, 2004]

IS PORK BARREL SPENDING READY TO EXPLODE? THE ANATOMY OF AN EARMARK

(By Ronald D. Utt, Ph.D.)

A news item appearing this November in a Virginia newspaper reveals the emergence of what may be a lucrative new lobbying strategy that could substantially increase federal pork-barrel spending. In the past, earmark-seeking entities approached earmark-providing lobbyists for assistance in getting a piece of the federal budget. But in this new strategy, lobbyists openly sell such services to unserved institutions and individuals by convincing them that they might be eligible for an earmark, providing that they are willing to pay a four-figure monthly retainer.

The new strategy was recently revealed by way of a prospective earmark for a $3.5 million community sports complex in Culpeper County, Virginia. The county has just begun construction on the project, which was to be funded with the proceeds of a county bond offering the voters approved a few years ago. But that financial arrangement might change now that a lobbyist paid the county a visit and pointed out that, for a fee, the county could get the federal government to pay for the complex. As reported in the Free Lance Star, a county official says that ''he had been approached by a representative of Alcalde and Fay, a Northern Virginia lobbying group, who expressed optimism that funds for the $3.5 million sports complex could be tied to one or more federal appropriation bills.'' [1]

The article also noted that ''The cost of hiring Alcalde and Fay would be $5,000 per month, with an 18-month recommended contract.'' While the average American family might consider this a steep price, the prospective arrangement's payoff reveals what a bargain it is for the county. With their fees totaling $90,000 for a prospective federal grant of $3.5 million, Alcalde and Fay are, for all intents and purposes, selling federal taxpayer money for just 2.6 cents on the dollar. Anyone who has suspected that Washington places little value on taxpayers' hard-earned dollars now has an idea of just how diminished that value is—somewhat less than the market price for defaulted Argentine debt.

How the Culpeper transaction unfolds bears watching for several reasons. From the perspective of federal fiscal integrity, this new earmark strategy could open the floodgates to me-too projects across the country that would otherwise be funded with local resources. Just thirty miles down the road from Culpeper is the town of Fredericksburg, which is now in the process of committing itself, and its budgetary resources, to a $6 million recreation complex with indoor and outdoor swimming pools. Now apprised of Culpeper's prospective earmark, could the elected officials in Fredericksburg be faulted for ringing up a lobbyist of their own?

And in the not-too-distant future it is quite likely that the federal budget process will no longer take place in the halls of Congress, as the Constitution requires, but in the dozens of offices of Washington's top lobbyists—largely driven by generous contracts between the firms and their clients.

Another reason this process bears watching is for how it reflects on Congress. The lobbyist is proposing to sell something that is not really his to sell. That he believes he can deliver it tells us that something is terribly wrong in Congress. It is one thing for members of Congress to make pork-barrel spending promises to their constituents and deliver on them, but it is quite another that earmarks can be bought and sold like bushels of wheat on the open market by private speculators. And apparently, all this wheeling and dealing is taking place without any involvement (at least not yet) by a member of Congress.

As noted earlier, if Article I, Section 9, Clause 7 of the Constitution reserves exclusively to Congress the power of appropriating money from the U.S. Treasury, how is it that these lobbyists have come by the same privilege, and who has allowed it to happen?

That is a good question, and in the event that the County of Culpeper signs a contract with Alcalde and Fay to secure $3.5 million for the sports complex now being built, the Heritage Foundation, in partnership with fiscally responsible members of Congress, will closely track this process and determine how, and at what point, the writing of appropriations bills was outsourced to the lobbying community on a for-profit basis.

Alcalde and Fay, of course, is not the only firm engaged in the misdirection of federal resources through the pay-to-play process. In a process previously described (See Heritage Backgrounder No. 1527, ''Can Congress Be Embarrassed into Ending Wasteful Pork-Barrel Spending?''), the market for earmarks in appropriation bills has been growing rapidly and, given its profitability, will likely continue its robust growth. In recent years, some members of Congress and government officials—notably former OMB head Mitchell Daniels, Sen. John McCain, and Rep. Jeff Flake—have tried to dampen the practice, but they have had little success in cultivating a greater awareness of fiscal hygiene among the vast majority of their colleagues who believe that electoral success grants unlimited access to taxpayers' credit cards. Between 1997 and 2004, appropriations earmarks have increased from under 2,000 to over 10,000, and this year's failed highway reauthorization contained more than 3,000 pork-barrel earmarks, compared to 1,800 in the previous bill and only 10 in the highway bill passed by Congress in 1982.

That Congress once showed budgetary restraint and fiscal continence suggests that the propensity to earmark is not some inherent flaw in American democracy, but rather a willful irresponsibility now embraced by all too many members. Among the many tasks confronting the re-elected President Bush will be to reduce federal spending from its near record levels as a share of GDP and to narrow the deficit, which now hovers at $413 billion. A good place to find fiscal redemption is in the appropriation bills that will soon come across the President's desk. The first step in the process should be a sharply worded veto threat. It would be a welcome change if that veto threat included excess earmarks as one of many items that would merit a presidential rejection.

Mr. McCAIN. I quote:

That Congress once showed budgetary restraint and fiscal continence suggests that the propensity to earmark is not some inherent flaw in American democracy, but rather a willful irresponsibility now embraced by too many members.

We now have a deficit of $413 billion.

A good place to find fiscal redemption is in the appropriations bills that will soon come to the President's desk. The first step in the process should be a sharply worded veto threat. It will be a welcome change if that veto threat included excess earmarks as one of the many items that would merit a presidential rejection.

Here is the stark reality of our fiscal situation. According to the Government Accountability Office, the unfunded Federal financial burden, such as public debt, future Social Security, Medicare, and Medicaid payments, total more than $40 trillion, or $140,000 per man, woman, and child.

To put this in perspective, the average mortgage which is often a family's largest liability is $124,000, and that is often borne by the family breadwinners, not the children, too. But, instead of fixing the problem, and fixing it will not be easy, we only succeeded in making it bigger and more unstable, more complicated and much more expensive.

I point out that it is well known that the President very soon will come over and ask for an additional $70 billion to fight the war in Iraq. I believe—and I said this a long time ago, and it is true today and it will be true when I say it again a year or two from now—we are going to be in Iraq for a long time. I pray every day that we prevail. I pray every day for the young men and women who are serving and in harm's way. But there is no doubt in my mind that we will have many billions of dollars yet to spend on Iraq and Afghanistan. All of us are aware we now face a growing threat from North Korea and a recent very serious one from Iran.

There is no one I know who is an expert outside the administration who does not believe we are going to have to spend a lot more money on defense, one reason being that our military is too small. We need as many as 80,000 more men and women in the Army. We need 20,000 to 30,000 more men and women in the Marine Corps. It is all going to cost money. But, instead, we are going to spend tens of billions of dollars in wasteful and unnecessary spending and increase this debt on future generations of Americans.

We can't afford to do this. We cannot afford to continue a broken system such as this, where the night we are going out of session we have a 1,630-page bill that none of us have seen or read and in which a particularly onerous provision which, if it hadn't been for the Senator from North Dakota bringing to our attention, would have been an unprecedented invasion of the American family's privacy. But there are other provisions in this bill which no one has seen or read.

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

Mr. STEVENS. Mr. President, I ask unanimous consent the Senator have additional time, if he desires it.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. McCAIN. Mr. President, The Conference Report, once again, contains earmarks of $10 million for the Alaska Fisheries Marketing Board—is there something wrong with these fish that warrants such an expensive program to convince us to eat them? And now it also has $1 million for the Wild American Shrimp Initiative. I am hoping

that the appropriators could explain to me why we need $1 million for this—are American shrimp unruly and lacking initiative? Why does the US taxpayer need to fund this ''no shrimp left behind'' act?

At the Department of Justice, Section 619: $100,000 for the Puerto Rican Traveling Theater in Bronx, NY for outreach and programs. This theater has produced 104 plays in both English and Spanish, and is not community based; $100,000 for The Cedar Creek Battlefield Foundation. It preserves lands where battles were fought, reenacts battles. It proclaims on their website that ''the Cedar Creek Battlefield Foundation receives no government funding and will continue to operate as an independent organization.''

Then $100,000 for the Shenandoah Valley Travel Association. This association presents a comprehensive tourism guide to attractions, lodging, restaurants, shopping and other services.

And $100,000 for the Belle Grove Plantation. Belle Grove is a preserved 18th-century grain and livestock farm.

And $1,100,000 for the MountainMade Foundation for outreach and promotion, the education of artists and craftspeople, and to promote small businesses, artisans and their products.

And $1,000,000 for the Norwegian American Foundation to fulfill its charter. This foundation promotes further cooperation among all Norwegian American organizations.

Mr. President, while I understand that the omnibus before us is a glaring and wasteful sign of the Senate's failure to consider and pass individual appropriation bills, I had hoped that the bill would succeed in hold the line against wasteful and unnecessary pork following a vote to raise the debt limit. My colleagues have become accustomed to my railing against pork-barrel spending, but if there was ever a time when we all needed to rally against it for the good of our country, our economy, and our current commitments and security priorities, it is now.

This bill in no way reflects the fiscal realities of our times. One can go directly to the energy and water appropriations section of this bill to take a quick read of the pork fantasies that federal taxpayers will be plagued by.

Senator FEINGOLD and I sent a letter to leadership last week urging the exclusion of Water Resources Development Act provisions because of the costly and wasteful water projects included as well as the neglect of much-needed Army Corps reform. I am heartened to see that the bill with the full compliment of costly water projects was not included. However, there are billions of dollars earmarked for a host of water projects.

Let's start at the top of the big ticket list-$1.796 billion is provided construction of inland waterway projects. I was relieved to see that funds are provided for the rehabilitation of specific locks in the Upper Mississippi-Illinois Waterway, but not for the incredibly wasteful $2.3 billion locks expansion project.

This project has received attention in papers throughout the country because it is such an extreme example of a very expensive and unnecessary water project that some members are determined to foist on American taxpayers. A New York Times editorial from November 18th discussing the possible riders to be attached to the omnibus bill stated, ''but the worst by far is a proposed $2 billion expansion of the lock system on the upper Mississippi River, a project that the National Academy of Sciences has twice reviewed and twice declared a waste of money.''

After a conscientious economist at the Corps blew the whistle on this project and heads rolled, the National Academy of Sciences undertook a study of the project and then a second oneI guess just in case Congress was ignoring the first one- and both conclude that this project cannot be justified by current or projected barge traffic and there are inexpensive and effective alternatives available.

And in spite of this irrefutable, objective information, there have been concerted efforts to get Congress to approve spending $1.8 billion dollars to satisfy special interests instead of the public interest. It's wrong and its shameful. Speaking of interests, the interests of your own state would also be affected by this project because it will suck up such a significant percentage of the Corps program funding there just won't be enough to go around in years to come.

Next to the mother of all wasteful Corps projects, other earmarks look downright insignificant: $12.5 million for the Dallas Floodway Extension, $24 million for portions of the Big Sandy and Upper Cumberland River Project, and a not too surprising number of Alaska projects. A couple of these caught my eye as they direct the Corps to continue with the construction of harbor projects in accordance with ''the economic justification'' contained in the Engineers report. I've not seen the cost-benefit analysis of these projects but this language ensures that there won't be any question regarding their justification.

The rest of this section of the bill is a litany of multi-million dollar projects earmarked for Missouri, California, Hawaii and other states and I hope that these are all worthy projects. There is $324.5 million provided for flood damage reduction in Cape Girardeau, Missouri and I don't know where all that money is going but $12 million of it is going to continue another one of the worst projects ever conceived by Congress. This is the Yazoo Basin, Yazoo Backwater Pumping Plant, Mississippi which I've spoken against on the Senate floor before. Well, its back.

Again, this is another of those projects that newspapers like to write about in pointing out the folly of congressional spending. Here's what the Clarion Ledger, a Mississippi newspaper had to say in an editorial titled ''Death of this Boondoggle Long Overdue'', ''So why does the Yazoo Pump Project survive—very few people would benefit and the plan is so costly . . . running it would be an ongoing destruction of wealth and wildlife. Yet pump proponents were at it again trying to resurrect this Frankenstein monster''. The New York Times concurred, ''Yazoo Pump ranks among the most indefensible projects undertaken at Congressional behest. It would drain 200,000 acres of valuable wetlands . . . and would benefit nobody except a relatively small number of big growers, who already drink copiously from the public trough''.

I highlight this egregious project among others to make the point that this bill clearly reflects that we are not doing our essential job of expending public funds wisely and responsibly and if not now then when will we ever take this duty seriously?

The report language earmarks up to $2,000,000 for Water Missions International to develop clean water treatment projects in developing countries; At least $4,000,000 for the International Fertilizer Development Center; $1,000,000 directed for support of the United States Telecommunications Training Institute; $1,000,000 for the International Real Property Foundation; $3,000,000 for Internews, to promote freedom of the media in Indonesia; $3,000,000 for the Foundation for Security and Sustainability; and $2,000,000 for Zanmi Lasante.

Mr. President, the Interior bill language also includes individual location specific earmarks and provisions in this section of the legislation. Of note: a provision stating that, out of amounts for Resource Management maintenance is provided for the herd of long-horned cattle on the Wichita Mountains Wildlife Refuge; a provision stating that, notwithstanding any provision of law including NEPA, nonrenewable grazing permits authorized by the Jarbidge Field Office, Bureau of Land Management within the past 8 years shall be renewed; $1.5 million is earmarked for wood products wastewater treatment plant repairs in Canton, NC; $5.0 million is earmarked, in addition to its normal allocation, to Alaska Region to establish a 3-year timber supply; $18 million is earmarked to continue a multi-year project coordinated with the private sector for FutureGen in Alaska; $50 million is made available for a request of proposals for a Clean Coal Power Initiative for competitively awarded research, development, and demonstration projects; $18 million is made available to carry out naval petroleum and oil shale reserve activities; $500 million, which was not requested by the President, in included as additional funding for wildland fire suppression funds for fiscal year 2005.

Mr. President, I did not have enough time to count every earmark in division E of the conference report, but it is safe to say that there are well over 1,000 individual location specific earmarks in this section of the legislation. Of note: $500,000 for Idaho weed control; $2 million for Atlantic salmon grants administered by the National Fish and Wildlife Federation; $500,000 for Lahonton cutthroat trout; $1.8 million for eider and sea otter recovery at the Alaska SeaLife Center; and $250,000 for concho water snake delisting efforts in Texas.

For the Bureau of Land Management there are 32 location specific earmarks for land acquisition, including $3.4 million for the Baca National Wildlife Refuge in Colorado and $2 million for the James Campbell National Wildlife Refuge in Hawaii. These 32 earmarks amount to almost $23 million in spending.

The National Recreation and Preservation provisions include $2.5 million for the Chesapeake Bay Gateway and $750,000 for the Alaska National Parks. The Historic Preservation Fund is loaded with 84 location-specific earmarks totaling $15 million. There are 78 earmarks in the construction account totaling approximately $192 million. Some of the more egregious examples of these earmarks include: $8.7 million for the Crater Lake National Park in Oregon; $3.0 million for the Blue Ridge Parkway in North Carolina; $7.4 million for Denali National Park in Alaska; $10.8 million for Gettysburg National Memorial Park in Pennsylvania; $10 million for the Lassen Volcanic National Park in California; $15.5 million for Olympic National Park in Washington; and over $15 million for Yellowstone National Park.

Mr. President, every year I marvel at how well the residents of Alaska make out in these appropriations bills. This year is no exception. Throughout the division E, earmarks for Alaska abound. Just a sampling of these projects include: $1.2 million for the Alaska mineral resource assessment program; $100,000 for the Alaska Geological Materials Center; $150,000 for the Alaska Whaling Commission; $900,000 for the Marine Mineral Technology Center; $98,000 for the Alaska Sea Otter Commission; $790,000 for the Bering Sea Fisherman's Association; $346,000 for the Chugach Regional Resources Commission; $750,00 for the rural Alaska Fire Program; and $750,000 for the Alaska native aviation program.

Out of the Employment and Training Administration account the bill provides the following amounts for noncompetitive grants: $2,200,000 for the AFL–CIO Appalachian Council, Incorporated; $1,500,000 for the AFL–CIO Working for America Institute; $4,000,000 for the Black Clergy of Philadelphia and Vicinity; $2,600,000 for the National Center on Education and the Economy.

Out of the Departmental Management Salaries and Expenses account the bill provides: $7,000,000 for Frances Perkins Building Security Enhancements.

Out of Department of Labor project pilots and demonstrations, the statement of managers suggests the following earmarks: $100,000 for 413 Hope Mission Ministries, Philadelphia, PA for employment skills training for disadvantaged adults and ex-offenders; $500,000 for Alaska Department of Labor and Workforce Development, Juneau, AK to fund training for gas pipeline workers; $200,000 for Central State University, Wilberforce, OH, to implement a world class modular automation training system; $225,000 for Cook Inlet Tribal Council for the Alaska's People Program in Anchorage, AK; $50,000 for Fashion Business, Inc., Los Angeles, CA, for workforce development and training; $500,000 for Mississippi State University, Starkville, MS, Robotics and Automated Systems for Nursery Industry.

Out of DoL Mine Safety and Health Administration, the statement of managers suggests the following earmarks: $750,000 for infrastructure improvements at the Mine Academy in Buckley, WV; $3,000,000 for Wheeling Jesuit University for the National Technology Transfer Center for a coal slurry impoundment pilot project.

This conference report includes funding for a number of important public health programs and research activities funded through the Department of Health and Human Services (HIS). However, the appropriators were once again unable to allow the Department to allocate funds through merit based grants and took it upon themselves to select projects which they believe to be worthy of funding. The HHS section of the Joint Explanatory Statement includes 53 pages full of more than 1,400 earmarks, totaling over $603 million.

Some particularly large examples include: $10 million for the Medical University of South Carolina Oncology Center in Charleston, South Carolina, for the construction of the Allied Health Technology Tower; $10 million for the Shepherd University in Shepherdstown, West Virginia, for the construction of a nursing education facility; $10.25 million for the University of Louisville, in Louisville, Kentucky, for the Baxter III Research Building; $10 million for the University of South Alabama in Mobile, Alabama; and $10 million for the West Virginia University for the construction of a Biomedical Science Research Center.

It shouldn't be surprising to any of my colleagues that the section of the Joint Explanatory Statement for the Department of Education is again loaded up with pork barrel projects designated to schools and organizations which the members of the Appropriations Committees, rather than the Department of Education, deemed worthy of federal dollars. In the 43 pages of the statement, devoted exclusively to pork, the appropriators included an estimated 1,147 earmarks, amounting to well over $392 million.

Among the more egregious examples is: $20 million to Project GRAD–USA Inc, in Houston, Texas, for continued support and expansion of the program focusing on school reform; $18 million to provide assistance to low-performing schools in the Commonwealth of Pennsylvania Department of Education; and $15 million for the Iowa Department of Education to continue the Harkin grant program.

$350,000 for the Rock and Roll Hall of Fame and Museum in Cleveland, Ohio for music education programs.

I am sure that many Americans would be surprised to learn that there are even state specific earmarks in the Legislative Branch Appropriations. The appropriations bill that is supposed to fund the work of Congress and its related offices is also being used to ''bring home the bacon.'' The bill specifically earmarks $300,000 in funding from the Library of Congress (LOC) for the University of South Carolina for the preservation of Movietone Newsreels. The Joint Explanatory Statement mandates that the LOC establish a program under its Adventure of the American Mind initiative in Georgia. Clearly both are worthwhile endeavors, but why are the University of South Carolina and the state of Georgia more deserving of these distinctions then any other university or state.

The conference report provides $1.1 billion more than requested by the President for the federal-highway program. All of the extra funding, plus another $100 million, is used to $1.2 billion for 795 earmarked projects. Among the projects deemed worthy of funding are: Access to the Ebenezer Swamp Wetlands Interpretative Center in Alabama ($225,000); The Girl Scouts Golden Valley Council bridge project in California ($150,000); Farm crossings in Ventura County, California ($500,000); and Streetlights and a salt dome for Markham, Illinois ($300,000).

The conference report prohibits the use of funding to implement or enforce any provision of the new hours of service regulations to operators of utility service vehicles, or to the transportation of property or passengers to or from a motion picture or television production site. I find this particularly ironic given the fact that Congress, as part of the 8-month extension of the highway program passed in September, mandated that the new hours of service regulations remain in place for the next year in spite of the decision of the DC Circuit Court of Appeals striking down the regulations as arbitrary and capricious.

The conference report provides $1.217 billion for Amtrak, $317 million above the amount supported by the President without significant reform and restructuring, continues strong oversight by the Department of Transportation, and requires Amtrak to begin paying back its $100 million loan from the Federal Railroad Administration. While I am

relieved that the appropriators continue to resist Amtrak's pleas for significantly higher funding, I am concerned about that Amtrak will use its appropriation to simply continue operating the same train network, and continue to rack up record operating losses.

I agree completely with the conclusions reached yesterday in a report by the Department of Transportation's Inspector General on Amtrak's 2003 and 2004 financial performance and requirements. The report states that ''The bottom line is that the existing system is not sustainable at current funding levels . . .'' and that ''Amtrak's management must find ways to reduce its need for operating subsidies and set better priorities for capital dollars.'' As I have said many times, it is time to restructure Amtrak. Amtrak should focus on short-distance corridors where rail service can compete with other modes of transportation, and the long distance trains should be restructured or eliminated. If Amtrak won't follow implement this strategy, then it is the responsibility of Amtrak's Board of Directors, the Secretary of Transportation, and Congress to make it happen.''

The conference report also contains a provision that would expand an existing waiver for the state of New Hampshire from the 80,000-pound truck weight limit on the Interstate System. Trucks would be allowed to operate at up to 99,000 pounds on Interstates 89 and 93 (in addition to I–95 which is current law). Bad, Very Bad.

The conferees state that returning the Shuttle fleet to flight should be NASA's highest priority because it's the first step in the Space Exploration Initiative. Just two weeks ago, NASA notified the Commerce Committee that the Shuttle return to flights costs for fiscal year 2005 alone would exceed $762 million. The Commerce Committee awaits NASA's plan for covering these costs. Whatever the plan, it is only further complicated by the fact that the conference report contains 16 pages of earmarks in the NASA budget, including such things as $1,000,000 to the Southern Methodist University to develop multifabrication manufacturing technology, $750,000 for the GeoTREE project at the University of Northern Iowa, and $3,000,000 for our familiar friend, the ultra-long balloon program at New Mexico State University.

The conferees go on to say that if NASA needs more money just send in a supplemental request. It would be given full and fair consideration by Congress. Maybe we should just send the blank check now and ask NASA to fill it out. This type of behavior represents no accountability and actually encourages NASA to spend without regard to budgetary reality.

The liberation of NASA continues by the conferees' granting NASA unrestrained transfer authority between the ''Exploration Capabilities'' account and the ''Science, Aeronautics, and Exploration'' account. This was requested by NASA and granted by the Appropriators under the disguise of the need for flexibility to transition to full cost accounting. These two accounts represent over $16 billion. In essence we're saying, ''NASA, do what you want with the money.'' The statement of managers goes on to say that the transfer authority can be used for purposes other than addressing full cost accounting, but that NASA should ''do so with restraint.'' I don't understand—the statement of managers earlier specifically said that would have ''unrestrained transfer authority.'' What's the ''do so with restraint'' all about?

Inserted in the last section of the omnibus, in a miscellaneous section, is a provision which would modify federal pension laws for multiemployer pension plans covering employees working in the State of Alaska.

Title 6 in CJS, Page 170—prevents FCC from implementing February 27, 2004 recommendation of the Federal-State Joint Board on Universal Service that universal service fund (USF) support only be provided to primary lines in order to keep the USF solvent.

This section removes the ability of the FCC to act of the recommendation of the Federal-State Joint Board on Universal Service advocating that universal service funds should be used only toward consumers' primary telephone line.

This is a significant limitation on potential action by the FCC. I object to this provision because it should have been considered, reviewed and acted upon by the members of the Committee of jurisdiction, the Senate Committee on Commerce, Science and Transportation, before being enacted into law. No member of the Committee approached me requesting to move legislation on such a limitation. I am unable to state whether this is a good policy decision because, similar to the FCC, the Committee of jurisdiction was not provided the courtesy to review and consider the proposed policy change.

In CJS, missing page 60—which covers funding for NTIA, which is under Commerce jurisdiction, so unknown funding levels.

As Chairman of the Committee of jurisdiction over National Telecommunications and Information Administration (NTIA), I regret that I am unable to comment on the appropriations levels for this administration because the levels were not made available in the text of the bill. Although this may be merely a clerical error, it is unacceptable, nonetheless.

In CJS, section 112—Alaska Telecommunications provisions to resolve several pending FCC proceedings involving investigations into Alaska rate tariffs and reviews Alaska telecommunication rates.

This section, slipped into the omnibus under the cloak of darkness, removes the ability of the FCC to act on several pending proceedings affecting the rates of Alaskan telecommunications services.

I object to this provision because it should have been considered, reviewed and acted upon by the members of the Committee of jurisdiction, the Senate Committee on Commerce, Science and Transportation, before being enacted into law. Additionally, the FCC was nearing competition of the proceeding and the Committee could have acted in response to the FCC's actions if Congress found the outcome to be detrimental to Alaskan consumers. No member of the Committee approached me requesting to move legislation to end the tariff investigation and other proceedings involving Alaska telecommunications services. While I understand both parties to the tariff dispute support the provision included in the omnibus, I am unable to state whether I support it because the Committee of jurisdiction was not provided the courtesy to hold hearings and mark up legislation on the issue.

I object to the inclusion of this legislation in the omnibus. I actually support the content of this legislation, which is the product of lengthy negotiations among the Judiciary and Commerce Committees of both Houses. The bill ensures that rural consumers will continue to enjoy network programming, and for the first time, provides a means for these same consumers to enjoy high definition network programming via satellite. I nevertheless regret that this important policy was added to an appropriations vehicle.

The PRESIDING OFFICER. Who seeks time? The Senator from Alaska.

Mr. STEVENS. I send to the desk a joint resolution.

Ms. LANDRIEU addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senate is in a period for morning business with Senators allowed to speak for up to 10 minutes.

Mr. STEVENS. I withdraw that.

The PRESIDING OFFICER. Who seeks time? The Senator from North Dakota.

Mr. CONRAD. Mr. President, earlier the Senator from Idaho indicated this provision that would allow Appropriations staffers, the designees of the Appropriations Committee leadership, to access any tax return in the country would not become law. I listened to that. I hoped it was not the case. But I don't see any way that, if we pass this bill tonight, this provision does not become law.

Let me just go through where we are, at least my understanding of where we are. I would like to be corrected if I am wrong.

In this bill, these 3,000 pages that have been put before us today and we are asked to vote hours later, that spends $388 billion, there is a provision that says the agents of the Appropriations Committee can have access to any tax return in the country and that there is no legal protection for them. That is the provision that is here. It

has already passed the House of Representatives. If we pass this bill tonight and it goes to the President for signature, that will become the law of the land.

I am understanding that Senator STEVENS, acting in good faith here—and he is acting in good faith and he is, I think, doing his level best to try to correct this—is proposing the passage of a concurrent resolution that would pass here.

Mr. STEVENS. Joint.

Mr. CONRAD. A joint resolution removing this provision. But that would be subject to the House acting and the House will not be prepared to act, I am told, until December 6. At the same time, we are running out of time on a continuing resolution and the President will be required to sign this Omnibus bill, I am told, before that continuing resolution removing this power, this ability to have agents look at any tax return in the country and release them without any penalty, without any civil penalty, without any criminal penalty.

When the Senator from Idaho says this will not become law, that is not right. This will become law if we pass this tonight. That is my understanding. I would like to be corrected if that is not the case.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. The Senator is correct that the provision would stay in the law. But we will pass a joint resolution. It is my understanding that will be passed and the Speaker of the House and chairman of the Appropriations Committee guaranteed this would be the case when the House reconvenes.

Meanwhile, it is our understanding that the President of the United States will issue a statement when he signs the bill that this section shall be disregarded because of the action taken by the Senate and the commitment of the House to act when it comes back. I think that is a good-faith effort to correct a serious mistake, a terrible mistake.

The Senator is right about the section. But I want to assure him the implication that either the chairman of the House committee or I, as chairman of this committee, ever wanted such authority is wrong. We never sought it. It was an accident, a mistake. A representation was made by one staff member that the front office in the other body had cleared this. On the basis of that, it was put into the section.

When it was before the bipartisan staff in both Houses, it was not even noticed. Under the circumstances, it is something the Senator from Arizona criticized and I too criticize it. It is something contrary to anything I have ever had happen in over 30 years on the committee. But it can be corrected and the law will not be permitted.

By the way, it takes the request of the chairman of either House to trigger it. We have stated categorically we will not trigger this section. It is not available to anyone else. It is available only to the chairman of the House Appropriations Committee or the chairman of our Senate committee. And I have stated categorically on the record we would never use that. We didn't seek this authority. We are as appalled as the Senator from North Dakota. I hope you would rely upon our good faith to try to correct the staff error. Certainly no Member of Congress that I know of, other than the person who originally suggested it in the House, ever sought this. I am led to believe the language is not what he sought, but it is one of those things that happened at the last minute. It is a terrible thing.

We are in this situation because we never had a budget. We never passed our appropriations bills at the time we should have. We had to construct a ceiling we would operate under. Senator BYRD and I have tried our best to comply with the circumstances. But we didn't get the chance to even look at it—the Appropriations Committee on these nine bills—until after we came back from the August recess. We have been under pressure now since we came back. We have been under pressure now for 3 days. Some of my people haven't slept for 2 days, and one of them made a mistake—one of my staff. I can tell you he had not had sleep for 2 days.

This is a serious situation. It shouldn't happen. The Senator from Arizona is right. It should never happen. I pray to God it will never happen. It will not happen under my watch. My watch is over tonight, but I guarantee you that during the time I am chairman, I will not use this authority and it will be taken out of this bill.

The first reaction of the chairman from Florida, BILL YOUNG, was, take it out; take it out now. I share that reaction.

I thank the Senator.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, first of all, let me say that I have no question about the good faith of the Senator from Alaska—none. His word is good for me because he has demonstrated repeatedly to me his word is good.

The problem I have is I am about to be asked to vote for this measure and it will become law. The President can make any declaration he wants upon signature of the law that he doesn't consider it effective. That has no legal standing. The fact is the House has passed this. If we now pass it, and the President signs it before that joint resolution is effective, this will become the law of the land. And it is a mistake. It shouldn't happen. It should never have happened.

I know this was not moved by any Member of the Senate. I know this happened as a result of something that happened on the House side. Staff were involved on the House side, and misrepresentations were made about clearances being made.

The fact is this is in the bill. We have to think about what this law provides. This says an agent of the Appropriations Committee could get unlimited access to tax returns in this country and have absolutely no legal penalty for releasing it to the public. They could call up the tax return of any Member of the U.S. Senate, any individual in this country, any writer for any newspaper.

Mr. STEVENS. Will the Senator yield?

Mr. CONRAD. Yes. I would be happy to yield.

Mr. STEVENS. I don't read anything in this provision that either chairman can release the information. He makes the assertion that if we use this power, we can release it. There is no such provision.

Mr. CONRAD. I beg to differ with the chairman. I am an old tax administrator. I know tax law. This provision says very clearly:

> Notwithstanding any other provision of law governing the disclosure of income tax returns or return information, upon written request of the Chairman of the House or Senate Committee on Appropriations, the Commissioner of the Internal Revenue Service shall hereafter allow agents designated by such chairman access to any Internal Revenue Service facilities and any tax returns or return information contained therein.

Because it says ''notwithstanding any other provision of law,'' that sweeps aside all of the privacy protections that are available in law.

Mr. Chairman, I have great respect for you. This provision is clear in terms of its legal impact.

Mr. STEVENS. Will the Senator yield?

Mr. CONRAD. I am happy to yield.

Mr. STEVENS. If the Senator says he has respect for this Senator, he will believe me. We didn't ask for that authority. We would not use that authority. We detest this section, and I am tired listening to people say somehow or other we intended to use it. We don't intend to use it. It is going to come out of this bill. It is going to come out of this law and it is not going to be used. I don't know how I can be any firmer. I am tired of it. We have been working hard on this bill. We did not do this. To imply we did—either Congressman YOUNG or I did it—is wrong, wrong.

Mr. CONRAD. I did not imply that the Senator did this.

Mr. STEVENS. The Senator implied that I will use it; that I would disclose it.

Mr. CONRAD. Senator, it is in the law if we pass this bill tonight. Senator, I say through the Chair, the point is this: I am not questioning the chairman. I am not. But I am questioning this body tonight passing this legislation that has already been passed by the House, and it becomes the law of the land upon the signature of the President of the United States. That is wrong.

Part of the reason we are here is because we have a process that has broken down. We have a process that has produced a 3,000-page bill that gets slapped on our desk and we are told to

vote on it in a few hours without knowing what is in it. It is wrong. It is wrong.

Mr. STEVENS. Will the Senator yield again?

Mr. CONRAD. I would like to finish and then I would be happy to yield for any question of the Senator.

Let me say this: For a number of years we have had this process ongoing. In 1988, President Reagan, in a State of the Union Message, told us never again; don't send me another bill like it because I am not going to sign it. He was right. He said in his 1988 State of the Union that you have sent up here a 1,100-page bill and you had 3 hours to review it. You don't know what is in it. Nobody knows what is in it. Don't do it again. Don't send me another bill like this because I will not sign it.

Here we are tonight. We don't have a 1,200-page bill, or 1,100—we have 3,300 pages. We don't know what is in this bill. There are a handful of people who know what is in this bill. Most of us don't know what is in this bill. If somebody, some sharp staff had not caught this, we would be making this the law of the land.

Now I find out there is no way to prevent this from becoming the law of the land if we pass this bill tonight.

That, to me, is a mistake.

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

The Senator from Alaska.

Mr. STEVENS. Mr. President, I want to state again the protection for the minority on this bill was in the people who were with my staff when it was read through. If there was a mistake in it, it is borne equally by your side of the aisle as well as ours. I have accepted the total responsibility as chairman. No question about it; a bad mistake was made. But let me go back.

Senator BYRD and I begged for a budget resolution in May, in June, in July, and when we came back in September. We didn't get a budget resolution. The Senator is on the Budget Committee. Why didn't we get a budget resolution? We said if we don't, we will have another one of those nights when we will have a big Omnibus appropriations bill. I preached it right here on the floor. I will dig it out, if you want. I said if you don't, we will have a midnight session again trying to get a bill through that no one knows what is in it because we have had to move and move these limits.

There are provisions in this bill that must become effective or people will lose rights as of Sunday. We are trying our best to get it done. A mistake has been made. I hope the Senate would take my word. It is my word. I don't think I have ever broken my word to any Member of this Senate. That was a mistake. It says as chairman of the Appropriations Committee I can trigger that and ask for access. I have said I would never do it. I did not seek it. The chairman of the House did not want it. He is appalled by it. It is a provision that, even if it becomes law, cannot be utilized except by BILL YOUNG and me, TED STEVENS. We have said we will not do it.

Isn't that enough? Isn't that enough? Do I have to get down on my knees and beg the other side?

This bill must become law because people have rights that will be affected by it if we don't pass it until we come back in December. That is all there is to it. It is not my fault. I hate working under these pressures. My staff hates it. As a matter of fact, it is a terrible way to do business, but I had nothing other than to try to do it.

As a matter of fact, we had to take one bill and do it in the last 3 days because we could not get agreement between the people involved. It has been a terrible bill to handle.

I hope the Senate appreciates the work that people have done this last week to try and get to the point where we could pass it before we left.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, with respect to the Budget Committee, I am on the Budget Committee. I am not the chairman of the Budget Committee. Our friends on the other side were in control of the House and the Senate. Failure to get a budget resolution was not on our side. Failure to get a budget resolution lay on their side.

But that is not the point of this discussion tonight. The point of the discussion tonight is we have a process that is broken. There is no better evidence than the fact that we have a provision that would open the tax returns of every American, every American company, to some staffer in the Appropriations Committee, with absolutely no penalty on that staffer if they were to release the private information contained in that individual's tax return. That is wrong.

The chairman of the committee says, I never sought this power. I believe him. He said the chairman of the House never sought the power. I believe him.

The fact is, the provision is here. Somebody wanted it. Somebody got it in here. The fact is, the current chairman of the committee is not going to be the new chairman of the committee. And the same is true on the House side. These two Senators have said they would not use the power. How about the two Members who are going to be the chairmen? They would be able to use the power because if we vote for this bill tonight, with this mistake in it, unfortunately, it will become law.

I don't want to explain to my constituents back home that every tax return in America is open to some staffer and there is absolutely no legal penalty for them making it public. That is a serious mistake. There is a desire to take this out. Let's take it out.

I ask unanimous consent these provisions be deleted from this bill. I am specifically referring to section 222 of the provisions that are found on page 1,112 of the bill.

Mr. STEVENS. I object.

Mrs. BOXER. Mr. President, I am a little confused. I am really confused.

Senator CONRAD, who brought this issue to the Senate's attention, solves the problem by asking unanimous consent to take this offensive language out of the bill, this ''Big Brother is watching you and your tax returns'' out of the bill, and the passion showed by Senator STEVENS in his previous remarks, I was really taken in by them. I felt that he was really upset and that he wanted to resolve this matter. Yet we have an objection to take this out.

If the House went home, bring the House back. They shouldn't have gone home with this terrible provision pending.

I don't quite understand what just happened. I guess there will be an explanation, but let the record be clear there was objection from the Republican side to take out this offensive language which gives permission for the chairman of the Senate and House Appropriations Committee to designate staff to look at any American's tax return, any business tax return they decide they want to spy on.

There was a unanimous consent request to delete that by Senator CONRAD, and there was an objection. I am confused. We could have resolved that, and it could have been taken care of, but instead we have an objection. I am sure there is a good reason. Maybe Senator STEVENS will explain it, but deleting the language resolves it on our side, and we can get on with the bill.

I have a problem with the health issue in this bill that is going to adversely affect women of America. I talked to Senator STEVENS. He was very honest and said it had to stay in because of the House, but I was able to work with Senator REID and Senator FRIST and we got agreement and I will not object because we will have a chance to vote up or down on that offensive legislation sometime before April 30.

Senator CONRAD made a very wise motion to, essentially, ask unanimous consent to remove the offending language, and we could have resolved it.

I am confused.

I yield the floor so my colleague can have his own time.

The PRESIDING OFFICER. Who seeks time?

MAKING A CORRECTION IN THE CONFERENCE REPORT TO ACCOMPANY H.R. 4818

Mr. STEVENS. I send a joint resolution to the desk and I ask unanimous consent we now proceed to this joint resolution, that it be read three times and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Reserving the right to object.

Mr. STEVENS. I renew my request, Mr. President.

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

The clerk will report.

Mr. STEVENS. I ask unanimous consent we proceed to the resolution, it be read three times and pass, and the motion to reconsider be laid upon the table.

Mr. BYRD. I did not hear the request.

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

Mr. BYRD. I did not hear the request.

The PRESIDING OFFICER. The request is that the resolution be considered read three times, passed, and the motion to reconsider be laid upon the table.

The Chair asked twice if there was objection, and hearing none, the resolution has been considered passed, and the motion to reconsider is laid upon the table.

The joint resolution (S.J. Res. 42) was read the third time and passed, as follows:

S.J. RES. 42

In the conference to accompany H.R. 4818, House report 108–792, Section 222 of Title II of Division H, Departments of Transportation and Treasury, Independent Agencies, and General Government Appropriations Act, 2005, shall have no force and effect.

Mr. MCCAIN. Parliamentary inquiry: What is the effect of what was just agreed to?

Mr. STEVENS. May I answer that?

Mr. MCCAIN. I withdraw my parliamentary inquiry. I have an understanding from our capable staff.

MORNING BUSINESS

The PRESIDING OFFICER (Mr. THOMAS). The Senate is in a period of morning business, with Senators allowed to speak for up to 10 minutes. Who seeks time?

The Senator from West Virginia.

THE APPROPRIATIONS PROCESS

Mr. BYRD. Mr. President, the Senator from Alaska and I have, for months, been importuning the Senate, the leadership, and anyone else who will listen, not to end this session with the passage of an Omnibus appropriations bill. I have, for years, opposed passage of Omnibus appropriations bills.

We have seen within these last few years, especially, this excrescence on the skin of the body politic grow until now it has become malignant.

I warned and warned and warned against Omnibus appropriations bills. I have complained that the leadership of the body has not worked diligently to prevent our being caught with our backs against the wall at the end of the session and with the absolute necessity at that point to act in haste and to act upon many appropriations bills at once, with all that portends. That makes it difficult, if not impossible, for Members to examine what is in the bill.

So much of this is done at the hour of midnight and beyond. Staffs have to read through these bills and work on them, and Senators who cannot do that have to depend upon the work of those staffs. They are literally dead, as it were, with fatigue when they do this job this way.

I have, time and time again, said to Senator STEVENS: I hope we will avoid Omnibus appropriations bills. There is no good served with Omnibus appropriations bills. When that happens, we invite the executive branch into the exercise. It seems my colleagues, so many of them on both sides of the aisle, do not view that as a danger to the Senate, a danger to the constitutional system, and really a danger to the liberties of the people.

We should pass 13 appropriations bills every year. I said that time and time and time again. The distinguished chairman of the Appropriations Committee at this moment, Senator STEVENS, has done his level best to get 13 appropriations bills passed and brought to the floor.

But I tell you, my friends, we have lost too much time with other things that could have waited, and now we find ourselves in the bind, when we do not have enough time to do the proper work on these appropriations bills. I am sick of this process. I am ashamed of it. I do not know if there will ever be a better example of what can happen, what can go wrong with this nefarious process of putting off legislation.

Appropriations bills are the only bills we actually have to pass. They are bills to keep the Government running. This has to do with the oversight process, the examination of witnesses through the appropriations hearings. This is the absolute best form of oversight, when we can say to a witness from the administration, whatever administration it is: How have you done under this qualification here, that you would be limited to such and such, a number of dollars? What have you done? What has been the result? We are strangulating this oversight tool. We are wiping it out when we do not bring to the floor these bills on time.

We get to the pass here. This is the pass. And we are cut off at the pass. Oh, we have to do this. We have to do this. We need to cut the time on the bill. We need to limit ourselves. Here in this case, only two of these appropriations bills have ever passed the Senate. Only two this year, right?

Mr. STEVENS. Four, Senator.

Mr. BYRD. Four passed the Senate. In any event, only two of the nine bills that are in the omnibus have passed the Senate.

Mr. STEVENS. That is correct.

Mr. BYRD. Now, that is a shame. That is a disgrace upon the escutcheon of the Senate. I am greatly concerned about that process. I have been, and I have many times expressed it to my dear friend, TED STEVENS, who has worked his tail off in trying to get these bills through the committee and through the Senate.

Now, we cannot go on like this. We just cannot go on like this. I hope other Senators and I hope the leadership on both sides will see what can happen when we are brought to the wall, with our backs to the wall, and we have to ram through such important legislation without giving it careful consideration because we do not have the time and we rush these—can you imagine what is happening to the process when we approve appropriations bills in the Senate Committee on Appropriations and then do not bring those bills to the Senate? We do not bring those bills to the Senate.

I will tell you, friends, I have been in this body now 46 years this year, and it was never that way in the old times. We always passed the appropriations bills. I believe you will find on the record, we passed them, with my help, on both sides of the aisle. I never did anything by myself. It was an absolute cooperation between both sides of the aisle in the Appropriations Committee. We did not have all of the recriminations and the fault finding. We worked together, and we brought those 13 bills to the floor, and we acted on them.

Something badly wrong is happening to the appropriations process in the Senate, and I hope and plead with my colleagues that we take a good look at what is happening and that we all, as it were, rise up in arms against this way of pushing everything to the end of the session.

We have squandered time. You remember the filibuster one night we had here? Remember the filibuster one night? Well, that is just one example of how we have foolishly squandered our time. And we have not been in here 5 days a week working. How about that? We ought to do better.

I feel very, very badly about what has happened here. I never knew anything about this. I never knew this was in the bill until after I got up in the conference today and urged Senators to vote for it.

Mr. STEVENS. Neither did I.

Mr. BYRD. I said: I don't like this process. I don't like the fact that the minority is being shut out—at least one stage. I do not think the minority should ever be shut out. That is not in the book of the legislative process. That is not in the legislative process as I taught it over at American University. That is not in the legislative process as I learned it from those who came before me. That is not in the legislative process as it was when I was the majority leader.

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

Mr. BYRD. Mr. President, I ask unanimous consent that I may proceed for an additional 10 minutes, if necessary.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BYRD. I thank the Chair and I thank all Senators.

And so it is a terrible albatross around the neck of the Senate, and it is a terrible disservice to the people of these United States, who need to have their Senators examine bills carefully.

Part of it is our fault. We don't have to be out of here on Mondays. We don't have to be out of here on Friday afternoons. They didn't run the Senate like that when I was coming up here. I didn't run the Senate like that when I was majority leader. I told my own crowd: You elected me leader, and you can throw me out if you want to, but as long as I am leader, I am going to be leader. I am not here for the pleasure of Members. I am here to get the work done. And we worked and we had votes. Any of you who were here when I was majority leader, we had what were called bed check votes on Monday morning at 10 o'clock.

So I don't like this process. We are getting paid to work 5 days a week, 6 days a week, or 7 days a week, if it is necessary. I hope we don't start coming in here on the Sabbath and working. We need to keep the Sabbath day holy. But I say to you, my friends, we ought to get away from this bog-tailed schedule that we work on here—being in the Senate 2 days a week, or 2½ days.

So there are many things that can be attributed to the breakdown here. There are many complaints that can be made, many fingers can be pointed, and many truths can be stated, pointing out where we are falling down.

A number of Senators, may I say, have come to the floor to denounce, rather harshly, this provision that was included in the Omnibus appropriations bill, which would authorize—I know TED STEVENS; he would never want this kind of authority. That is laughable. He would never want this kind of authority. I would not either—chairmen of the Appropriations Committee and their designees to access the tax returns of companies and individuals. Why, this is a slam at the integrity of the Appropriations Committees of the two Houses, and especially it is a terrible thing to have somebody put this in a bill and lay this burden on the chairman of the Appropriations Committee. We don't want that. I have been chairman and I would not want that kind of authority.

I want to thank Senator STEVENS for coming to the floor and pledging to do what he can to correct this problem. I recognize that is not his fault. It is the inevitable result of a horrendous process that has developed in these last few years. You can go back and see the record for yourselves. The record speaks and the record tells the truth.

I want to assure my colleagues that I knew nothing of this provision until after I had made my fine speech in the caucus talking about this bill, how good it was and how bad it was, and then urged Senators to vote for it, saying that it was better than having a continuing resolution. And lo and behold, the distinguished Senator from North Dakota got up right behind me and he and the Senator from Montana pointed out that this language was in the bill. I had not seen it. If I had known about it, I would have been the first Senator to the floor to deplore it. I would have done everything in my power to keep it from being included. It is egregious and it ought to make every Senator hopping mad at the process that caused it, at the process that caused this in the wee hours of the night—to have our staffs operate with fatigue in going over these matters.

Why do we have to do it in the wee hours of the night? Because you are up against the gun, up against the deadline.

Look at this massive piece of work that must be examined. This is what happens—I will say it again—when the Congress writes legislation behind closed doors. This is what happens when the Congress tries to cobble together nine appropriations bills, seven of which have never been considered by the Senate, into an Omnibus appropriations bill. This is exactly why we failed the people out there who are watching through those electronic lenses. We fail the American people when we cannot complete the appropriations process on time.

I think it is a disservice to the chairman of the committee and to Senators who try hard to keep things going here and to move on a schedule that will get us through and not keep us waiting until the end of the session, when it is too late to act with care and to properly operate the oversight process. We open ourselves up to these kinds of abuses.

I am told that the Senate now will do something about this. We have already allowed a unanimous consent request here that has been agreed to. I hope—that isn't quite enough—the majority leader, who was here a moment ago, will try to get a commitment from the Speaker of the House.

Mr. STEVENS. We have that.

Mr. BYRD. Very well. I am told by my colleague, Senator STEVENS, that we have that commitment. Well and good. They will join the Senate in passing the joint resolution to remove this provision. I am also concerned about what the distinguished Senator from North Dakota brought up when he spoke of the fact that when a bill is passed into law, it is a law, and it is either going to be repealed or vetoed. We need to hear from the leaders of both bodies that this provision will be removed, and we need also to hear from the leaders of both bodies that this won't happen again.

I myself had said that I would vote for this bill. I am going to vote against it out of protest against this awful process. I have campaigned against this process on the floor; I have urged that we not let ourselves get into a situation wherein we have to nail together, tape together, put together pieces of appropriations bills, and whole appropriations bills, and come out with an Omnibus appropriations bill. And now we are going to be faced with a conference report that we cannot amend. So I will vote against this process. I will not support a process that results in this kind of chicanery. I thank all Senators for listening.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana is recognized.

SENATOR BYRD'S BIRTHDAY

Mr. BURNS. Mr. President, I agree with my friend from West Virginia. No man should be put through this on his 87th birthday. Happy birthday, Senator BYRD. We hope you make it home in time for the cake.

I yield the floor.

Mr. STEVENS. Mr. President, is it possible now to proceed to the conference report that is before us?

I ask unanimous consent that we proceed to the conference report before us.

Mr. CONRAD. Mr. President, reserving the right to object, I say to my colleague that there are discussions going on to try to resolve this matter. I think they are about to bear fruit. I just left a conversation in the cloakroom, and they were coming up with a process to try to make certain that this provision never becomes law. It sounds as though they are making progress. Before we proceed, I think we will want to have the leaders here to be able to tell the rest of us what they have arrived at.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, we have just had an election. Republicans are firmly in power in the White House and also in the Congress. Now, just 18 days after the election, we see in this bill breathtaking arrogance of power. It is an abuse of power because it gives power to Republican leaders, at the expense of your right of privacy, to pry and snoop into your tax returns.

They can even leak your taxes to the press and post them on the Internet without penalty. It is an abuse of power because it gives insurance companies the power to deny your right to know all of your health care options. It gives insurance companies the power to order your doctor to tell you only part of what you need to do.

It is an abuse of power because this bill gives the power to corporations to prevent you from knowing where your food comes from. It is an abuse of power because it gives companies the power to deny your right to overtime pay.

What other abuse of power is in this bill? We should take some time and delay action until we have read it and until we have the opportunity to fix it.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. May I inquire if we are still in morning business with Senators able to speak for up to 10 minutes each?

The PRESIDING OFFICER. We are in morning business, limited to 10 minutes each.

TRIBUTES TO RETIRING SENATORS

JOHN BREAUX

Ms. LANDRIEU. Mr. President, we are in the midst of a very important discussion, of course, as we are considering what to do. As the leadership meets to consider what we should do that hopefully will either move this process forward or come up with some other resolution, I thought I might take a moment to speak about our colleague, Senator BREAUX, and his retirement.

This would probably be a good time to talk about the senior Senator from Louisiana and to pay tribute to him because he would be one of the Senators most certainly who could help us figure out this situation. He has been helping us figure out situations like this for 32 years with a lot of success and, I might say, with a lot of respect from all the Members in this body, both on the Republican side and the Democratic side.

It might be appropriate for me to speak a few moments about the great contribution this man has made to this body.

Senator BREAUX came to the House when he was 28 years old, and after four children and now three grandchildren, he leaves us after serving well and admirably for 32 years.

When he came to Congress 32 years ago at the age of 28, he was the youngest Member of Congress to be serving at that time. He has served with 7 Presidents and 16 Congresses. He served with President Nixon, President Ford, President Carter, President Reagan, President Bush, President Clinton, and now currently with President Bush. He served through 16 Congresses for 32 years in times of war and peace, through recessions and irrational exuberance. He has served as a husband, as a father, as a grandfather, and he served our State with great grace, great steadiness, and great leadership through it all.

It might not come as a surprise to my colleagues as we consider at this time what we are going to do to look at this picture of JOHN BREAUX that will give us all a laugh. I do not know whether he was playing Li'l Abner or a farmer, but this is on his Web site and he displays it proudly. It shows a sense of humor, even as a young man.

He has been called brash and good looking and confident, and he still is that today. He is not only a storyteller, but a great dealmaker. He has a rollicking sense of humor. He is admirable. He is hard-working, amiable, smart, a bridge builder, a strategic thinker, and someone who has our deepest respect. He has been, and continues to be, a team player.

I found this picture of JOHN BREAUX with his uniform on, which is the way he pretty much came to work every day, with his hat on, a baseball cap on, his uniform on, maybe just in a suit, but ready to get the work of the Senate done and get the work of Congress done.

There is probably not a major piece of legislation passed by this Senate that did not have JOHN BREAUX's assistance. He was the teammaker, always ready to bat or pitch or catch or sit on the sidelines or referee because he basically did it all.

He was also considered a strategic thinker and a great leader for our country. He, as many of us, gets the opportunity to not only speak on this floor but to be on major television and radio programs speaking about the great issues of the day. And he most certainly has put his mark on many pieces of legislation.

As a member of the Finance Committee, as a member of the Commerce Committee, and as a member of the Fisheries Committee in the House during the time he served there, I can say there is probably not a major piece of legislation that has not felt the good mark of Senator BREAUX: always there with a compromise, always there with a suggestion, always there with a little prodding. We and the people of our Nation can be grateful for his wisdom and his input at those critical times.

Whether it was the Medicare overhaul, laying the groundwork for a stronger Social Security system, or whether it was legislation related to agriculture, to sugar or rice, the commodities in Louisiana that are so important, JOHN was always there.

I want to say a word about a very important bill—and we will show JOHN playing tennis because this demonstrates that not only is he a great athlete and team player, but he is a great tennis player. What I like about this picture is he always kept his eye on the ball. Despite all of the great work that Senator BREAUX did in this Senate on so many pieces of legislation, helping all States, he always kept his eye on the ball—the State of Louisiana.

There are 4.5 million people who live in our State—wealthy people, poor people, people who live far out in the woods in the country and people who live in the great urban centers of New Orleans and our capital city of Baton Rouge and our other cities. Not only did he keep his eye on the ball in Louisiana, he kept his heart with us.

I can tell you he has left a great mark on our State.

There is an act we are proud of that we now call the Breaux Act. It is referred to as Wallop-Breaux, but at home we call it the Breaux Act because JOHN, in his typical quiet, responsible fashion, crafted a very special tax arrangement that is ongoing—and we will not talk too much about the details, JOHN, on the floor—but there was a very special arrangement made years ago with members of the Finance Committee that has helped us finance and send money to the State of Louisiana that has literally laid the groundwork to save our coastline.

It is not just Louisiana's coastline; it is America's wetlands. Two-thirds of the Nation is drained by it. Forty percent of the fisheries are in the Gulf of Mexico. The greatest shipping channel in all of North America comes through that Mississippi Delta.

Because JOHN kept his eye on the ball—and although he did all this great work for the Nation, he always loved Louisiana the most, always put his State first—we are now able to build a great environmental legacy to save this coastline. We already lost the size of the State of Rhode Island, but because of JOHN's work, because of his great strengths and great sense of humor, great respect, and great intelligence, he was able to lay that groundwork.

Whether it was advocating for senior citizens in our State when they did not have an advocate, or showing up at senior centers early in the morning and late at night, whether it was advocating for children through education or whether it was advocating for sugar, he did it all.

Maybe this picture says it the best. On the front page of one of our Nation's leading magazines, here is Senator BREAUX sitting at the table holding all the cards and most of the chips, which is the most important thing about this picture, with the elephant on one side and the donkey on the other, and JOHN BREAUX in the middle. At times, we need men and women in the middle. We need people who can listen to both sides and try to figure it out.

Tonight, that is what we are trying to do on the Senate floor, just trying to figure out this situation. It is a serious situation, and I do not at all mean to be light about it, but figuring it out is what we do as leaders, making our government work.

While I do not gamble too much myself, I can most surely appreciate—and there are plenty of people in Louisiana who do gamble. So we are proud of this picture and proud of JOHN, but deals need to be made on principle and for the people. The people need the government to always give them a fair deal, a good deal, and a square deal, and that is what JOHN did.

So, JOHN, on behalf of so many people in Louisiana and around the Nation, let me say that you are going to be missed because you will not be a Member, of course, of the Senate, but we know that we can call you. We know that we can reach you. We know that you will always be advocating for us in Louisiana and for our Nation.

Let me also mention what has not been said on the floor and what was not said in my remarks. Besides having his name on many bills, the phone conversations and quiet consultations that he held with Presidents and with senior Members of this body, his wisdom was found and went through those conversations and into legislation that became part of the work of this body and the Congress.

So, JOHN, for all of your not only legislative work but for your good counsel to us, to Presidents, to leaders of nations, to leaders in industry, we thank

you for that and may you look forward to many happy years with Lois. I know that your father Ezra, and I know that your mother, God rest her, would be proud. I know that your father Ezra has watched you all these years and continues to be very proud of you. From Crowley, LA, from a young man who ran when he was 28 years old on the theme of experience matters, and was brash enough at 28, having never served a moment to say that experience matters, let me say, experience does matter, and we are proud to have had a Senator with the kind of experience and legacy of my senior Senator from Louisiana, JOHN BREAUX.

I yield the floor.

The PRESIDING OFFICER. Who seeks time?

Mr. BYRD. 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.

Ms. LANDRIEU. 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. LANDRIEU. I ask unanimous consent to speak for up to 3 minutes.

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

NATIONAL ADOPTION DAY

Ms. LANDRIEU. Mr. President, while we are continuing to try to resolve our current situation, I will speak for a moment about something else today. Today is National Adoption Day. The Senator from Idaho and I spoke at some length yesterday in anticipation of today, so I will not go into too much detail, but I thought maybe some of my colleagues would be pleased because they worked so hard on this issue. It is an important issue. One out of six Americans has been touched by adoption.

While we were working in Washington, in our capitals and cities all across America, over 4,000 children were adopted today. That those children found forever families and parents who have prayed and hoped for either their first child into their family or children added into their family through adoption was made possible today because our country honors this day as National Adoption Day.

Both President Bush and President Clinton before him were wonderful advocates of promoting a better system of foster care and child care in our Nation for the children of America. We believe, as Members of the Senate, there is no such thing as unwanted children, just unfound families. Many of us do a lot of work in this area in terms of legislation to try to make our system work more effectively and efficiently so that all children can have the dream of a family, a mother, a father, at least one parent, to raise them, to bring them up.

We think that governments do a lot of things well—I, at least, think governments do a lot of things well—but one thing it does not do well is raise children. Families raise children. That is where children belong, in families. When they are separated from their birth parents for one reason or another—and there are many: war, famine, disease, and sometimes having to be separated from parents because of gross abuse and neglect—our work is to get them reconnected as soon as possible to a relative, to a responsible, caring adult, to at least some family in the community right there where they are and, if not, somewhere in the world.

I have a heartwarming and also heartrending story about a little boy from Louisiana. For the sake of time, I will quickly tell the story because it truly is touching.

Eight years ago, a little boy was born at Tulane Hospital. I am not going to say his name for the record. That was the wonderful news about being born, but the sad news was he was born with AIDS. He was so sick, so fragile and frail that his birth mother basically abandoned him and no one stepped forward for him.

The nurse that cared for him fell in love with him and basically took him home to her house. She and her husband raised, nurtured, and loved this little boy for many years. She tried through our system to adopt this child for years. I am not exactly sure if I could explain to Members why this never took place when the child was 2 or 3 or 4 except for bureaucracy or that people did not care enough.

Here is a little boy, dying of AIDS, wanting parents, a parent wanting this child, but the system did not work fast enough.

The happy part of the story is one judge in my State, Judge Taylor, after this came to his attention, decided to take action, and action he took. He brought all the court, which is unheard of, all the clerks, all of the lawyers to the hospital room where this little 8-year-old boy was lying in a frail condition, and he brought the prospective parents to the hospital room and they conducted the adoption ceremony right there in the hospital room. This is the only time I have ever heard of this. Maybe it has happened before, but this happened in New Orleans, LA, just in the last year.

He was so frail that his doctors insisted that the heart monitor be kept on the whole time that this was going on. When the judge said the words, this child is now adopted, his heart rate went up to normal for the first time in his life. The child could not speak, but the monitors said what the child was feeling when he was adopted because his last wish was that he would be adopted. Through the Make a Wish Foundation this all happened.

So the child was adopted, and his now new parents stood by his bedside and hugged and cried. That is the happy part of this story. I do not know what kind of system was not working that would leave this little boy without these parents so long, but the happy news is he was adopted and they became his parents. The sad part of the story is that his little life did not go much further than that, and within basically a day of that ceremony, he passed on.

The great thing that I want to say today about National Adoption Day is that this child did not die an orphan. He died as a son. For this child and for the parents who adopted him, it was a wonderful ending.

So the work that we do in the Senate, whether it is on finance, tax, health care, or military, there is not too much work that we can do that is more important than connecting children to families, families who will love them, nurture them, and give them the best opportunity. We cannot promise our children rose gardens. We cannot protect them from harm or injury or disease, but we can give our children love for as long as we have them and, of course, they give us back so much more.

In honor of National Adoption Day, I thank all of our great leaders in Louisiana that made this wonderful story happen, and I congratulate the judges on our bench in New Orleans, the social workers who were on the positive side of this story, the parents themselves, the medical staff at Tulane University, and my sister Madeleine, who is a wonderful judge, who shared this story with me.

I ask unanimous consent that the article from the New York Times be printed in the RECORD.

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

[From the New York Times, Nov. 18, 2004]

AGENCIES PRESS EFFORT TO SPEED ADOPTIONS

(By Kristen A. Lee)

In 1998, Judge Michael Nash, the presiding judge of the juvenile court in Los Angeles, had a disturbing realization: Foster children were languishing too long in the system before their adoptions were completed.

So with the support of a team of lawyers working pro bono, Judge Nash opened his court on a Saturday and completed 130 adoptions in one morning. Buoyed by that success, Los Angeles courts have had about 20 more Saturday sessions, handling the adoptions of 7,000 children.

Under the leadership of the Alliance for Children's Research, the program initiated by Judge Nash's court has expanded into a national drive. On Saturday, the fifth annual National Adoption Day, child welfare groups and family courts across the country plan nearly 200 events and hope to complete more than 3,000 adoptions.

Nationwide, 129,000 foster children are waiting for permanent homes, according to a study released yesterday by the National Adoption Day Coalition, a group of child welfare organizations and private companies. Inadequate communication between state child welfare agencies and the courts, crowded court dockets and heavy caseloads were the most significant obstacles cited to placing children in permanent homes. And states

continue to report that finding adoptive parents is a challenge—especially for older children and those with special needs, like behavioral problems or disabilities.

But the study also found that state child welfare agencies and juvenile courts were taking innovative steps, as Judge Nash did, to better serve children and families.

The number of adoptions in the United States has increased significantly in recent years. In 1998, 37,000 children were adopted. In 2002, the number rose to 53,000.

The analysis was conducted by the Urban Institute, a nonpartisan economic and social policy research organization. The data was culled from federally mandated reports.

According to the study, the adoption process is complicated by the constant coordination required between child welfare agencies and family courts. Scheduling difficulties can slow the process, as can differences in outlook between agencies and the courts. The overwhelming majority of state agencies reported such differences led to delays in terminating the rights of birth parents.

''The courts may have one perspective and the agencies may have another,'' said Rob Geen, director of the Child Welfare Research Program at the Urban Institute. These disagreements, he added, ''lead to breakdowns and delay the adoption of children.''

Senator Mary Landrieu, the Louisiana Democrat who is co-chairwoman of the Congressional Coalition on Adoption Institute, described the system as ''somewhat broken.'' Federal financing for foster care should be funneled to the states in a more focused way, she said, adding, ''The passion is there, the people's support is there, but the system itself needs a tremendous amount of shoring up.''

Many states are already taking steps to address delays in the adoption process by reorganizing staff, scheduling more training and working better with the courts.

Judge Nash credits the special Saturday sessions for cutting the number of children under his court's jurisdiction to 28,000, from 54,000 in 1998. ''We have to move faster in taking care of those kids,'' he said.

But Mr. Geen said that there can be good reasons for delay. ''The system is set up to address the birth parents' rights,'' Mr. Geen said. ''It's not just finding a car,'' he said of adoption. ''There are reasons why the process should take a considerable amount of time.''

I yield the floor.

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

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. GRAHAM of Florida. 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. GRAHAM of Florida. Mr. President, I understand we are in a period of morning business?

The PRESIDING OFFICER. That is correct.

INTELLIGENCE REFORM

Mr. GRAHAM of Florida. Mr. President, we are now in a serious quandary and a quagmire in some part due to the fact this institution, and our counterpart across the Hall, has difficulty in effective collaboration. With that said, I want to talk about what I think is really one of the outstanding examples of what can happen when our Chamber and our friends in the House of Representatives decide there is an issue important enough to collaborate on to do something important for the people of America.

We have had, over the last 15 years, a series of the most serious failures of American intelligence in our Nation's history. It didn't just start with September 11, 2001, and it didn't end with the circumstances that led to the war in Iraq. Going back over the decade of the 1990s we had the World Trade Center attack in New York, we had attacks against our embassies in Africa, we had failure to detect that India and Pakistan had become nuclear powers, we had the loss of the USS *Cole* in Yemen—all of those, which should have been detected, preempted, and the tragedy avoided by the effective professional work of our intelligence agencies. We didn't get what we thought we deserved.

I wish to particularly commend this evening Senators COLLINS and LIEBERMAN as well as Senators ROBERTS and ROCKEFELLER for the outstanding leadership they have given in trying to overcome this vulnerability, this unnecessary vulnerability.

When I look at a final piece of legislation, I approach it in this manner. First, what were the problems—or maybe, what were the missed opportunities that led us to believe it was important that we develop this legislation? And now, at the end of the process, how well does the final product solve or at least substantially mitigate the problem that had led to our concern in the first place?

As it relates to the status of our intelligence agencies, we have had a number of problems that have each contributed, in their own way, to this series of failures. We have had the problem of the difficulty in the intelligence agencies adapting to changing adversaries and the changing global threat environment. The Cold War was the most fundamental historic event in the history of the American intelligence. Our intelligence agency had been focused for the better part of 45 years on the Soviet Union. We knew their languages. We knew their cultures. They were an entity very similar to the United States of America. We could almost anticipate what their actions would be.

Today, we have a massively asymmetrical adversary. Groups such as al-Qaida and Hezbollah and Hamas and Islamic Jihad, nations which are not nation states or tribes of tribes driven by extreme religious beliefs. We have not adapted to that change, and we have paid a high price for that failure to adapt. I am pleased to say there are provisions in the Intelligence Reform Act—and I hope we will soon take it up—which will begin to alter that situation.

We are establishing a strong Director of National Intelligence, or DNI, who will be able to provide overall leadership and direction. He or she will not be responsible for the management of a line agency, as is the case today, where the Director of Central Intelligence is also the Director of the CIA. But, rather, he will be able to focus on those issues that will affect the entire community of intelligence and will have the responsibility to assure that we are sensitive and responsive to new developments.

I believe one of the areas in which we will face the greatest challenge in this responsiveness will be in our domestic intelligence. The FBI has been one of the agencies finding it most difficult to respond to a new environment. There has been a pattern of continuing to follow the culture of law enforcement when we need a new culture of intelligence to best protect our domestic vulnerabilities.

I am pleased at some of the progress Director Mueller has made. I believe we should continue to explore other alternatives to see if they will better protect our domestic security. I am pleased that under this legislation, the FBI, while not a unit of the Department of National Intelligence, will be still under the direct control of the FBI but will be considered part of the intelligence community family. I hope at an early date there will be an analysis of what should be our mission statement for domestic intelligence and then what changes in the FBI or further organizational changes will be required in order to fulfill that mission.

A second major problem has been the failure of the intelligence community to provide the big picture, strategic intelligence. Our former colleague, Pat Moynihan, used to regularly complain that, while we knew a great deal about the telephone system inside the Kremlin, nobody had observed the fact that the Soviet Union was near collapse. We have had similar failures to see the big picture, in terms of the failure to recognize the presence of terrorist cells within the United States, cells which were supported by terrorist entities or those supported by foreign governments. In the runup to the war in Iraq was another massive failure to give appropriate strategic intelligence. It is hoped the strong Director of National Intelligence will now have an opportunity to focus on these strategic issues. It is also hoped, as this legislation gives a heightened priority to source information—that is information that is available through public documents, newspapers, and other means—that it will receive a new importance in terms of arriving at overall intelligence conclusions.

There also has been a serious failure in human intelligence. We have many people in the intelligence agencies who understand the culture and the language of Russia. We are grossly inadequate in terms of people who understand the culture and language of the Middle East and central Asia. This legislation supplements legislation that

we have already passed in the Defense authorization bill which would establish a framework for what I would refer to as a ROTC, Reserve Officers Training Corps, except in this case not for the military but, rather, for intelligence purposes.

We have a sound foundation upon which to base the reform of our intelligence agencies. The problem we face tonight is that sound foundation which probably would pass this body by a vote of almost that which passed a few weeks ago, which was 96 to 2, and by a substantial majority in the House of Representatives, is being held up by a few Members of the House who wish to see the status quo retained or have other goals which are unrelated to the reform of the intelligence community that they have been unable to secure incorporation in this final conference report.

It would be a very sad conclusion of this session of Congress if one of the most pressing issues facing our Nation and the security of Americans; that is, provision of an intelligence capability that will allow us to understand our new adversaries will allow us to preempt the activities of those adversaries and will put us in a position to do what President Bush stated was our goal when he said our goal in the war on terror does not end with al-Qaida; it only starts there. It extends to all terrorist groups which have global reach. We will find them. We will stop them. We will destroy them.

We cannot carry out the Bush doctrine in the war on terror unless we have substantial enhancements in our intelligence community.

This is not something that just came upon us a few months ago. There is literally a stack higher than my desk of reports that have been written just since the end of the Cold War pointing out consistently the limitations in making recommendations to enhance our intelligence capability. These were totally ignored until 9/11. Even after 9/11 we were extremely slow to appreciate the urgency of reform of our intelligence agencies. We had to go almost to the third anniversary after 9/11 before serious consideration was being given.

For us today to announce we again have failed to take action to protect the American people would be a tragic condemnation of this session of Congress, and an unnecessary condemnation. We have an excellent proposal which has been endorsed by the 9/11 Commission, by leadership, and by the families of the tragedy of 9/11. For us to walk away from this opportunity that we now have to demonstrate that through bipartisan and bicameral actions this Congress is able to identify a serious national problem, deal with that problem, and enact it into law would be itself yet another tragedy.

I hope when we reach the week of December 6 and the House returns that the House will resolve its internal disputes and the President will continue his involvement. I personally urge the President to particularly direct attention to the Pentagon where I think much of the energy for recalcitrance has emanated and that we will, before this year is over, pass an intelligence reform bill which will serve the interests of the American people and will bring honor to the Congress.

The PRESIDING OFFICER. The Senator from Minnesota.

TRIBUTE TO SENATOR GRAHAM OF FLORIDA

Mr. DAYTON. Mr. President, I would like to first pay tribute to my colleague, the Senator from Florida, who just spoke. He has been one of my guiding lights in my 4 years here. He is someone who exemplifies the best qualities of a U.S. Senator. His integrity and wisdom and his careful attention to matters large and small have been superb during his 38 years of public service to the State of Florida. It has been just extraordinary. I wish him well and I will miss him. I will miss his leadership and his guidance.

INTELLIGENCE REFORM CONFERENCE REPORT

Mr. DAYTON. Mr. President, I also join Senator GRAHAM in his remarks urging the House to pass the intelligence reform conference report, which I am told most, if not all, of the members of the Senate conferees signed. I salute Senator COLLINS and Senator LIEBERMAN who heroically over the last weeks have attempted to reach an agreement on this important measure.

I note that he cochairs the 9/11 Commission with former Governor Kean and former Representative Hamilton who have endorsed it strongly, as have the family members.

I agree with Senator GRAHAM. It is a tragedy that after that Commission report, after we held hearings in the Governmental Affairs Committee of the Senate, on which I am proud to serve, during the August recess, marked up the bill which had overwhelming bipartisan support, I believe every amendment added to that bill in that Governmental Affairs Committee, it had bipartisan majority support, passed here on the Senate floor, I am proud to have supported it—to walk away from it now after the Senate and House conferees agreed to the legislation because of the resistance of a few members in the House Republican caucus who are evidently able to persuade their Members and leadership not to proceed with it is a tragic loss for the people of America. It is a terrible failure on the part of the House to live up to its agreement. To go through that lengthy process and not have the final measure approved tonight is a tragedy for our country and for our security.

OMNIBUS APPROPRIATIONS

Mr. DAYTON. I also wish to comment briefly on the Omnibus appropriations measure which is before us and to express my concern about one omission which has severe consequences for my home State of Minnesota, which is the elimination of the Senate's action to prevent Minnesota and other States from having their title I education funding cut last year and this year.

In 2004, Minnesota was 1 of 12 States to suffer a reduction in title I funding. Minnesota schools received $12.3 million less in fiscal year 2004 than we did in 2003. We lost that $12.3 million in funding, even though our number of title I-eligible students increased by over 3,600. For this fiscal year 2005, Minnesota is only one of two States in the Nation to lose title I money, even though the number of our title I-eligible students will increase again.

In this conference report, Minnesota will receive $15.3 million less than we did 2 years ago for title I education with probably 10,000 more poor students.

The Senate bill corrected the worst of that injustice. It said that no State would lose title I funding if their number of poor students increased. It didn't give those States any more money, even though that is what we should get—more title I money to serve more title I-eligible students. It only protected us from getting less funding. Now even that protection has been removed.

Presumably, the House conferees would not agree to it. They have all of their porkbarrel projects in the bill, all of their unnecessary spending, and even their shameful attempt, as has been discussed here tonight, to allow their leaders to examine the tax returns of law-abiding Americans. All that garbage is in the bill, but the funding for poor students in Minnesota was taken out of the legislation.

Our schools in Minnesota are already hard hit by other funding cuts. Now they must provide their services to more students with less money.

So much for compassionate conservatism, so much for No Child Left Behind. Those slogans ought to be prosecuted for consumer fraud. They don't tell the truth. Even worse, they are betrayals of our Nation's children, of our neediest children.

Once again, this legislative process has impoverished the truly needy while it enriches the truly greedy.

Poor schoolchildren don't have full-time lobbyists to prowl the Halls of Congress and serve their interests. Poor schoolchildren can't make big campaign contributions to big people who even make bigger contributions to their special projects. Poor schoolchildren have to depend upon us and on the House.

The Senate stood up for poor schoolchildren in Minnesota this year. The House Republicans let them down in the $388 billion spending bill, a foot and

a half of paper. In all that money, the House Republicans cut our funding by $25 million for the poorest kids in Minnesota. And then they went home.

They should come back on Monday and remove the tax inspection atrocity from this bill. And when they do, they should also correct the terrible injustice they served upon the children of Minnesota.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAHAM of Florida. 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. GRAHAM of Florida. Mr. President, I first thank my friend from Minnesota for his very kind remarks and for the tenacity with which he oversees, supports, and advocates for the education of the children of his State. I admire his priorities.

I wish I could say the same thing about another action taken today in the House of Representatives. We have a neighbor with which we have had long historic and cultural ties. The case could be made that there would not be a United States of America today but for the aid of this neighbor. And that neighbor is the country of Haiti. Haiti is the poorest country in the Western Hemisphere, one of the poorest countries in the world. It is a country with a gigantic illiteracy problem, a gigantic health problem, a gigantic unemployment problem. We have demonstrated the fact that actions in Haiti have an effect on our national interests by having invaded Haiti repeatedly during the 20th and now into the 21st century.

Our typical invasion has been to deal with whatever was defined as the immediate problem, stay there for a brief period of time, and then leave. Soon all the problems that caused our previous involvement recurred.

We invaded Haiti yet again earlier this year. I am concerned we may well have to repeat that if we do not take action to deal with two fundamental problems. One is security, the second is jobs.

In terms of security, we left Haiti in June of this year with the understanding that the United Nations would provide significant security forces. Approximately 6,000 were committed from a variety of nations in the Western Hemisphere and elsewhere. As of the middle of last month, less than half of those 6,000 commitments had been fulfilled. That contributes substantially to violence, to threatening the stability and continuation of the government. It has encouraged the same kind of forces that used to man the Tonton Macoutes and the military services of the Duvaliers to seek a hope that they might resurrect themselves.

Second is that the economy of Haiti has continued, as unbelievable as it is, to slide further into wretched poverty.

There was legislation introduced by my good friend, Senator DEWINE of Ohio—I was pleased to cosponsor it—which would have given to Haiti some of the benefits which this Congress has recently provided to the poorest nations of Sub-Saharan Africa, to allow Haiti to have some hope of building an economy that allows some 75,000 to 100,000 Haitians to get a job, generating a sufficient income to support their families. That legislation passed this Chamber unanimously. It had the total support of the Senate. That legislation went to the House of Representatives. Senator DEWINE and I and others testified before the Ways and Means Committee as to the urgency of action, both the humanitarian aspects of this legislation, but, also, frankly, the self-interests of the United States of America in avoiding another collapse of that neighboring country.

I have been joined now by Senator DEWINE. Senator DEWINE has given an enormous amount of compassionate, aggressive leadership to this issue, and we had every expectation that we were on a track to get this legislation adopted in the House of Representatives until our first disappointment occurred when the leadership of the Ways and Means Committee decided to abandon the legislation that had already passed unanimously in the Senate and adopt a competing but much diluted bill for their effort to provide some assistance to Haiti.

I cannot speak for Senator DEWINE, but I speak for myself, that I was disappointed the extent of the legislation that the Senate had passed looked as if it was unlikely to be enacted, but at least there would be something that the U.S. Congress would have done for the people of Haiti and again for our own self-interest. Unfortunately, we have heard in the last 36 hours that it looks as if even that thin response will not be brought before the House of Representatives during this session of Congress.

I am extremely disappointed at what that says about our real values in terms of feeling a kindredship with our neighbors within this hemisphere. I am also disappointed at what that says about the Chambers of the U.S. Congress. My hope burns eternal, and now that it appears as if there is a reasonable expectation that we will return the week of December 6 to take final action possibly on the omnibus monstrosity that stands before the Senate, and hopefully also on the subject of my previous remarks, intelligence reform, I hope we would also place on the agenda at that last hour an opportunity for Members of Congress to show they were not cold-hearted and without concern for fellow human beings, and that this effort, as minimal as it is, would be a symbol of our concern and, hopefully, a platform from which more effective and extensive U.S. action could be taken.

Mr. DEWINE. I wonder if my colleague will yield for a question.

Mr. GRAHAM of Florida. I yield.

Mr. DEWINE. Would my colleague agree—my colleague certainly is an expert on Haiti, having traveled there many times—the situation in Haiti is certainly not getting any better today; with this trade legislation we have talked about, both the House version of the bill and the Senate version of the bill would appreciably help the situation for the people of Haiti as well as help our foreign policy.

Mr. GRAHAM of Florida. Absolutely. In fact, in addition to all the systemic problems I cited, in the last few months Haiti has been hit with two dramatic climate-based tragedies. Earlier in the year on the east side of the country there were massive floods that resulted in the deaths of over 1,000. Then during this hurricane season on the western part of Haiti, there were similar floods that cost in excess of 1,000 lives.

I would refer my colleagues to a program that appeared just last night on the ''NewsHour'' about the circumstances in Gonaives, the third largest city in Haiti, which was the epicenter of that hurricane that hit just a few weeks ago. And yet today the circumstances are, if anything, worse than they were the day after the hurricane passed.

So I say to the Senator, yes, anything that we could do that would help and would show our willingness to help would be very well received in Haiti.

Mr. DEWINE. I wonder if my colleague from Florida would yield for another question?

Mr. GRAHAM of Florida. Yes.

Mr. DEWINE. My colleague has studied this issue, I know, extensively. I wonder if he would agree that the proposed bill from the Senate, as well as the proposed bill the House was considering, while both would have a significant impact on the people of Haiti in the future as far as actual job creation, it would have, really, minimal impact, if any impact, on the United States as far as jobs. In fact, would he agree also that some of the experts we have consulted believe these two bills would actually help create jobs in the United States?

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

Mr. GRAHAM of Florida. Mr. President, I ask unanimous consent for an additional 2 minutes.

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

Mr. GRAHAM of Florida. I say to the Senator, of all the exports that come in to Haiti, the vast majority come from the United States of America, including most of their food. Therefore, if the purchasing power of the Haitian people is even minimally increased, it will make a good neighbor and a good consumer of U.S. goods even more capable of doing so.

So I agree with the Senator's economic assessment that the modest amount of aid that we are giving, not in the form of aid but rather aid

through trade, will redound to our economic benefit as well as to our sense of national comity with our neighbors in the hemisphere.

Mr. DEWINE. Mr. President, I thank my colleague who has been such a leader on this issue.

The PRESIDING OFFICER (Mr. BURNS). The Senator from Massachusetts.

PROVISIONS IN THE OMNIBUS APPROPRIATIONS BILL

Mr. KENNEDY. Mr. President, I expect that before long we will have the opportunity to get into the discussion of the omnibus proposal that has been referred to earlier this evening. I want to just bring some matters in the omnibus bill to the attention of our colleagues in the Senate and also to those in our country who are interested in where we are going to end up in the education provisions of this budget, and to also speak briefly about where we will be on the questions of health care as well.

In this omnibus proposal, as we said—it has been mentioned here—it is really a question of priorities and choices. What we are going to see is real cuts in the Head Start Program. It is a program that is a lifeline for millions of our children to help prepare them to enter grades K–12.

We have strengthened the quality of Head Start Programs in recent years, but we are going to see a real cut in the Head Start Programs under this budget. It is not even going to keep up to the current services. What we are going to see is a real loss to thousands and thousands of children across this country.

The most important programs we have in terms of educational achievement and accomplishment are the afterschool programs that make such a difference to children who may be falling behind, to help assist them to keep up with their classmates, and to also give them the help and assistance that makes a very important difference in terms of their own achievement and accomplishment.

This program is vastly oversubscribed. It is one of the most oversubscribed programs that we have in our educational arsenal. The reason it is oversubscribed is because it has had such success in helping and assisting needy children in our country. That program is going to be further cut under this proposal.

One of the key aspects of the No Child Left Behind was a recognition that what we needed in our schools across the country were smaller class sizes, well-trained teachers, curriculum reform, parental involvement, and afterschool programs. But one of the things we needed was going to be well-trained teachers. We made a commitment in the No Child Left Behind Program that we were going to enhance the teacher quality for the high schools in our country. That program is going to be cut in terms of teacher quality in upgrading the skills of teachers in our high schools.

Our vocational educational programs, which are so important in permitting young people to acquire skills to be able to compete in an increasingly complex economy, those programs for vocational education are going to be cut.

As well, some 28 percent of the technology educational funding for programs that are in our schools to help our young people develop the insight into the new kinds of technologies which are so important for them to be able to succeed in their own education and to carry on their education will be cut.

Finally, the Pell grant remains at $4,050 for the fourth consecutive year, while we have seen public college tuition has gone up more than 35 percent over the last 4 years. This is going to mean that tens of thousands—hundreds of thousands—of young students, who have the ability to be able to go on to college, will be denied that opportunity because the Pell grant is falling further and further behind.

If we are talking about an education budget, this is not the education budget.

HEALTH CARE

Mr. President, I want to make a brief comment, as well, on the health care crisis that we are facing. I think all of us understand the explosion of health care costs, the increasing number of the uninsured that exists in our society.

We know we passed a Medicare bill for prescription drugs that was more help and assistance to the pharmaceutical industry and the HMOs than it was to our senior citizens.

But it has been against that background, if we look at where we are in terms of the health care budget in this proposal, we have cut a quarter of a billion dollars in real terms from NIH.

Mr. President, this is the age of the life sciences. This is the age of the life sciences, with the human genome project, the increasing opportunities we are going to have with stem cell research, other types of research. We know the extraordinary progress we made out at NIH. We have the real possibilities of breakthroughs in so many different areas of health. If we were to solve the problems of Alzheimer's, we would empty two-thirds of the nursing home beds in my own State of Massachusetts. We are seeing a reduction in the NIH.

We have seen that the support for bioterrorism readiness in our Nation's hospitals is going to have a significant cut. The recruitment for the National Health Service Corps is cut by a third. That is a program that serves the underserved communities of this country. And the Office of Minority Health is cut by 10 percent.

Mr. President, the list goes on. Those who are strongly committed to having opportunities in education and also opportunities in the health care field recognize this budget really does not address the needs and the opportunities we have in these areas. I will have an opportunity to get into greater detail at another time about these underfunded programs on this particular proposal.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

OMNIBUS APPROPRIATIONS

Mr. FRIST. Mr. President, I know the last several hours have been difficult hours. A lot of people have been wondering exactly what is going on with the Omnibus bill, which people expect to vote on later tonight, which we will be voting on shortly. We will lay out the unanimous consent request in a few moments.

The language we have been talking about over the last 2, 2½ hours—I will refer to it as the Istook language—everybody agrees should not be in the underlying Omnibus bill. It was brought to people's attention when staff had looked at it late this afternoon, and everybody agrees it should not be in there.

The challenge we have had, from a procedural standpoint, is that the House has passed the Omnibus bill with that in it. Now we are to address it, and both Members of the House, including the Speaker, whom I have talked to directly, and our colleagues say it should not be there.

Procedurally, how do we accomplish that? Once we pass this bill, it would become the law of the land. It should not be there, but it would be there for a period of time. The potential for abuse would exist.

Mutually, we have agreed the only way to eliminate that is to send a correcting enrollment resolution back to the House of Representatives. The problem is they are not there. What we will do shortly—it will be in the UC—is we will pass that resolution, send it to the House. The House will receive that most likely on Wednesday. We also tonight will pass a continuing resolution, which we will comment on shortly, to allow business to continue tonight; and we will address the Omnibus and will vote on the Omnibus bill tonight and hopefully pass that bill. That bill will be sent to the desk, and it will be held there until the House acts, which will likely be Wednesday. At that point, and not until that point, this bill will actually be sent to the House or actually become law. Thus, there will be no window where this clause, this Istook language, will be law. It will not pass until it has been corrected in the bill, taken out of the underlying Omnibus bill.

Procedurally, it means we will pass the continuing resolution tonight. We will have to do a modification of the adjournment resolution, but we will have one rollcall vote on the Omnibus. There will be a period of time of 30 minutes for debate prior to voting on that bill, and there will be a rollcall vote tonight. That is the first explanation.

I will turn to the Democratic leader to make it a little simpler than that and to comment on what we have agreed to.

Mr. DASCHLE. Mr. President, I think the majority leader has described the situation accurately, and I believe it is the best way in which to resolve what has been a very understandable concern on the part of so many Members on both sides of the aisle. I thank the distinguished Senator from North Dakota for first flagging this question and the issue and calling it to our attention, and all of those who have offered ways in which we might resolve the problem tonight.

The solution has four parts. First, we will pass the continuing resolution that will accommodate the time that will be required for us to resolve this matter.

The second will be that we will pass the conference report and, as the majority leader has noted, we will hold it at the desk.

The third is that we will pass a resolution that will allow the correction in the conference report, an enrolling resolution. That will be part of this process.

Fourth is that the House will take up the matter on Wednesday. We will hold it at the desk until that matter has been resolved, and then send it to the President once this work has been completed.

This is, by far, the safest and easiest and, in some ways, the most confident way in which to address this question. I think, having addressed it in these four parts, we can all be satisfied that we will have accomplished what we set out to do, which is fix the error and pass the legislation.

Many on our side may want to express themselves after we vote on it. People have expressed concern about other parts of the bill and, throughout the day, our colleagues have expressed themselves on the conference report in ways outside of this particular problem. But I think, procedurally, this is the right way to approach the matter.

I think, ultimately, it accommodates the concerns people have had on both sides of the aisle. I hope we can reach agreement tonight to allow this process to go forward.

Mr. KENNEDY. Will the majority leader yield for a question?

Mr. FRIST. Yes.

Mr. KENNEDY. What if the House doesn't act on it? What assurance do we have? Does the majority leader have assurance that the House will act on Wednesday?

Mr. FRIST. We expect them to act. They said they will act. This bill will be held at the desk. If they don't act, this bill will not be sent over. That is part of the unanimous consent request.

Mr. KENNEDY. So it is the understanding of the majority leader that they will act on Wednesday. After that takes place, the ordinary procedure will be followed in terms of the enrollment and sending it to the President?

Mr. FRIST. That is correct.

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

Mr. CONRAD. Mr. President, I am relieved at what has been worked out here, because this will prevent this provision from ever becoming law. This provision never should become law. It would open up the possibility and potential for abuse. I want to repeat for the record that I have no doubt Senator STEVENS would never have used this provision for an untoward purpose. I feel the same way about Chairman YOUNG. The problem was this would have become the law of the land. There will be future chairmen of the Appropriations Committee. I think we all know enough about human nature that if there is potential for abuse, abuse is likely to occur. This is a place where we could have had very serious abuse, with the opening up of people's tax records and the use of those records to punish people, or to help people, or to do other nefarious things that should never be permitted in this country. So I am relieved this will not ever become law.

Mr. FRIST. Mr. President, as the Democratic leader suggested, we realize a number of people want to make further comments. The unanimous consent request we will propound shortly will allow for 30 minutes of debate. Other people have expressed an interest, after the vote, in being able to offer their views, which we encourage. That way, we can go ahead with our unanimous consent request after 30 minutes for debate, to be equally divided, and proceed with a rollcall vote.

UNANIMOUS CONSENT AGREEMENT

Mr. FRIST. Mr. President, I ask unanimous consent that immediately upon the granting of the following consent request, the Senate proceed to the consideration of H.J. Res. 114, a short-term continuing resolution; further, that the joint resolution be read a third time and passed, and the motion to reconsider be laid upon the table. I further ask unanimous consent that the Senate then immediately proceed to the consideration of the conference report to accompany H.R. 4818, the so-called Omnibus appropriations bill; provided further, that there then be 30 minutes for debate to be equally divided between the chairman and ranking member of the Appropriations Committee or their designees; further, that following that debate, the Senate proceed to a vote on the adoption of the conference report, with no intervening action or debate. I further ask unanimous consent that following that vote, the Senate proceed to H. Con. Res. 528, a technical corrections resolution relating to the enrollment of the conference report; provided, that the amendment to the resolution which is at the desk be considered and agreed to and the resolution, as amended, be agreed to, and the motion to reconsider be laid upon the table. I further ask unanimous consent that the conference report to accompany H.R. 4818 remain held in the Senate until the House adopts H. Con. Res. 528, as amended.

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

MAKING FURTHER CONTINUING APPROPRIATIONS

The PRESIDING OFFICER. Under the previous order, the clerk will report H. J. Res. 114.

The legislative clerk read as follows:

A joint resolution (H. J. Res. 114) making further continuing appropriations for the fiscal year 2005, and for other purposes.

The PRESIDING OFFICER. Under the previous order, the joint resolution is considered read a third time and passed and the motion to reconsider is laid on the table.

The joint resolution (H. J. Res. 114) was read the third time and passed.

CONSOLIDATED APPROPRIATIONS ACT, 2005—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate the conference report to accompany H.R. 4818.

The legislative clerk read as follows:

The Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4818), making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes, having met, have agreed that the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, signed by a majority of the conferees on the part of both Houses.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD in November 19, 2004.)

The PRESIDING OFFICER. Under the previous order, there will be 30 minutes equally divided between the chairman and ranking member of the Appropriations Committee. Who yields time?

The Senator from West Virginia.

Mr. BYRD. Mr. President, we are now in day 51 of the fiscal year. In order to finally bring the fiscal year 2005 appropriations season to a close, the Senate has before it a $388 billion, nine bill, 3,016-page monstrosity of a bill. Here it is, right here on the desk. Take a look at it.

Of the nine appropriations bills in the bill, only two were ever debated in the Senate. The conference report includes a miscellaneous division that contains 32 unrelated provisions, most of which have never been considered by the Senate.

There is not a single Member in this body who can say that he or she has read this bill. It contains complex and controversial matters. It contains an across-the-board cut of eight-tenths of 1 percent that arbitrarily reduces veterans medical care programs, health care programs, highway construction, and global AIDS programs.

At midnight last night, a 64-page small business reauthorization bill was put in the bill without consultation. It contains controversial matter that was not in the freestanding bill that the Senate debated over a year ago.

During the development of the appropriations bills this year, the House and Senate reviewed the President's budget carefully and, in some cases, approved provisions that moved the Nation in a different direction from that which the White House wanted. The White House issued veto threats on several of these issues.

The Senate provision to block the administration's overtime regulation which could eliminate overtime pay for 6 million Americans is dropped from the bill.

Provisions that were in both the House and Senate bills concerning Cuba trade are all gone.

The Senate provisions to overturn the Mexico City family planning policy and modify the Kemp-Kasten rules for funding the U.N. Population Fund have disappeared.

At midnight last night, at White House insistence, and through the intervention of the House Republican leadership, the language that would have required a fair competition before Federal jobs are contracted out was pulled from the bill.

Yet here we are on a Saturday, 51 days into the fiscal year, forced to vote on this monstrosity in the form of a $388 billion unamendable, unread conference report.

The bill is entitled ''Consolidated Appropriations Act, 2005.'' It should be entitled ''Lame Appropriations Act, 2005.''

The Federal fiscal year started on October 1. While we have been waiting for the Republican leadership to bring appropriations bills to the floor, the country's schools, the country's hospitals, the veterans seeking health care, the FBI agents fighting terrorism, the construction workers wanting to build bridges and highways, the farmers, and the scientists across America have had to wait.

Why the delay? First, despite the fact that we have a Republican President, a Republican House, and a Republican Senate, our Republican Government could not produce a budget. We had a record deficit for fiscal year 2004 of $413 billion. This Bush deficit exceeded the deficit record that he set for fiscal year 2003 of $375 billion.

Yesterday the President signed a bill to increase the debt limit to a record $8.2 trillion—$8.2 trillion of debt, and yet we do not have a budget. Without a budget, the appropriations process was delayed. We are living in a land of make-believe.

For months, the Senate pushed aside work on appropriations bills to focus on political debates. We pushed aside the people's interest so party interests could take center stage before the elections, but in doing so we failed, once again, to get our job done. This is a lameduck Congress, but the lame politicking in this Senate started long before this week.

Time after time, we have put a hold on the investments in this Nation that every Senator knows we must make in order to put points on a political scoreboard, like this is some big game. But when we play games like these, the real losers are the American people.

Fifty-one days into the fiscal year and, once again—this is not the first time—once again, we have a mammoth, unamendable omnibus conference report in front of us. Sadly, it has become almost an annual ritual that we shackle ourselves with these omnibus monstrosities. It is not good—not good for the Senate, not good for the American people, not good for your political system. We did in 1996, 1997, 1999, 2000, 2001, 2003, and 2004.

When I was chairman from 1989 to 1994 and again in 2001, we produced 13 individual bills annually.

That is the way to protect Congress's power of the purse. That is the way to protect the American people. That is the way to respect Members' rights to debate important legislation. We should not go down this road again next year. The woolly mammoth became extinct ages ago. I hope one day that the same will be said for such mammoth appropriations bills.

The fact that we have such massive legislation on our desks tonight is not the fault of the chairman of the Appropriations Committee, the senior Senator from Alaska, TED STEVENS. He would have moved Earth and sky if it had meant finishing 13 individual appropriations bills on time. But not even his Herculean efforts could change the plain and honest truth of this Senate. Namely, when it comes to this Senate today, politics wins every time.

I would be remiss if I did not thank my chairman, my colleague, my friend, Senator TED STEVENS. This will be the final appropriations conference report that Senator TED STEVENS will guide through this Chamber, and how we will miss that fine, steady hand at the helm. While he does not leave the Appropriations Committee, thank God, he does leave the chairmanship after this session.

I thank him for his unflinching friendship over the years. We do not always agree, Senator STEVENS and I. No. I respect his views. I hope he respects mine. And the same can be said of the chairmen and ranking members of the appropriations subcommittees, both when this side is under control of the Senate and when this side is in the minority. At the end of the day, we always know that party is not the most important aspect of life. Faith in God, love of family, the Constitution and the country, Senator STEVENS knows, as I do, that these are far more important than the fate of a partisan agenda.

Because of the limitations placed on the Congress by the administration, more veterans will go without medical care. I have to say that this administration meddles in the appropriations process more than any other administration I have ever seen in my 46 years as a Senator, and as my 52 years as a Member of the Congress.

Fewer children now will receive the educational services promised by this President and this Congress in the No Child Left Behind Act. Scientists will be left scrambling for research dollars. Families living in rural America will see their clean water pushed off for another year. This bill shortchanges America's future, and I say to all Senators that because of the President's arbitrary limits on discretionary spending, $8 billion worth of increases above the President's budget request that were contained in the bipartisan Senate appropriations bill were eliminated.

Now, that is the White House meddling, a White House that does not seem to recognize that there is a Constitution of the United States; a White House that does not seem to recognize that there is a separation of powers; a White House that does not seem to remember that the legislative branch is not indeed subordinated to the executive branch. Relative to the Senate bills, title I education for the disadvantaged is cut by $661 million; special education by $658 million; the National Institutes of Health by $537 million; EPA clean and safe drinking water grants are cut by $312 million; VA medical care by $235 million; $975 million in cuts in public housing; $277 million is cut from the National Science Foundation and the effort to help communities to hire new police officers; the COPS program is cut by $154 million.

These are big numbers. Honestly, they probably do not mean much to people, but behind each dollar is an American citizen. Cuts to special education mean that fewer children with disabilities will receive the specialized services they need. Cuts to title I mean that young people living in poor school districts will have fewer classroom opportunities to brighten their paths to their future. Fewer dollars for COPS means fewer officers on the streets, the very time when crime is up and the terrorist threat is very real across America.

That brings us to where we are today. The legislation before us includes some increase above the President's request for such programs as veterans medical

care, highways, low-income home energy assistance, State and local law enforcement, the manufacturing extension program, Amtrak and Corps of Engineers construction. However, I cannot vote for this Omnibus appropriations bill, and I extend my sincere apologies to my colleague, TED STEVENS. I honor him and I will always remember him as one of the very finest chairmen of the Appropriations Committees under whom I have served in my 46 years in this body, but I cannot vote for this Omnibus appropriations bill.

I intended this morning to vote for it. Omnibus bills bring the White House to the table and put them in charge. I have said that time and time again. Let me say it again. Omnibus bills bring the White House to the table and put them, the White House, in charge. Omnibus bills allow the White House to set arbitrary ceilings on spending. Omnibus bills preclude Members' rights to debate significant issues. Omnibus bills produce bad legislation, such as the ill-conceived language on giving staff authority to review tax returns.

Need I say more? No, I shall not say more. I will vote no.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I thank the Senator from West Virginia for his comments. He has been my good friend for a long time. He and I have worked together now through my 36 years in the Senate, and as he states, we have not always agreed, but we have always been able to work together in the spirit of friendship and real understanding. I really have great admiration for the Senator from West Virginia.

This is my swan song. I had expected to stand before the Senate and be proud of the product we have before us. I consider what happened in terms of the staff mistake a stain upon my service as the chairman.

Mr. President, H.R. 4818, the Foreign Operations Appropriations bill was the legislative vehicle for the fiscal year 2005 Omnibus appropriations bill.

The conference report includes $388.4 billion in discretionary funding for the following nine appropriations bills: Agriculture, Commerce-Justice-State, Foreign Operations, Interior, Energy and Water, Labor-HHS, Legislative Branch, Transportation-Treasury, and VA–HUD.

Our fiscal year 2005 spending will be within the $821.9 billion discretionary cap.

The conference report includes an across-the-board cut of 0.8 percent for each appropriations bills.

This bill will provide the needed funds to keep this Government going for this fiscal year.

As my chairmanship of our Appropriations Committee draws to a close, I want to take a few minutes to acknowledge and commend some close friends and some of the hardest-working and most dedicated staff I have had the privilege to work with.

Let me begin with my good friend from West Virginia, our committee's ranking member, Senator BYRD, who has been a member of the committee since 1958. He and I have worked together throughout my 36 years in the Senate and it has been an honor to lead this committee with him since 1997. We have not always agreed, but we have always been able to put our differences aside and work toward the common good. I especially want to thank him for his efforts over the past year. We both had hoped and worked toward getting our appropriations bills across the floor on an individual basis. But, this was not possible. And, I want my good friend to know how much I personally appreciate his and his staff's cooperation in recent days as we've brought this process to a close. I will miss the partnership we have shared on this committee.

Chairman BILL YOUNG of Florida has been my partner across the Rotunda since 1999. He has become a good friend and ally in our steadfast efforts to complete our work. He, too, is stepping down from his chairmanship and I want to take this opportunity to thank him and his staff for their assistance and perseverance in getting our work completed. BILL has great respect for the institution that we serve and for his beloved House Appropriations Committee. His heart continues to be with the men and women of our Armed Forces. After the House recesses, he and his wife Beverly regularly visit wounded soldiers up at Walter Reed Medical Center. I hope BILL YOUNG will be returning as chairman of the Defense Appropriations Subcommittee. We will continue to work as a team dealing with modernization of our weapons systems, our military personnel programs, and the national security of this great country.

Over the years, I have had opportunity to work with DAVE OBEY as both chairman and ranking member of the House Appropriations Committee. Congressman OBEY and I have been on opposite sides of a number of issues, but I know of few Members who have his great intellect and passion. DAVE OBEY is a truly dedicated Member of Congress who cares about the institution, and the legislative process. He is a realist who gives his all in debate, but understands compromise and the need to move the business of Government forward.

I ask unanimous consent to have a chart printed in the RECORD.

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

FY 2005 Conference

[In millions of dollars]

	BA
Agriculture	16,982
Commerce, Justice, State	40,027
Energy and Water Development	28,488
Foreign Operations	19,705
Interior	20,039
Labor, HHS, Education	143,309
Legislative Branch	3,575
Transportation, Treasury	25,846
VA, HUD, Independent Agencies	93,861
Weatherization (division J)	230
Other items (division J)	107
Across-the-board 0.8 cut (division J)	−3,471
Crime Victims Fund (limitation)	−283
Total discretionary spending	388,415
Requested emergencies:	
LIHEAP	300
Postal equipment	7
Sudan	93

Mr. STEVENS. Now, I would like to turn to the clerks of our subcommittees.

Pat Raymond has worked for me for more than three decades in the Senate and will be retiring at the end of the year. Pat began as my scheduler on my personal staff. She has supported me on the Governmental Affairs, Rules, and Appropriations Committees.

From flextime, to postal reform, to the Federal retirement system, and as staff director on this Agriculture Subcommittee, and earlier on the Treasury Subcommittee, Pat has never lagged in her dedication to hard work. Always thorough and precise, always a stickler for details, Pat's also well-known as a quick study.

Even more important than the attributes I have mentioned, has been Pat's loyalty to me personally, to this institution, and to our Nation. As an Alaskan, she understands the true ''can do'' pioneer spirit that has made it possible for her to accomplish even the toughest of challenges.

The Energy and Water Appropriations bill, in particular, was put together in record time. The product represents a truly remarkable accomplishment. It is comprehensive, yet elegant in its simplicity. It sets out an ambitious course for the Corps of Engineers, Department of Energy, and Related Agencies. With few words, it cuts through years of red tape. After reading the bill, the phrase ''the Secretary shall'' has become one of my favorite phrases in the English language.

Tammy Cameron, our majority staff director, Drew Willison, our minority staff director, and their able staff worked on a bipartisan basis and negotiate a bill with the House in 48 hours. They pulled a rabbit out of a hat I thought was long dead. Tammy just took on this new assignment 2 years ago having worked with Senator CAMPBELL on the Treasury Subcommittee. She has learned a complex subject matter in a very short time, and has earned the respect of the highest ranking generals in the Army. On behalf of Senator BYRD and the entire full committee, I want to congratulate Tammy and the entire staff and extend my heartfelt thanks. And, I hope when these proceedings are concluded, they will all go home to bed and sleep for a week.

Scott Gudes is one of those staffers who has become a member of my family. He keeps moving back into the

house. Scott began with me on the Defense Appropriations Subcommittee working with Sean O'Keefe, where he learned with a real master. And he has used what he learned with Sean ever since.

He served for almost 5 years as deputy under secretary for Oceans and Atmosphere at NOAA, and worked as the acting NOA administrator under secretary in 2001. 1 worked closely with him to resolve the Stellar sea lion crisis which threatened to close down Alaska's fisheries, and almost closed down the Senate. As many of my colleagues will recall, while others were drinking eggnog, Congress remained in session until days before Christmas while we resolved that crisis. Scott was instrumental in that effort, and helped administer the resolution we adopted.

He formerly worked for FRITZ HOLLINGS on the Commerce-Justice-State Subcommittee as well as on the House Foreign Operations Subcommittee. He has a reputation as a fair, even-minded problem solver, and has a heart for the world's oceans. As NOAA administrator, he had a reputation for rolling up his sleeves and working as crew on research vessels, and he has rolled up his sleeves for us.

The senior Senator from Pennsylvania often refers to Bettilou Taylor as the 101st, and for good reason. She has helped me craft new initiatives in Alaska to address health care, labor, and education. Just yesterday, I got a report on the Denali Commission clinic effort, a program Bettilou created. To give an example of the difference just one person can make, since she instituted this program, there are now 41 new health care clinics in remote villages in Alaska that had none, and another 67 in the planning stage and another 26 under construction. Because of Bettilou and her staff, thousands of rural Alaskans now have health care where they had none before.

She is hard driving, but fair; creative but down to earth; demanding yet caring. She knows health policy and education probably better than any single person in the Senate including her subcommittee chairman, and she can run circles around her adversaries. The word ''can't'' is not in her vocabulary. I once described one of her bills as a ''work of art.'' She is truly one of the Mona Lisa's of the Senate.

Mary Dietrich began with me on the Labor/HHS Subcommittee. She has worked now for several years as the clerk on the DC Subcommittee, and I think it is no small coincidence that the District's finances turned around about the same time Mary showed up. She has worked closely with the City government in helping them shepherd the city toward financial solvency, and has taken a particular interest in programs for children and the arts. At the staff level, she almost single handedly pushed through the DC voucher program that no one else thought had a chance of succeeding. But she persevered, and today hundreds of poor children are attending some of the cities best private schools. They will never know who Mary Dietrich is and will never be able to thank her, but today I say thank you on their behalf and on behalf of the Senate.

While Bono has led the public effort to address the worldwide crisis of AIDS/HIV, there is another rock star behind the scenes who has shaped our Nation's response to that crisis. Paul Grove has drafted dozens of provisions to improve the lives of people around the world—from people living with AIDS and TB to children without limbs who receive wheelchairs. Together we have created a new program to bring fresh water to dozens of African villages which has changed thousands of lives each day.

Paul is a child of the Foreign Service and has lived across the globe, including 2 years with the International Republican Institute in Cambodia. Paul is quietly competent, but his actions speak loudly about the kind of person Paul is and the difference he has made in the world.

Rebecca Davies is a woman who has found her moment in history. Tough and uniquely qualified, Rebecca Davies has undertaken the task of helping create a whole new department of the government with the most important role of our time, protecting our Nation from terrorism. She formerly served as Deputy of the Appropriations Committee with service on the Budget Committee. I can probably count on one finger the number of people who have the knowledge of the Federal budget process that Rebecca Davies carries in her head.

She has worked on the Treasury Subcommittee, Agriculture Subcommittee and each time left her mark. Together we created a series of programs for rural America while she was at Agriculture from rural water and sewer programs to funding to reduce the high cost of energy to funds to address public facilities in poor rural communities. As a result of her efforts, the honey bucket, what used to be the primary sewer system in Alaska, will soon be the subject of a museum exhibit.

I rest better each night knowing that Rebecca Davies is looking out for our Nation's homeland.

Bruce Evans began his career on the Alaska scene with my former colleague, Slade Gorton. A product of the Senate, Bruce is known by all as a practical problem solver with a great wit and a ''can do'' attitude. Of all the subcommittees I have worked with, I have probably thrown as much at Bruce Evans as any staffer on my committee. From timber harvest to oil and gas development, if I am working on a controversial issue, you can bet Bruce Evans is finding the solution.

With Bruce's insight and quiet competence, together we have improved the lives of Alaska Natives from health clinics to alcohol treatment to fire fighting to save villages from destruction. And while I don't have a public reputation as an environmentalist, Bruce has worked quietly on my behalf to protect Alaska's wildlife. He created the State wildlife grant program funded this year at about $70 million, provided resources for research on wildlife from walrus to polar bears, provided the funds to take the Aleutian Canada goose off the endangered list, and restored Alaska's fisheries. Denali National Park is often called the crown jewel of the national park system. Bruce Evans is one of the crown jewels of the Appropriations Committee.

Carrie Apostolou began her career with me on the VA-HUD Subcommittee. Intensely organized and detail oriented, ''slipping through the cracks'' is something you never have to worry about with Carrie. She has shepherded the Capitol Visitor Center through the process, and is responsible for the unprecedented security improvements we all see everyday. When the Capitol Visitor Center opens in 2006, it will be a testament to Carrie's persistence.

Dennis Ward, came to our committee 2 years ago with a strong and wide ranging military background. He served in the Air Force as an officer for 18 years, taught political science at the U.S. Air Force Academy, and was a political affairs officer at the Ballistic Missile Defense Organization. He is diligent and tenacious and his abilities were evident to all of us when he worked fervently to complete action on the Military Construction Appropriations bill earlier this year. I look forward to a continued close working relationship with Dennis, as I continue my work on defense issues.

Jon Kamarck is one of the leading public housing experts in the Congress. He is known as a tough adversary, but kind and compassionate. He has exercised the committee's oversight responsibilities with vigor, and many an agency has trembled in its boots when Jon finds indifference or incompetence. He has a reputation for demanding compliance with the laws he helps write, because he is as passionate about good Government as he is about helping people. There is a kinder, gentler side of Jon Kamarck agencies don't always see but I have seen as he meets with Eskimo people with no running water or works with low income people living in squalor. If ever there was a staffer who embodied my personal motto it is Jon Kamarck: ''to hell with the politics, just do what's right.''

And last of all, but first among equals is Sid Ashworth. Sid knows more about the Department of Defense than just about any one I know. She is responsible for the largest annual budget of any department, and has overseen revolutionary changes in our national defense from smart bombs to stealth bombers. She has the daily burden of reading intelligence reports, living every day with the knowledge of the threats that plague us. A former Defense civilian from Hawaii, Sid has

forged a close working relationship with Charlie Houy that mirrors my own relationship with Dan Inouye. Sid is a woman who operates in what is sometimes viewed by some as a man's world. She has broken through stereotyped, and is universally revered by secretaries and generals alike. She is innately fair, intensely dedicated, and fiercely loyal. I am glad I have her by my side every day.

I also want to acknowledge a few of the hardworking staff from the other side of the aisle. Terry Sauvain, Senator BYRD's staff director on our committee, has worked tirelessly along side of my staff to get our work done for the year. Terry has long been known as someone who is able to effectively work on both sides of the aisle. He is known as the master of West Virginia and my staff has learned a great deal from him since I became chairman in 1997.

Chuck Keiffer, Senator BYRD's minority staff director, also deserves my thanks. He came to the Appropriations Committee 4 years ago from the Office of Management and Budget and has vast experience on the fiscal issues. I want to acknowledge him and thank him for his assistance and service during my tenure as chairman.

And finally, I want to thank Charlie Houy, the minority clerk for the Defense Appropriations Subcommittee. Charlie has been with the Appropriations Committee for nearly 20 years, working for both the minority and majority. He is a consummate expert on defense issues and is well respected by those at the Department of Defense and his colleagues on the Hill. As chairman of the Defense Subcommittee, I look forward to continuing to work with Charlie and thank him for all of the hard work he has put in over the past year. I am proud to say he is my friend.

Mr. President, we deal with a lot of important and controversial issues in this body. Maybe nowhere is that more the case than on this Senate Appropriations Committee.

I have been fortunate to have had the opportunity to chair this committee with so much history and tradition. Senator BYRD has often reminded us of the historical context of this committee and our role which was specified by our Founding Fathers in the Constitution. And, I would be remiss if I did not note that I and all our members have been fortunate to have been supported by such outstanding professional staff.

I remember when Senator John C. Stennis was preparing to leave the Senate in 1988. And he attributed his long and distinguished career to just a few things. The first, was good staff.

So, I want to take a minute to recognize one such individual, our committee staff director, Jim Morhard. Jim is a consummate professional. He has truly done it all here on appropriations. He joined the committee after a career in the Navy Comptroller's office, and then in the Senate under Senators Wilson and Kasten. Jim staffed the military construction bill as both the minority and majority staff director. Jim worked on Defense Subcommittee and with some reluctance, answered my request for him to take over the Commerce-Justice-State Subcommittee. This is considered by many the most difficult of our 13 subcommittees to handle.

At Commerce-Justice-State, Jim Morhard distinguished himself working as ''clerk'' or staff director under Senator JUDD GREGG. Jim dealt with a variety of issues from Securities and Exchange Commission fees to NOAA fisheries programs to small business technical assistance. Long before September 11, 2001, Senator GREGG and Jim sought to wake up the Justice Department and FBI and enhance our counterterrorism programs. On September 11, many of those first responders had taken part in training in counterterrorism exercises that were put forward by our Commerce-Justice-State Subcommittee.

In early 2003, I asked Jim to move up and become staff director for the entire committee. There was no staff that I considered more capable or prepared. Jim has always carried out his tasks with tact, fairness and bipartisan spirit. He has great expertise at the technical aspects of the appropriations job. He can make ''the numbers work'' and draft the bill and report language. And, he has the creativity to critically analyze programs and policies and come up with compromises that move the institution forward.

I think about the same day Jim came on board, we began work on the first of two Iraq/Afghanistan supplementals. I think he has been working tirelessly ever since, shepherding through these bills and helping me get the 2004 and this 2005 omnibus appropriations bills through the Senate, through conference and to the President for signature.

The executive branch has countless programs to recognize employees and excellence. Unfortunately, we here in the legislative banch do not. But, one should not assume that we do not recognize personal and professional excellence when we see it. And, I want to express my appreciation to Jim on behalf of the committee and the entire Senate for a job well done.

THE BERING SEA NONPOLLOCK GROUNDFISH FISHERIES BUYBACK PROGRAM

Mr. STEVENS. Mr. President, as part of the fiscal year 2005 Consolidated Appropriations conference report there is a section that provides for a vessel buyback program for the Bering Sea/Aleutian Islands nonpollock groundfish fisheries. Senator MURRAY, is it your intention that section 219 of Title II of the 2005 Consolidated Appropriations conference report is only to provide for a non-pollock groundfish fishery capacity reduction program for catcher processor vessels engaged in these fisheries in the Bering Sea/Aleutian Islands?

Mrs. MURRAY. That is correct. Section 219 is intended to provide a vessel buyback program to be financed through a capacity reduction loan for this fishery.

Mr. STEVENS. It is my understanding that the North Pacific Fishery Management Council will develop the fishery management plans for the Bering Sea/Aleutian Islands non-pollock groundfish fisheries and nothing in this section should be construed to impede or change the council's development of these plans. Is this your understanding?

Mrs. MURRAY. Yes. This section should not be interpreted as requiring the North Pacific Fishery Management Council to rationalize these fisheries. In fact, nothing in this section should interfere with the council process with respect to development of fishery management plans for this fishery or any ongoing work of the council on fishery management plans or ''rationalization'' of other fisheries.

Mr. STEVENS. Senator MURRAY, there is language in this section that states that future amendments to the fishery management plans in the Bering Sea/Aleutian Islands should not ''penalize'' members of any catcher processor subsector for achieving capacity reduction under this act or any other provision of law. Could you explain in greater detail what this means? In particular, I want to make sure that nothing in this act would preclude the North Pacific Fishery Management Council from accommodating CDQ interests in future Bering Sea and Aleutian Islands non-pollock fishery management plans.

Mrs. MURRAY. Yes. This language does not prevent the North Pacific Fishery Management Council, National Marine Fisheries Service, or any other agency from enforcing any Federal law with respect to any member of this sector, including the conservation and management provisions of the Magnuson-Stevens Act. The act shall not prevent the council from raising the CDQ share of the harvest for this fishery consistent with past Bering Sea and Aleutian Islands rationalization efforts or as part of any eventual rationalization process. And finally, this reference to penalties should never be construed to prevent the council from implementing initiatives to reduce bycatch in this sector, which has historically had the highest bycatch rates in the Bering Sea/Aleutian Islands.

Mrs. MURRAY. Mr. President, over the last several hours, much debate has taken place regarding section 222 of division H of this omnibus appropriations bill. I wish to associate myself with the remarks of many of my colleagues that have insisted that this egregious provision be removed. And, I wish to thank the majority leader and minority leader for establishing a path forward that will ensure that this provision will never become law.

Under the agreement announced earlier by the majority leader, the entire

conference report on the omnibus appropriations bill, once passed by the Senate, will be held at the desk and will not be forwarded to the President for his signature until the House has passed a correcting resolution that will nullify section 222. That correcting resolution will also be passed by the Senate today.

With that guarantee in place, and with the knowledge that section 222 of division H of the omnibus bill will never become law, I am pleased to vote in favor of the bill so that the people of my State and all other States can reap the benefits of the important programs funded in this bill.

Mr. KENNEDY. Mr. President, unfortunately, in the Omnibus bill, the Republican leadership blocked Senator HARKIN's amendment to repeal the administration's rule that denies overtime protections to 6 million workers. Bipartisan majorities in the House and Senate strongly supported the Harkin amendment and it was part of our Senate bill.

In fact, the Senate has voted four times to block the Bush overtime rule, and the House has voted twice to block it. Yet, the Republican leadership keeps refusing to accept the will of Congress and the will of the American people. Instead, it continues its unfair assault on America's workers and their right to overtime pay.

In today's economy, workers are obviously concerned about losing their jobs, their pay, their health benefits, their retirement benefits, and their unemployment checks. Now more than 6 million employees also have to worry about losing their higher pay for working overtime.

These men and women are nurses. They are police officers. They are school teachers. They are long-term care workers. They are assistants in mental health facilities.

Make no mistake, overtime cuts are pay cuts. When workers lose their overtime pay protection, they still work longer hours, but they get no extra pay for doing so, even though they have had the right to time-and- a-half pay for overtime work ever since the 1930s.

Clearly, we need a policy to create more jobs, not eliminate jobs. By taking away workers' right to overtime, the administration's rule undermines job creation, since it allows businesses to require employees to work longer hours for no extra pay, rather than hire new workers.

Pure and simple, denying overtime is a thinly veiled cut in workers' pay and boost employers' profits. In this troubled economy, it makes no sense to ask any workers anywhere in America to give up their overtime pay.

Instead of making hard-working men and women work longer hours for less pay, businesses should create new jobs by hiring more employees to do the work.

We know that employees across America are already struggling hard to balance their family needs and their work responsibilities. Requiring them to work longer hours for less pay will impose an even greater burden in this daily struggle.

According to the Families and Work Institute, two of the most important things that children would most like to change about their parents are that they wish their parents were less stressed out by their work, and they wish they could spend more time with their parents.

The General Accountability Office says that employees without overtime protection are twice as likely to work overtime as employees covered by the protection. In other words, businesses don't hesitate to demand longer hours, as long as they don't have to pay higher wages for the work.

Protecting the 40-hour workweek is vital to protecting the work-family balance for millions of Americans in communities in all parts of the Nation. The last thing Congress should be doing is to allow the new antiovertime rule to make the balance worse for workers than it already is.

Congress cannot look the other way while more and more Americans lose their jobs, their livelihoods, their homes, and their dignity. Denying overtime pay rubs salt in the wounds of this troubled economy. Denying the will of Congress and the American people in this Omnibus bill doesn't settle the issue. This battle is far from over. The fight will continue until workers' overtime rights are restored.

Mr. FEINGOLD. Mr. President, I oppose this omnibus appropriations bill. It has become something of an annual event to consider these massive, must-pass measures. Because this particular bill has come to us in the form of a conference report, we are unable to even offer an amendment to the legislation. Those who crafted this measure are, of course, fully aware that this bill is completely shielded, and as a result they were free to include numerous provisions that would certainly have generated amendments were they to come to the body in an amendable vehicle.

There are many questionable provisions, all of them safe from the scrutiny that the amendment process affords. There will be a few editorials written lamenting some of these provisions, but that will be it. Absent some extraordinary action by Congress, they will become law along with the rest of this measure.

Others will detail the billions of dollars of unauthorized, earmarked spending included in this bill. Let me just note that these questionable provisions come at a very real cost. First and foremost, by approving these provisions, Congress shirks its duty as stewards of the taxpayers' money. We have an obligation to our constituents to ensure that the money we levy in taxes is spent wisely.

Beyond that, by providing funding for these unauthorized, earmarked programs, we are diverting funds from areas that our constituents have told us are true priorities. I am deeply concerned, for example, about the level of funding provided for the National Institutes of Health, NIH. Providing an increase of less than 3 percent is not sufficient to maintain the current pace of biomedical research.

I am pleased to have supported successful recent efforts to double the NIH budget, and abruptly slowing the growth of the NIH will undermine the progress that has been made through this doubling. It is important that we provide NIH with the funding it needs to ensure that we receive the extraordinary health and economic benefits that this vital biomedical research provides.

At a time when our country is facing increases in the number of people diagnosed with serious, costly diseases such as cancer, Alzheimer's disease, heart disease and diabetes, as well as an ever-present bioterrorism threat, biomedical research needs to be a national priority, and as such it needs to be adequately funded.

Devoting billions of dollars to unauthorized special interest earmarks also means less funding for our children. Again this year, Congress and the administration have underfunded elementary and secondary education programs. As schools around our country settle in to their third year under the No Child Left Behind Act, NCLB, we will pass an appropriations measure that does not give states and districts the funding that we promised them in exchange for higher accountability standards. The law requires that States and districts comply with NCLB as a condition of receiving funding, yet we are not providing them the promised resources that will help them to succeed. And I am concerned that the NCLB accountability structure will sanction schools that fail to meet adequate yearly progress despite the fact that Congress is not providing these important resources.

In addition, just 1 day after the Senate and the House passed the conference report reauthorizing the Individuals with Disabilities Education Act, we will pass an omnibus spending bill that underfunds the fiscal year 2005 authorization level contained in that very conference report.

Again we are failing to provide the full 40 percent of special education costs promised to the States when IDEA was enacted in 1975, and, ironically, we are doing it 1 day after telling States that the IDEA conference report puts them on the path to full funding in 6 years. The IDEA reauthorization conference report authorized $12.3 billion for fiscal year 2005, and the omnibus spending bill before us contains $11.5 billion for this purpose. Thus, before the ink on the IDEA conference report is even dry, we are already breaking a promise contained in it to the tune of more than $800 million.

I regret that the Senate missed an opportunity earlier this year to make

special education spending mandatory, and I regret that the well-intentioned authorization levels in the IDEA conference report are becoming little more than an empty promise 24 hours after the Senate and the House agreed to these funding levels.

As bad as what is in this omnibus appropriations bill is what is not in it. The administration was again successful in blocking language included in the both the House bill and the committee-passed bill in the Senate that would have reversed the harmful provisions of the Department of Labor's new overtime rule. Despite repeated bipartisan opposition to this rule in both houses of Congress, the small group of Members who drafted the omnibus conference report stripped out these provisions, which would have prevented millions of workers from losing their overtime benefits under the Bush Administration's rule. I am disturbed that—for the second year in a row—an omnibus appropriations conference report was used as a vehicle to override the will of a majority of Members of both houses with respect to this harmful rule.

And, I am disappointed that the conferees chose to delete language that would have halted the administration's campaign to contract out additional Federal jobs to the private sector. Federal employees should have the right to compete for their jobs on a level playing field.

In addition, I continue to oppose the Administration's efforts to reclassify thousands of jobs that are critical to our national security as not ''inherently governmental'' in nature in order make these jobs eligible to be contracted out.

I also want to especially note that because this omnibus appropriations bill comes to us in an unamendable form, there will not be a rollcall vote on the automatic, back door Member pay raise. As my colleagues know, that issue is germane to the Treasury-Transportation Appropriations bill and thus an amendment forcing a vote on the Member pay raise can be offered to that bill without being subject to a point of order. But, because the Treasury-Transportation bill has been folded into this omnibus package, no one will be able to offer an amendment to force a vote on what will be a roughly $4,000 pay raise that is scheduled to go into effect in January.

This is not the first time the Member pay raise has been shielded in this manner. In one instance, the Treasury-Postal bill was slipped into the conference report on the Legislative Branch appropriations bill, and thus completely shielded from amendment. And during 2002, the Senate did not consider the Treasury-Postal bill at all.

This makes getting a vote on the annual congressional pay raise a haphazard affair at best. And it should not be that way. No one should have to force a debate and public vote on the pay raise. On the contrary, Congress should have to act if it decides to award itself a hike in pay. This process of pay raises without accountability must end. I have introduced legislation to do just that, but until that legislation is enacted, Senate leadership should not shield the Treasury-Transportation appropriations bill from amendments.

Finally, let me join others in expressing my concern about inclusion of a provision in this bill that could reduce access to the full spectrum of reproductive health services. This provision is far too controversial to be shoved into a must-pass Government spending bill, especially when the committee with jurisdiction did not have a chance to consider it and the Senate did not have a chance to debate it.

Mr. President, the appropriations process needs reform. I have been pleased to join the Senator from New Mexico, Mr. DOMENICI in advocating biennial budgeting, and certainly we need to seriously consider that reform. I have also joined with my good friend, the Senator from Arizona, Mr. MCCAIN, in advocating a change to Senate rules that would permit points of order to be raised against many of these extraneous, unauthorized earmarks, and this body should seriously consider that reform as well.

The Senate needs to act on those reforms and others before we consider another one of these giant, must-pass omnibus appropriations bills.

Mr. GRAHAM of South Carolina. Mr. President, I want to concur with the statement issued earlier by Chairman GRASSLEY of the Senate Finance Committee regarding section 222 of this bill.

I don't understand the reasoning or motivation behind this provision. But it is clear that it could be easily abused.

This is a great example of how the process is inadequate in terms of passing legislation without legitimate input from the Members of this body.

The thought of an individual Member of a legislative body, including this one, having access to tax records of individual Americans is unacceptable and must be changed; but equally importantly the process needs to be changed.

I am not attributing bad motives, but this must be changed and I take the chairman of the Appropriations Committee at his word that it will be changed.

We need to change this process to ensure mistakes like this are not made in the future.

Mr. BINGAMAN. Mr. President, I would like to briefly express my concern with section 205(d) of the Energy and Water Development Appropriations Act. This subsection addresses endangered species issues in the Middle Rio Grande in New Mexico.

These issues, particularly in the midst of an ongoing drought, have been very controversial in my home State. Over the last year or 2, however, there has been a commitment by the diverse stakeholders and interest groups in the Middle Rio Grande region to cooperate on creative approaches that would address endangered species needs. These approaches all have the goal of balancing the need for environmental restoration with a recognition of the need to protect the interests of water users who are dependent on the limited supply provided by the Rio Grande.

One thing that has helped to foster this cooperative approach is to fully and completely discuss the different issues facing the stakeholders. This process has included legislation. Last year, the New Mexico delegation collaborated on a legislative provision that was a response to a controversial court decision affecting water use in the Middle Rio Grande. While this effort was not without some controversy, the end product was the result of much discussion and debate, and seemed to be accepted, even embraced, by most of the stakeholders.

Section 205(d) of the Energy and Water bill, while somewhat innocuous on its face, undermines the practice of full disclosure and debate. The provision provides the biological opinion controlling water operations in the Middle Rio Grande, with full protection from legal challenge for a period of 10-years—the effective timeframe of the opinion. In last year's appropriation bill, we provided a maximum of 2 years of protection, which was the most controversial aspect of the provision.

I am concerned that this provision, that will most certainly be enacted into law without any notice or significant comment, may disrupt the cooperative environment that has developed over the last few years. If so, it would be a most unfortunate turn of events. The biological opinion, at least up until now, appears to be effective in allowing water use in the Middle Rio Grande to continue without jeopardizing the existence of the endangered species in the region. That is a positive step. Moreover, given the progress being made and the cooperative methods being employed, section 205(d)'s 8-year extension of a controversial provision, is an unnecessary distraction at this point in time.

I yield the floor.

Mr. CORZINE. Mr. President, I want to address a troubling provision in the Criminal-Justice-State, CJS, Appropriations bill, contained in the omnibus, that applies to any nonprofit legal services organization receiving funding from the Legal Services Commission, (LSC). This ''private money restriction'' precludes these nonprofits from using any of their private funds—including individual donations, foundation grants, and State and local government funds—for any non-LSC-qualified services.

The private money restriction places an unfair and costly burden on private and other non-Federal funds dedicated to helping families in need. As a result of the private money restriction, most

civil legal services providers are forced to stop providing non-LSC-qualified services altogether. Many of the most vulnerable individuals and families—such as certain legal immigrants, including some battered women and children, mothers in prison trying to maintain visitation and custody of their children, and elderly homeowners seeking to file class actions to protect themselves from predatory lenders—find themselves without access to legal services at all.

LSC has attempted a ''fix'' for this problem by allowing organizations to use their own private funds for non-LSC-qualified services only if they create physically separate nonprofits with separate staff, offices and equipment. Wasting scarce private resources on duplicate staff and offices adds significant costs and results in fewer families being served.

Congress can provide a real ''fix'' for this problem by amending the CJS Appropriations bill to treat the privately funded activities of legal aid nonprofits equally with the privately funded activities of other nonprofits. In particular, we can require LSC grantees to abide by the same longstanding rules promulgated by the Office of Management and Budget for nonprofit grantees of Federal agencies and by the IRS for all nonprofit 501(c)(3) and (c)(4) organizations, as well as new rules promulgated by the Bush administration for faith-based groups. These rules authorize nonprofits receiving Federal funds to engage in various privately funded activities without requiring them to maintain physically separate entities with separate staff and equipment.

Under this alternative approach, the restrictions on Federal LSC funds would still apply, whether one agrees with them or not, but they would allow local providers and donors to use private money to serve their communities as they see fit. I hope that in future discussions about the CJS Appropriations bill, we can consider this alternative approach to the problems that this bill will create for America's families and service providers.

Mrs. MURRAY. Mr. President, I am pleased to see that Section 219 of Title 2 of this Act includes the statutory language necessary to authorize and implement a Non-Pollock Groundfish Fishing Capacity Reduction Program for the catcher processor sector of the Bering Sea and Aleutian Islands SAI This program represents a positive step forward for the Puget Sound-based commercial fishing industry. Passage of this Act concludes more than a year-long effort to craft an appropriate capacity reduction program for the catcher processor sector of the BSAI non-pollock groundfish fisheries.

Reducing capacity in these fisheries will improve the ability of the North Pacific Fishery Management Council to manage the groundfish stock and contribute to the long term economic viability of the many businesses and people involved in the harvesting, processing and delivery of the highest quality seafood products to consumers. This is important not just to the fishermen who take such great risks up in the frigid waters of the North Pacific, but to the myriad of small businesses throughout the Puget Sound region that support this industry: ship repair yards, equipment suppliers, insurance brokers, transportation companies, and marketers.

My predecessor, Warren Magnuson, set out 24 years ago to put in place a system to Americanize and manage our nation fishery resources. His hard work and vision, championed also by a young Senator from Alaska, Ted Stevens, led to the innovative regional council structure we know today. I am proud that the North Pacific Council has managed the fisheries in its jurisdiction so successfully that it is singled out in this country as a model for maintaining sustainable fisheries.

Despite the success of the North Pacific Council in maintaining healthy fish stocks, there have been problems in the region as a result of overcapacity in the fishing fleets. The North Pacific Council has addressed many issues to help prevent overcapitalization, including license programs and limited entry requirements, but once there are too many fishing vessels it becomes a very challenging problem. These are situations where development of fisheries has outpaced the ability of the resource to support, either biologically or economically, the fleets of fishing vessels built to harvest this national resource. There is a Federal nexus here, when overcapitalization is the result of Federal programs or Federal management decisions. Congress has a record of stepping in when needed to assist in resolving these problems, and this Act follows the American Fisheries Act, the West Coast Groundfish Buyback, and the Crab Buyback in the North Pacific.

I disagree with those who say that this is a problem caused by the fishermen alone, and that they should bear the brunt of any economic consequences of an overcapitalized fishery. Yes, they do have responsibilities, and this bill makes them part of the solution. It is the remaining fishermen who will be responsible for repaying the loans used to reduce capacity in the fleets. That is an investment from them to preserve their future in these fisheries, and it will contribute to the broader economic stability of the Puget Sound region.

I must add that fisheries legislation is never easy to draft. It is a very technical subject overlaid with the very lively history of participants in the fisheries. As Maggie noted on the eve of passage of the original fisheries management act:

We cannot satisfy everybody. I know fishermen pretty well. They are pretty hard to get to agree on a lot of things. They are independent people.

This sentiment remains very much true today. We have worked hard to accommodate a variety of perspectives in this bill, and I am satisfied that the results are positive.

The Non-Pollock Groundfish Fishing Capacity Reduction Program for the catcher processor sector of the BSAI authorized in this Act is a legitimate use of Federal resources to restore balance in these fisheries and to promote their long term viability. I look forward to working with the people in the fishery and representatives from the National Marine Fisheries Service and the North Pacific Council to implement this program consistent with the intent of Congress.

The purpose of this program is to reduce excess harvesting capacity in the catcher processor sector of the BSAI non-pollock groundfish fisheries. Reducing excess harvesting capacity will contribute to the future rationalization and long term stability of these fisheries. This statement is intended to clarify certain provisions contained in the Act and to facilitate its prompt implementation.

Subsection (a) provides definitions relevant to this Act and defines the four subsectors participating in the capacity reduction program: AFA trawl catcher processors, longline catcher processors, non-AFA trawl catcher processors, and pot catcher processors.

Subsection (b) authorizes a $75 million capacity reduction program for the BSAI non-pollock groundfish fisheries.

Subsection (c) allocates the $75 million in loan authority among the four catcher processor subsectors to reflect their relative participation in the non-pollock groundfish fisheries: $36 million to the longline catcher processor subsector; $31 million to the non-AFA trawl catcher processor subsector; $6 million to the AFA trawl catcher processor subsector; and $2 million to the pot catcher processor subsector. In the event any of the subsectors does not use the funds allocated to them by January 1, 2009, then any remaining funds roll over to a fund available to all four subsectors.

Subsection (d) establishes the basic contractual relationship between members of a subsector who choose to participate in a capacity reduction plan by agreeing to sell their license, their vessel, or both, to the Federal Government. Before the Secretary may disburse funds, a seller must enter into a binding reduction contract with the Federal Government, subject only to approval of a capacity reduction plan pursuant to a referendum described in subsection (e). The binding reduction contract must include provisions governing revocation of all Federal fishing licenses, fishing permits, and area endorsements issued for a vessel, and if relevant, the scrapping of a vessel, that is purchased through a capacity reduction plan authorized by this Act. It is intended that licenses currently attached to a vessel and all associated vessel catch history will be retired.

It is anticipated that the subsectors will use their loan authority to reduce both active and latent capacity. The importance of encouraging the elimination of latent licenses is to prevent the re-capitalization of the fishery from within the fleet. The August 2004

Department of Commerce report on addressing overcapitalized fisheries, U.S. Action National Plan of Action for the Management of Fishing Capacity, identifies latent capacity as a serious problem to be addressed in capacity reduction programs. The report cautions that simply targeting active vessels with large catch histories may result in ctivating the latent boats and licenses, and frustrating the intent of the buyback effort. Unless latent capacity is addressed, the goal of the Non-Pollock Groundfish Fishing Capacity Reduction Program will be undermined.

When dealing with active capacity, a participant will sell both a vessel and its qualified licenses. However, when eliminating latent capacity, there may be circumstances where only a license is purchased through the capacity reduction program. This could occur when a vessel has sunk or was otherwise destroyed by fire or accident, and is not presently active in the BSAI non-pollock groundfish fisheries. There also will be circumstances where vessels have little or no catch history, but have qualified for a license. In this situation such vessels and licenses represent another form of latent capacity and should be targeted in specific capacity reduction plans. In some cases there may be no current vessel named on a qualified license. The price paid to purchase such licenses associated with a sunk or destroyed vessel is expected to be less than the price paid for an active vessel and its licenses.

Subsection (e)(1) establishes a framework within which individual subsectors may develop capacity reduction plans. This includes a fee system that will repay the full amount of a capacity reduction loan amount in a timely fashion. The subsectors may use negotiations, bidding systems, a reverse auction, or other methods appropriate for identifying excess capacity to be reduced. This flexible approach is intended to utilize the knowledge and incentives of the participants in a subsector to develop capacity reduction programs that maximize the elimination of excess fishing capacity at the least cost and in the shortest time.

Subsection (e)(2) authorizes the Secretary of Commerce to review and approve capacity reduction plans devised by each subsector. Once a subsector completes its capacity reduction plan, it is submitted to the Secretary for review to determine consistency with this Act. Subsection (e)(2)(A–E) sets forth the requirements for Secretarial approval. To approve a subsector capacity reduction plan, the Secretary must determine that plan is consistent with the requirements of subsection (b) of section 312 of the Magnuson-Stevens Act, with certain exceptions spelled out in this Act. Each subsector plan must include a fee system for full and timely repayment of the loan, and must achieve the maximum sustained reduction in fishing capacity for the least cost in the minimum amount of time. Maximum sustained reduction may be demonstrated through a showing that the vessels and licenses to be purchased will achieve the greatest reduction in harvest capacity through use of the loan authority available to a subsector. Data related to vessel catch history and performance capabilities may be used to satisfy this provision.

Subsection (e)(2)(E) expressly allows subsectors covered by this Act to upgrade their vessels to achieve efficiencies in fishing operations. This provision does not alter the existing statutory or regulatory restrictions on vessel length, tonnage or horsepower. The North Pacific Council retains authority to tailor vessel upgrades to meet the goals of fisheries management plans within its jurisdiction.

Subsection (e)(3) authorizes the Secretary to oversee referenda by each subsector to approve capacity reduction plans and requires the Secretary to notify subsector participants of an upcoming referendum. Following secretarial review and approval of a subsector capacity reduction plan, the Secretary is required to notify, to the extent practicable, all members of the subsector affected by such plan. The Secretary notice will include information on the proposed fee system, the schedule, procedures, and eligibility requirements for participation in a subsector referendum, and an estimate of the capacity to be reduced. This is purely a notice requirement—not a rulemaking—and it is not required to be published in the Federal Register.

Subsection (e)(4)(A) authorizes the Secretary to implement the individual subsectors capacity reduction plans. Within 90 days after a successful referendum, the Secretary is required to publish in the Federal Register a notice that includes the specific terms and conditions governing the purchase of licenses and vessels and a description of the fee system established for repayment of the loan. This is not a rulemaking. The purpose of this notice is to provide a public record of what has been purchased and how the loan is to be repaid.

Subsection (e)(4)(B) expresses the intent of Congress that Section 312(e) of the Magnuson-Stevens Act not apply to the capacity reduction plans governed by this Act.

Section (e)(5) establishes the authority of the Secretary to collect fees from the remaining members of a subsector necessary to repay the debt obligations incurred as a result of an approved capacity reduction plan. It is intended that the Secretary exercise this authority through regulations that will govern the fee collection system and ensure that the Federal Government can collect such fees. These regulations will bind the remaining members of a subsector and obligate them to repay the capacity reduction loan. Revenues to cover the loan repayment fees will be derived from the sale of fish harvested in the BSAI non-pollock groundfish fisheries.

Subsection (f) establishes the required actions by entities other than the Secretary to impose restrictions on vessels, revoke licenses and associated fishing rights, and scrap vessels. Subsection (f)(1)(A) requires the National Vessel Documentation Center, at the request of the Secretary, to revoke any fishery endorsements issued to a vessel under section 12108 of Title 46, U.S.C. It is expected that the National Vessel Documentation Center will annotate each buyback vessel documentation with language provided by the Secretary to notify future purchasers that they will not be able to receive any fishery endorsements. Subsections (f)(1)(B and C) require the Maritime Administration to restrict a vessel to U.S. flag status and refuse to grant approval for foreign registration or operation under foreign authority by such vessel. Subsection (f)(2) requires that vessels purchased under this Act designated for scrapping conform to the procedures established for a reduction vessel under section 600.1011(c) of Title 50, CFR. Scrapping of vessels pursuant to this provision shall be overseen by the National Oceanic and Atmospheric Administration—NOAA—and performed consistent with NOAA requirements. The cost to scrap a vessel will be paid by the buyback participant.

Subsection (g)(1) specifies the eligibility criteria for participation in the BSAI Non-Pollock Groundfish Fishing Capacity Reduction Program. It also limits participation in the BSAI non-pollock groundfish fishery to ensure the goal of capacity reduction is achieved.

Subsection (g)(2) expresses the sense of Congress that the North Pacific Council continue with its efforts to rationalize the BSAI non-pollock groundfish fisheries. This statement is intended to reinforce the Council commitment to adopt such management measures necessary to promote stability in these fisheries. This includes final action in a timely fashion on Amendments 80a and 80b, and the development and approval of sector allocations for the BSAI Pacific cod fishery. It is the understanding of Congress that the North Pacific Council will take final action on Amendments 80a and 80b by the fall of 2005, and adopt BSAI Pacific cod sector allocations by the end of 2005. Amendments 80a and 80b are particularly important to the non-AFA trawl catcher processor subsector as this fleet seeks to comply with the North Pacific Council pending Improved Retention/Improved Utilization—IR/IU—requirements. It is essential that the North Pacific Council take final action on Amendments 80a and 80b prior to implementing new IR/IU requirements.

Subsection (g)(2)(B) makes clear that subsectors who eliminate excess capacity through a capacity reduction plan authorized by this Act not be penalized by the North Pacific Council. This provision is intended to discourage the Council from reducing a subsector

BSAI non-pollock groundfish allocations as a result of that subsector reduction of fishing effort through programs authorized under this Act. This does not preclude the North Pacific Council from exercising its authority to manage these fisheries, including taking actions to address bycatch concerns or changes in stock levels. In addition, this Subsection would not prevent the North Pacific Council from raising the CDQ share of the harvest for this fishery consistent with past Bering Sea and Aleutian Islands rationalization efforts or as part of any eventual rationalization process.

Subsection (h) requires the Secretary to report annually to the relevant Congressional oversight committees on the implementation of this Act. Reports shall include details on the individual capacity reduction plans, an assessment of their cost-effectiveness, and the achievement of the goals set forth in section 312(b) of the Magnuson-Stevens Act.

Ms. SNOWE. Mr. President, I comment on the portion of the Consolidated Appropriations Act of 2004 that reauthorizes the Small Business Administration. Of particular importance to me is the inclusion of many aspects of my prior bills, the Small Business Administration 50th Anniversary Reauthorization Act of 2003, S.1375, which was approved by the Senate on September 26, 2003 by unanimous consent, and of my more recent SBA bill, the Small Business Reauthorization and Manufacturing Assistance Act of 2004, S.2821. These provisions reauthorize for 2 years the programs administered by the Small Business Administration under the Small Business Act and the Small Business Investment Act of 1958, and contain significant improvements to the SBA's lending and technical assistance programs.

For over a year, I have worked with the House Small Business Committee and the administration, making numerous attempts to accommodate my colleagues and to resolve outstanding issues that blocked the passage of a comprehensive bill. Various forms of my original bill have been introduced over this period in order to help move the other body's stalled legislation, while in the meantime our Nation's small businesses have waited to receive the benefits of improved SBA services that are contained in this bill.

The vast majority of businesses in each State in this country are small businesses. In Maine, 98 percent of businesses are small businesses. By enacting these provisions Congress is fulfilling its obligation in helping our entrepreneurs reach their American dream.

The SBA is a vital resource not only for our Nation's 25 million small businesses, but also for the millions of Americans relying upon small business ownership as an alternative to the ''traditional workplace'' where corporate America once offered life-long futures for workers.

The SBA's fundamental purpose is to ''aid, counsel, assist, and protect the interests of small-business concerns.'' The methods for carrying out Congress mandates include a wide array of financial, procurement, management, and technical assistance programs tailored to encourage small business growth and expansion. As the economy continues to recover and grow, it is essential that Congress send a message that affirms long-term stability in the programs the SBA provides to the small business community.

In the 50-year period since the establishment of the SBA, there have been many revisions and additions to the methods and organizational structure used by the SBA to respond to the evolving needs of small business. This bill builds upon those changes creating a stronger foundation for the SBA to deliver its programs.

Since 1953, nearly 20 million small business owners have received direct or indirect help from one of the SBA's lending or technical assistance programs, making the agency one of the government's most cost-effective instruments for economic development.

The SBA current loan portfolio of more than 200,000 loans, worth more than $45 billion, makes it the largest single supporter of small businesses in the country. Last year alone, lenders have made 83,912 loans to small businesses in the SBA's two major loan programs, with a total value of $16.5 billion.

Moreover, the SBA Small Business Investment Company program's current portfolio of more than 16,900 financings with an initial investment amount of $17.2 billion makes it the largest single equity-type backer of U.S. businesses in the Nation. Since 1958 the venture capital program has put more than $42.3 billion into the hands of small business owners, and this year it has produced investments of more than $2.6 billion in small businesses.

The SBA estimates that in the last fiscal year its loan and venture capital programs have provided small businesses with $19.7 billion in various forms of financing, enabling small businesses to create or retain 716,144 jobs.

In my home state of Maine alone, almost 2,500 SBA loans have been provided since 1999, for a total of over $288 million, to small businesses that might not have qualified for loans through alternative channels. These loans are critical to providing capital to small businesses in every state and now more will be available to them for supplying this country with additional production, jobs, and income.

Through a great deal of hard work, many aspects of S.1375 that improved the SBA's largest loan program—the 7(a) program—were included in the omnibus package. To give you some examples, a National Preferred Lenders Pilot Program will be created, in which lenders already operating as Preferred Lenders in the 7(a) program in many districts can be granted Preferred Lender status on a nation-wide rather than district-by-district basis, thereby greatly increasing the program's efficiency. The maximum size of 7(a) Express loans have been increased from $250,000 to $350,000 and the maximum 7(a) guarantee is increased from $1 million to $1.5 million.

The SBA 504 loan program, which supports real estate and machinery investments, will also benefit. The maximum 504 guarantee, previously $1 million, is increased to $1.5 million for a general 504 guarantee and $4 million for a guarantee that supports a manufacturing project. For a loan that supports one of the nine ''public-policy'' goals named in the Small Business Investment Act of 1958, the maximum guarantee is increased from $1.3 million to $2 million.

Let me share some additional highlights of the provisions that are included.

As Chair of the Senate Committee on Small Business and Entrepreneurship, co-chair of the Senate Task Force on Manufacturing, and Senator from a state with a rich manufacturing history, I am keenly aware that our nation's economy and security depends on our industrial base.

Unfortunately, manufacturing jobs in the United States have declined since their historic peak in 1979 and that loss has accelerated in recent years. Small business manufacturers constitute over 98 percent of our nation's manufacturing enterprises. It is impossible to overstate the role of small manufacturers within the overall manufacturing industry and our nation's economy.

The bill includes a section that derives from S. 1977, the Small Manufacturers Assistance, Recovery, and Trade, SMART Act, which I and original cosponsor Senator GEORGE V. VOINOVICH introduced on November 25, 2003. Specifically, it establishes a Small Business Manufacturing Task Force within the Small Business Administration, charged with ensuring that the administration is properly addressing the particular needs of small manufacturers.

I am also particularly pleased that the Omnibus bill contains $109 million for the Manufacturing Extension Partnership, a cost-effective, public-private partnership that helps small and medium-sized American manufacturers modernize to compete in the demanding global marketplace.

The MEP's funding had been drastically reduced in 2004, dropping to $39.6 million from a previous level of $106 million. Those drastic cuts threatened to destroy the MEP program, which is relied upon by small manufacturers across our nation.

At a time when these manufacturers are facing an unprecedented level of competition from across the globe, it is vital that we continue to provide them the tools and resources that allow them to remain competitive and to

continue to provide well paying jobs to millions across our country.

For our veterans who give so much to our nation and who continue to take risks on the battlegrounds of the business world, the bill includes language that I originally included in S. 1375, extending the Advisory Committee on Veterans Affairs as a separate entity to continue its functions through September 30, 2006.

The Advisory Committee responsibilities include providing better assistance and support to veterans who are forming and expanding small businesses, and providing advice to Congress and the Small Business Administration on policy initiatives to promote veteran entrepreneurship.

With this legislation, Congress is also taking important steps towards fulfilling its promises to pry open the doors of public procurement for small businesses. Small entrepreneurs continue to face persistent barriers in accessing government prime contracts and subcontracts. Many of these barriers have been erected in the middle of the very programs designed to assist small entrepreneurs who are socio-economically disadvantaged or who do business in Historically Underutilized Business Zones. Therefore, it has been no surprise that the Federal Government has never come close to satisfying its statutory HUBZone prime contracting goals.

Among other items taken from my earlier SBA bill, S.2821, this bill expands the definition of HUBZone-eligible firms to promote inflow of capital to HUBZone areas, tap the potential of small agricultural cooperatives, and place tribally-owned HUBzone firms on equal footing with other participants. It also extends the HUBzone program to military base closure areas such as the former Loring Air Force Base and protects companies located in rural HUBZone areas like Aroostook County, ME, from losses of their HUBZone status due to area redesignations. Duplicative paperwork burdens imposed on 8(a) firms trying to do business with state and local governments are also being lifted.

Mr. President, I would also like to comment on the funding levels provided for the SBA in this bill. Since FY 2001, funding for the SBA has decreased by more than 32 percent, the largest decrease of any agency funded with discretionary spending. I understand the need to be particularly fiscally responsible this year, given the size of the deficit, but such a large cut to programs that focus on creating jobs is a mistake.

The funding included for the SBA Microloan program will provided entrepreneurs with a source of financing when no other options are available. With over $27 million in loan provided through this program last year, I am satisfied that the bill closely reflects my funding request.

I am pleased with the funding levels provided for the SBA technical assistance programs, especially the funding provided for the Women's Business Center program. During this Congress, I worked with the administration and the House of Representatives to pass legislation that would sustained funding for the most experienced centers.

With women-owned firms generating almost $2.5 trillion in revenues and employing more than 19 million workers, they are the fastest growing segment of today's economy. In my home state of Maine alone, more than 63,000 women-owned firms generate more than $9 billion in sales. The funding included in this bill for these centers ensures that there are resources available to continue creating success stories for America's women entrepreneurs.

I am deeply concerned that the final Omnibus bill did not reflect the Senate bill and include funding for the SBIR and STTR programs of $2 million and $250,000 respectively. These programs facilitated over $1.5 billion in government research and development grants to small businesses. Moreover, since the inception of the program in 1982, SBIR firms have produced more than 4,100 patents. Without the funding for these programs not only do our small businesses suffer but so does our nation. These programs capitalize on the small business sector's innovative potential. Technological innovation creates jobs, improves our way of life, and helps American companies maintain their competitive advantage.

I applaud America's small businesses that continue to rise to the challenge of keeping this country innovative and strong. Three to four million new business start-ups each year and 1 in 25 adult Americans accept the risks of starting a business. Today's small business owners are making plans for tomorrow, including decisions that will create approximately two-thirds of all net new jobs helping to sustain local communities, according to a recent National Federation of Independent Business survey.

Over the last 5 years the SBA's programs and services have helped create and retain over 6.2 million jobs. According to the SBA, the $65.5 billion awarded to small businesses in Federal prime and subcontracts in FY 2003 will create or retain close to 500,000 jobs. This bill should bring about similar or even greater results in the next few years.

Too much was at stake for small businesses, and the economy as a whole, to allow SBA reauthorization to languish. It was time for Congress to find essential agreement and fulfill its obligation to America's small businesses. Clearly, if we strove for anything less, we'd have failed to support the backbone of our economy, our hope for innovation and new technology, and our small firms that employ millions across the nation.

Again, I thank my colleagues who joined me in supporting this crucial legislation, thereby bolstering American small businesses and protecting Americans' dreams.

Mr. President, Division K of H.R. 4818, the Consolidated Appropriations Act for 2005, contains the Small Business Reauthorization and Manufacturing Assistance Act of 2004. Since the Act was incorporated directly into the Consolidated Appropriations Act for 2005, no committee report accompanies the legislation.

As Chair of the Senate Committee on Small Business and Entrepreneurship, I am submitting for insertion in the RECORD, the attached explanation of Division K. I would expect the administrator of the Small Business Administration, in implementing the provisions of this act, to accord the enclosed explanation the same weight in divining congressional intent that the administrator would give to language in a conference report. This expectation is particularly appropriate in this circumstance because the provisions were negotiated and agreed to in cooperation with my counterpart in the United States House of Representatives.

The Small Business Administration 50th Anniversary Reauthorization Act of 2003, S.1375, is a bill to reauthorize most programs at the SBA for Fiscal Years 2004, 2005, and 2006. Additionally, the bill makes changes to various existing programs and authorizes several new pilot initiatives. S.1375 was adopted by the Senate Committee on Small Business and Entrepreneurship by a unanimous vote of 19–0.

S. 1375 was the product of a series of hearings and roundtable discussions that the committee held in 2003 on a wide spectrum of issues and SBA programs.

The committee completed its series of hearings and roundtables on SBA reauthorization with a hearing on June 4, 2003, that included SBA Administrator Hector Barreto. This hearing provided an additional opportunity for the agency to respond to issues raised during the previous roundtable discussions, discuss its legislative package that was submitted to the Committee for review, and comment on the President's fiscal year 2004 budget submission. The hearing also examined a number of agency management issues including the SBA's efforts to obtain a clean audit opinion on financial statements, implementation of a loan monitoring system, and workforce transformation plans.

In addition to containing sections from the Small Business Administration 50th Anniversary Reauthorization Act of 2003, the Omnibus includes sections that derive from S. 1977, the Small Manufacturers Assistance, Recovery, and Trade (''SMART'') Act, offered by Senator SNOWE and original cosponsor Senator GEORGE V. VOINOVICH, introduced on November 25, 2003.

Examples of provisions from the SMART Act contained in the Omnibus are sections that increase manufacturers' access to capital, and a provision that creates a Small Business Manufacturing Task Force, within the SBA,

charged with ensuring that the SBA is properly addressing the particular needs of small manufacturers.

Throughout the hearings and roundtables, the Committee's objectives have been to single out the SBA programs that work well, identify the reasons for their superior performance, and apply those principles to programs that need improvement. The voluminous amount of information that the Committee collected through the hearings and roundtable discussions held this year and in the previous Congress as well as information received directly from small business stakeholders has contributed greatly to achieving that goal and the results are reflected in the bill.

While not all of the provisions of S.1375 are contained in Division K of H.R. 4818, I believe that by providing appropriate authorization levels, updating and improving SBA lending and technical assistance programs, and introducing new initiatives to assist America's 21st Century entrepreneurs, this bill will provide a sound foundation for the agency to begin its next 50 years of even greater service.

I ask unanimous consent that immediately following these remarks an explanatory statement describing the small business provisions of H.R. 4818 be printed in the CONGRESSIONAL RECORD.

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

STATEMENT DESCRIBING PROVISIONS OF DIVISION K OF H.R. 4818 FILED BY SENATOR OLYMPIA J. SNOWE

SECTION 101. EXPRESS LOANS

Section 7(a)(25)(B) authorizes the Administrator to create pilot loan programs. In exercising that authority, the Administrator created an ''Express Loan Pilot Program.'' The program authorizes lenders to use their own forms in submitting requests to the Administrator for the issuance of guarantees. Two significant restrictions are imposed by the ''Express Loan Pilot Program:'' the guarantee cannot exceed 50 percent of the loan and the maximum loan amount is $250,000.

Section 101 codifies, with a few significant differences, the provisions of Pub. L. No. 108–217, which addressed the Express Loan Program. The two most significant changes are the permanent authorization of the Express Loan Program by creating a new paragraph (31) in §7(a) of the Small Business Act and the statutory increase in the size of such loans to $350,000.

Section 101 defines an ''express lender'' as any lender authorized by the Administrator to participate in the Express Loan Program. Congress expects that the Administrator will establish by rule the standards needed to qualify as an Express Lender.

Section 101 defines an ''express loan'' as one in which the lender utilizes, to the maximum extent practicable, its own analyses of credit and forms. Congress fully expects that the conditions under which express loans are made will not vary significantly from those conditions that currently exist under the ''Express Loan Pilot Program.'' Nevertheless, Congress understands that the Administrator may wish to revise the standards and operating procedures associated with ''express loans.'' Nothing in the statutory language should be interpreted as prohibiting the Administrator from imposing these additional requirements that are otherwise consistent with the statutory language.

Section 101 codifies the existing concept of the Administrator's ''Express Loan Pilot Program.'' In other words, the ''Express Loan Program'' is one in which lenders utilize their own forms and get a guarantee of no more than 50 percent.

Section 101 restricts the program, including the increased loan amount of $350,000, to those lenders designated as express lenders by the Administrator. Designation as an express lender does not limit the lender to making express loans if the lender has been authorized to make other types of loans pursuant to §7(a) of the Small Business Act. Although a lender may only seek status as an express lender, this section was included to ensure that the Administrator not limit the ability of an express lender to seek other lending authority from the Administrator. Nor is the Administrator permitted to change its standards for designating an express lender in a manner that only authorizes the lender to make express loans. To the extent that the lending institution wishes to offer a full range of loan products authorized by §7(a) and is otherwise qualified to do so, the Administrator shall not restrict that ability on the lender's status as an express lender.

Section 101 prohibits the Administrator from revoking the designation of any lender as an express lender that was so designated at the time of enactment. This prohibition does not apply if the Administrator finds the express lender to have violated laws or regulations or the Administrator modifies the requirements for designation in a way that the express lender cannot meet those standards. Congress does not expect that the Administrator will impose new requirements for express lenders that prohibit them from making loans under other loan programs authorized by the Small Business Act for which they have approval from the Administrator.

Congress, at the request of the Small Business Administration, determined that it was appropriate to expand the size of ''express loans'' to $350,000. Any change in the size of an express loan now will require action by Congress.

Congress is concerned that the Administrator will take regulatory actions that unduly favor express lending over other types of lending authorized by §7(a) of the Small Business act. As such, Congress incorporated a provision prohibiting the Administrator from taking any action that would have the effect of requiring a lender to make an express loan rather than a conventional loan pursuant to §7(a). Any significant policy change in the operation of the lending programs authorized by §7(a) of the Small Business Act requires notification to the House and Senate Small Business Committees. Furthermore, the statutory language on notification goes beyond that which is required pursuant to §7(a)(24) of the Small Business Act.

SECTION 102. LOAN GUARANTEE FEES

Section 102 increases the loan guarantee amount to a maximum of $1.5 million. Given the fact that borrowers are getting an additional increment in loan guarantees, the sponsors determined that it would be appropriate to require an additional 0.25 percent fee for the amount of guarantee in excess of $1 million. Thus, on the amount of the guarantee between $1 million and $1.5 million, the upfront fee authorized pursuant to §7(a)(18) of the Small Business Act increases from 3.5 percent to 3.75 percent but only for that portion of the loan guarantee in excess of $1 million. This is consistent with typical commercial lending practices of charging fees that are commensurate with the lenders' exposure to risk.

Section 102 also raises the fee collected by the Administrator from banks of the unpaid balance of deferred participation loans. To avoid situations such as those that occurred at the end of calendar year 2003 in which the Administrator was required to drastically reduce lending and impose other restrictions on the program, Congress determined that it would be appropriate for the Administrator to have some discretion in setting the fee paid by lenders on the unpaid balance. The total amount of the fee cannot in any year, exceed 0.55 percent of the unpaid balance. Congress expects the Administrator to use this authority only when needed to drive the cost, as that term is defined in the Federal Credit Reform Act, of the loan program to zero, i.e., not need an appropriation. Any use of this discretion to raise the fee beyond the current level of 0.5 percent should trigger the notification provisions in §7(a)(24) of the Small Business Act. As a further oversight tool, Congress expects that the Administrator would satisfy any relevant committee's request for information on the utilization of this discretion.

Finally, Congress determined that the Administrator also be given the authority to lower fees charged to borrowers and lenders if the subsidy cost becomes negative, i.e., the fees will actually take in more money to the government than it costs to operate the §7(a) loan program. Congress adopted an approach that the Administrator, should it undertake a fee reduction, first consider reducing the fees set forth in clauses (i)–(iii) of subsection 7(a)(18)(A) and then reduce fees on lenders. As a further restriction on the discretion of the Small Business Administration, the fees that were charged to borrowers on the date of enactment of this conference report may not be raised. Congress adopted this language to ensure that any fee increases to borrowers beyond the statutory limits requires the action of Congress.

SECTION 103. INCREASE IN GUARANTEE AMOUNT IN INSTITUTION OF ASSOCIATED FEE

Access to capital is vital to the growth of small businesses. Particularly for manufacturers and high technology research and development businesses, typical amounts of capital available under the existing loan limits authorized by §7(a) of the Small Business Act often are inadequate. Given the importance of capital to grow small businesses, Congress determined that it would be appropriate to permanently increase the amount

of the loan guarantee from $1 million to $1.5 million. No additional changes were made in the overall statutory cap of a gross $2 million loan. Thus, the Administrator will be able to guarantee up to $1.5 million of a $2 million loan rather than the current limit of $1 million. Congress expects that this will increase the number of lenders willing to make loans to small manufacturers who face significant global competition.

SECTION 104. DEBENTURE SIZE

Congress raised all of the loan limitations for qualified state and local development companies (''CDCs'') because they had not been raised in many years and the long-term financing needs of small businesses were not being met by loans that did not exceed the thresholds for loans made pursuant to §7(a) of the Small Business Act. Raising the loan limitations has two effects. First, it signifies the recognition that Title V of the Small Business Investment Act and §7(a) of the Small Business Act has very different purposes in mind. Second, an increase in the threshold allows more effective economic development projects to be funded by CDCs.

Congress believes that the increases to $1,500,000 for regular projects, $2,000,000 for public policy goal projects, and $4,000,000 for small manufacturers will provide significant new financial inputs to small businesses in general and to small manufacturers in particular.

While all small businesses whose primary industrial classification is in North American Industrial Classification sectors 31, 32, and 33 (the sectors for manufacturing), not all small business concerns in those sectors are considered small manufacturers. Congress adopted a requirement that small manufacturers should be limited to those small business concerns that have all of their production facilities are located in the United States. Congress does not intend that small business concerns that have manufacturing facilities situated outside of the United States should be denied assistance under programs operated by the Small Business Administration. However, special benefits should be afforded to those manufacturers whose production facilities are located in the United States. Finally, the definition in §106 is identical to the definition in this section thereby avoiding any potential interpretive concerns about what the legislature meant when it used the same term in different sections of legislation.

SECTION 105. JOB REQUIREMENTS

The Administrator has promulgated regulations, pursuant to §501 of the Small Business Investment Act mandating that a loan made by a CDC must create or save one job for each $35,000 in guarantee. This standard has not been revised since it was adopted in 1990. The standard clearly does not reflect inflation or the dramatic increases in productivity that has led to higher wages for all employees. Congress determined that the standard should be revised to take account of the changes in the economy during the past 14 years. Therefore, §105 statutorily raises the job creation standard to one job for every $50,000 in guarantees.

Manufacturing requires greater capital investment than other businesses. Such investment may lead to higher productivity for small manufacturers and therefore fewer jobs created per investment. Congress does not want to prejudice the ability of CDCs to fund projects that would assist small manufacturers. Section 106 establishes a standard that authorizes CDC loans to small manufacturers if the project creates one job for each $100,000 of guarantee.

CDCs do not need to meet job creation standards for individual loans if the loan is used to further one of the public policy objectives in §501(d). Section 105 modifies that requirement slightly by exempting a particular project from the job creation standards if the project was meeting a public policy objective and if the CDC's overall loan portfolio creates one job for $50,000 in guarantees.

Since the basic premise of loans made pursuant to Title V of the Small Business Investment Act is to encourage economic development, Congress concluded that it made sense to establish a different standard for job creation in economically-depressed areas or places with unusually high wage requirements. Congress believes that CDCs should be provided more leeway in creating jobs in economically-depressed areas and Alaska and Hawaii. As a result, CDC loans in these areas only need to meet a more lenient job creation standard of one job per $75,000 of guarantee in certain areas.

Given the importance of small manufacturing to economic development, Congress excluded loans to small manufacturers from the calculations needed to determine whether a CDC's loan portfolio meets the overall job creation standard of one job per $50,000 of guarantee or the $75,000 standard for high-wage and economically-depressed areas. Congress intends that the public policy goals set forth in §501 should be accomplished without reference to job creation for small manufacturers. Section 105 also authorizes the Administrator to waive any of the standards when appropriate. Congress expects that the Administrator will promulgate regulations specifying when the job creation standards will be waived. Two restrictions are imposed on the Administrator's discretion. First, the Administrator may not waive the requirements concerning small manufacturers. Second, the Administrator may not mandate a job creation standard with a number lower than that set forth in §105 but does have the liberty to set a higher dollar guarantee per job standard. These restrictions ensure that the Administrator does not undermine the ability of CDCs to lend to small manufacturers.

SECTION 106. REPORT REGARDING NATIONAL DATABASE OF SMALL MANUFACTURERS

Institutions of higher education can play a vital role in reviving small manufacturers. Universities must purchase large amounts of standard manufactured products (often on an annual basis—such as furniture for dormitory rooms). They also often purchase very sophisticated tools and laboratory equipment that small manufacturers may produce. Congress believes that some mechanism should be in place so that institutions of higher education can identify suppliers from the universe of small manufacturers. While not an ideal system, a database similar to PRO–NET represents a useful model for making institutions of higher education aware of the capabilities of small manufacturers. PRO–NET is a database operated by the federal government in which the capabilities of numerous small businesses are outlined. Contracting officers use PRO–NET to find small businesses capable of providing goods and services. Section 106 requires the Administrator and the Association of Small Business Development Centers to study the viability of creating a PRO–NET-like database that all institutions of higher education can use to identify small manufacturers (the definition is identical to the definition in §§104–05) capable of providing their procurement needs. The bill also requires a report to Congress on the viability and cost to establish such a database.

SECTION 107. INTERNATIONAL TRADE

All §7(a) loans can be used to refinance existing debt except for international trade loans. Congress determined that the restriction did not make sense especially since businesses harmed by unfair international competition will be more competitive if their debt service payments are lower. Therefore, Congress authorized businesses otherwise eligible for an international trade loan to use it for refinancing of debt but only to the extent that the Administrator determines the applicant's existing debt is not structured with reasonable terms and conditions. Congress expects that the Administrator examine the interest rate being charged relative to the interest rates generally available for similar businesses to determine whether the terms and conditions are not reasonable.

To obtain an international trade loan, the applicant must demonstrate that the business either is engaged in or adversely affected by international trade. To avoid the necessity of having to prove adverse effects if other government agencies already reached that conclusion in the same industry as the borrower, Congress mandated that the Administrator must accept as conclusive proof of injury a finding by the Secretary of Commerce issued pursuant to chapter 3 of Title II of the Trade Act of 1974 or any determination by the International Trade Commission. If an applicant is in an industry for which the Commission or the Secretary has made an injury finding, Congress concluded that it would be pointless to require the small businesses so suffering to go through the additional expense of presenting new evidence to the Administrator of injury.

Congress intends that the utilization of the findings by the Secretary or the Commission is not a limiting factor if a small business can present other evidence of injury. For example, the Commission or Secretary may not find that an industry was injured or that no claims were made to either agency. Nothing in §107 prevents a small business from presenting of evidence of specific injury to his or her business. The Administrator then would be required to rule on the adequacy of the proof, and if sufficient evidence was found of injury, make a loan under §7(a)(16).

Section 107 also provides for an increase in the size of international trade loans. Given the nature of international trade, Congress typically has mandated that loan caps be $250,000 higher than those for conventional §7(a) loans. This section maintains that practice and increased the cap for international trade loans based on the increase in the guarantee fees for conventional loans.

SECTION 121. PROGRAM AUTHORIZATION LEVELS

This section amends §20 of the Small Business Act and provides for authorization of appropriations. Congress selected authorization levels with sufficient room to allow for expected growth and expansion of programs authorized by the Small Business Act and Small Business Investment Act. Congress also determined that an authorization of appropriations not elsewhere provided should apply to all of the Small Business Investment Act.

Finally, Congress concluded that the existing standing authorization of appropriations only for carrying out title IV of the Small Business Investment Act was illogical. Section 121 amends §20 to provide for an authorization of appropriations not elsewhere provided for carrying out both the Small Business Act and all titles of the Small Business Investment Act.

SECTION 122. ADDITIONAL REAUTHORIZATIONS

The Small Business Development Center (SBDC) program's authorization levels are set forth in §21 of the Small Business Act. Congress provided modest authorization increases for the SBDCs to take account of necessary growth in providing services to entrepreneurs. In addition, Congress also extended the authority of SBDCs to provide

drug-free workplace counseling. This authority would have lapsed without the change. The extension of authority will give the SBDC grantees sufficient time to coordinate their actions with the grantees under the revised drug-free workplace program.

Given the SBDCs expertise in providing assistance to entrepreneurs, Congress established a program authorizing grants to SBDCs that are willing to offer advice in communities that are economically challenged due to business or government facility down-sizing or closing. Congress expects that this assistance will first be offered to communities suffering from plant closings, then to communities suffering from government office closings, and finally to base realignments. To the extent that other bases are closed in future years, Congress expects that legislation concerning such closures will provide additional assistance to the surrounding communities and that assistance provided under §122 should be utilized in other areas that do not receive the directed assistance associated with base closures.

SECTION 123. PAUL D. COVERDELL DRUG-FREE WORKPLACE PROGRAM AUTHORIZATION PROVISIONS

Congress recognizes that small businesses need drug free workplaces. Drug-free workers boost productivity and reduce the costs of health care coverage and absenteeism. As a result, Congress reauthorized the program for two years at the five million dollar level. In addition, to ensure that funding is maximized to eligible intermediaries that specialize in providing drug-free workplace assistance to small businesses, Congress adopted a limitation on the amount of funds that can be awarded to SBDCs for carrying out the purposes of the Paul D. Coverdell Program. Furthermore, Congress, again in an effort to maximize limited dollars, restricts the use of funds for administrative purposes to five percent of the total made available to grantees. Nothing in this limitation restricts the drug-free workplace advice that SBDC grantees are authorized to provide in their normal course of operations.

SECTION 124. GRANT PROVISIONS

Congress recognized that improvements in coordination between the activities of drug-free workplace eligible intermediaries and SBDCs might improve delivery of services to small businesses. As a result, Congress established a grant program within the Paul D. Coverdell Drug-Free Workplace Program to promote cooperation between eligible intermediaries and SBDC grantees. Congress expects that the Administrator award the two-year grants to those applicants that best demonstrate the capacity to deliver advice in a coordinated manner between SBDCs and eligible intermediaries.

SECTION 125. DRUG-FREE COMMUNITIES COALITIONS AS ELIGIBLE INTERMEDIARIES

Congress recognizes that there are numerous entities that receive grants under chapter 2 of the National Narcotics Leadership Act of 1988 but are not currently authorized to participate as eligible intermediaries under the Paul D. Coverdell Drug-Free Workplace Program. This section makes these National Narcotics Leadership Act grantees, which could provide valuable insight into establishing drug-free workplaces, eligible to receive awards under the Paul D. Coverdell Drug-Free Workplace Program. Inclusion of new additional parties should not be interpreted as directing the Administrator to favor them over others that apply for grants under the Paul D. Coverdell Drug-Free Workplace Program.

SECTION 126. PROMOTION OF EFFECTIVE PRACTICES OF ELIGIBLE INTERMEDIARIES

To ensure that the Paul D. Coverdell Drug-Free Workplace Program operates optimally, Congress mandates that the Administrator provide best practices to eligible intermediaries. The Administrator should use all of its available outreach resources, including SBDCs, Women Business Centers, and district offices to insure that eligible intermediaries are kept apprised of best practices.

Congress also believe that the performance of eligible intermediaries should be assessed and measured. Such evaluations will be useful to Congress when it considers what changes, if any, need to make the program even more effective. This section establishes the procedures for collecting data needed to evaluate the efficacy of the program.

SECTION 127. REPORT TO CONGRESS

This section requires the Administrator to use the data collected under §126 and report to Congress on the efficacy of the program and dissemination of drug-free workplace information. Congress expects the relevant committees to examine the report and make necessary legislative changes as a result to ensure optimal operation of the Paul D. Coverdell Drug-Free Workplace Program.

SECTION 131. LENDER EXAMINATION AND REVIEW

Current practice authorizes SBIC licensees to pay for examination and reviews conducted by the Administrator. Congress determined that the same principles should apply to lenders authorized to make government-guaranteed loans under §7(a). This section grants the Administration the authority to charge for examinations and reviews. The section also requires that the fees be directed to lender oversight activities including the payment of salaries and expenses of Administration personnel involved in such functions. This authority does not imply that the fees may be directed to the reimbursement of other functions of the Administration.

SECTION 132. GIFTS AND CO-SPONSORSHIP OF EVENTS

Gifts and co-sponsorships play a useful role in the Small Business Administration's performance of its outreach function to small businesses. Congress determined that even broader language than is currently permitted was necessary to ensure the Administration's continued ability to obtain gifts and seek co-sponsorships. In particular, Congress recognized that in many instances the Administration does not receive gifts but rather contributions are made by a co-sponsoring entity to an Administration event, such as small business forum. In other instances, the SBA uses gifts to pay for promotional materials, such as cards that are handed out in district offices to promote an event. This section clarifies and broadens the existing authority of the Small Business Administration to obtain gifts and co-sponsorships in order to expand the agency's outreach. To ensure appropriate clarity, Congress added the term ''recognition events'' which would include Small Business Week and sponsorship of dinners during that period. The section also requires the Administration to recognize the co-sponsors of such events but only to the extent of their contributions. No endorsements of the co-sponsors products or services are permitted.

In order to ensure that conflicts of interest do not arise in the solicitation or acceptance of gifts, Congress requires the General Counsel to determine whether a conflict of interest exists. If a determination that a conflict of interest exists, the General Counsel is empowered to prohibit the solicitation or acceptance. Finally, the language clarifies that the Administrator may delegate the approval of co-sponsorships to the Deputy Administrator, Associate Administrators, and Assistant Administrators. No personnel located in district or regional offices are permitted to approve co-sponsorships. Congress adopted this restriction to ensure close cooperation with the General Counsel of the Administration.

Congress also requires that the Inspector General audit the use of such gifts and co-sponsorships. This avoids potential abuses of the program through independent oversight of an official whose investigations cannot be impeded by the Administrator or Administration personnel. Congress wanted additional assurances (beyond the Inspector General audit) that the Small Business Administration achieved a proper balance between this new expanded authority and accountability. As a result, a sunset date of 2006 was added in order to properly monitor this new authority before considering making this language permanent in the Small Business Act.

SECTION 141. SERVICE CORPS OF RETIRED EXECUTIVES

Currently, the Administrator has the discretion whether to permit the Service Corps of Retired Executives (SCORE) to maintain offices at the headquarters of the Administration and pay employees of SCORE. Congress determined that the vitality of SCORE should not be subject to whims of the Administrator and therefore require that the Administrator maintain SCORE's offices at the Administration's headquarters and continue to pay for the salaries of SCORE personnel. Congress notes that this will not require any increased appropriation since these services and expenses are currently included in the Small Business Administration's budget.

SECTION 142. SMALL BUSINESS DEVELOPMENT CENTER PROGRAM

Congress remains concerned that SBDCs were and may continue to be revealing the name of businesses that seek their advice to Administration employees for functions unrelated to the financial auditing or client surveys needed to oversee the operations of the SBDC grantees. Congress believes that such behavior is intolerable. This section prohibits the disclosure of client information (including the name, address, telephone and facsimile numbers, and e-mail address) of any concern or individual receiving assistance from a SBDC grantee or its subcontractors (who operate service centers that business owners can utilize to obtain advice) unless the Administrator is ordered to make such disclosure pursuant to a court order or civil or criminal enforcement action commenced by a federal or state agency. Congress expects that SBDC grantees will only respond to formal agency requests, such as civil investigative demands, and subpoenas.

Congress also recognizes that the Administrator has significant management responsibilities to ensure that federal taxpayer dollars are wisely used by grantees and are in compliance with the law, regulations, and the cooperative agreements signed by SBDC grantees. Congress authorizes the SBDC grantees to provide client names for the purposes of financial audits conducted by the Administrator or Inspector General and for client surveys to ensure that the SBDC grantees are satisfying certain aspects of their grant agreements. Congress recognizes that client surveys may be misused and impose restrictions on their use. Until regulations are in place to ensure that SBDC grantee client's privacy is protected to the maximum extent practicable given the management oversight responsibility of the Administrator, Congress requires client surveys to be approved by the Inspector General and any approval incorporated into the

semi-annual report made to Congress.

This section also makes a technical change in wording of the SBDC program. It renames the certification program as an accreditation program. The change was made because institutions are accredited not certified. Since the program determines the quality of SBDCs, it makes sense to have them accredited not certified. An identical change is made in §20(a)(1)(D)–(E).

SECTION 143. ADVISORY COMMITTEE ON VETERANS BUSINESS AFFAIRS

Congress has determined that the federal government must provide better assistance and support to veterans in their efforts to form and expand small businesses. In 1999, as part of this effort, Congress established an Advisory Committee on Veterans Business Affairs. Its responsibilities included providing advice to Congress and the Small Business Administration on policy initiatives that would promote entrepreneurship by veterans. The responsibilities of this advisory board were to be taken over by the National Veterans Business Development Corporation on October 1, 2004. Congress determined that the Advisory Committee's role was sufficiently beneficial that it should not be subsumed within the National Veterans Business Development Corporation. As a result, Congress authorized an extension of the Advisory Committee as a separate entity to continue its functions through September 30, 2006.

SECTION 144. OUTREACH GRANTS FOR VETERANS

The Administration is authorized to provide outreach grants to help disabled veterans start and expand small businesses. Congress determined that the outreach grants should not be limited to disabled veterans. This section extends the authority to provide outreach programs to veterans and reservists.

SECTION 145. AUTHORIZATION OF APPROPRIATIONS

To express Congress' concern about adequate efforts to assist veterans, Congress determined that the Small Business Administration's Office of Veterans Affairs should have a separate authorization. This section provides for that separate authorization for fiscal years 2005 and 2006.

SECTION 146. NATIONAL VETERANS BUSINESS DEVELOPMENT CORPORATION

A ruling by the Department of Justice concluded that the National Veterans Business Development Corporation was a federal agency for all purposes and thus subject to, among other things, federal administrative, personnel, and procurement laws. Congress, when it created the corporation, never intended that it would be considered a federal agency. The legislation mandated sufficient fundraising by the corporation that would eliminate the need for federal funding. While that fundraising continues, Congress determined that its original intent concerning the status of the corporation should be honored. This section makes it clear that the corporation is to be considered and treated as a private entity and not an agency or instrumentality of the Federal government.

SECTION 147. SMALL BUSINESS MANUFACTURING TASK FORCE

Manufacturing jobs in the United States have declined since their historic peak in 1979 and that loss has accelerated in recent years. Small business manufacturers constitute over 98 percent of our nation's manufacturing enterprises. It is impossible to overstate the role of small manufacturers within the overall manufacturing industry and our nation's economy. The House and Senate Small Business Committees have placed a high priority on trying to resuscitate the small business industrial base because economic security in the United States cannot occur in a purely post-industrial economy.

Section 147 establishes a Small Business Manufacturing Task Force within the Small Business Administration, charged with ensuring that the Administration is properly addressing the particular needs of small manufacturers. Specifically, the Small Business Manufacturing Task Force will: (a) evaluate and identify whether existing programs and services are sufficient to serve small manufacturers' needs, or whether additional programs or services are necessary; (b) actively promote the SBA's programs and services that serve small manufacturers; and (c) identify and study the unique conditions of small manufacturers, and develop and propose policy initiatives to support and assist them. This section also instructs the Small Business Manufacturing Task Force to submit a report of its findings and recommendations to the President and the Senate and House Small Business Committees not later than 12 months after the effective date of the bill and annually thereafter. In carrying out their obligations under this section, Congress expects that the Task Force will consult with other agencies that have manufacturing responsibilities, such as the Department of Commerce.

SECTION 151. STREAMLINING AND REVISION OF HUBZONE ELIGIBILITY REQUIREMENTS

The Historically Underutilized Business Zone (HUBZone) program was designed to direct portions of federal contracting dollars into areas of the country that in the past have been out of the economic mainstream. HUBZone areas, which include qualified census tracts, poor rural counties, and Indian reservations, often are out-of-the-way places that the stream of commerce passes by, and thus tend to be in low or moderate income areas also characterized by comparatively high unemployment. These areas can also include certain rural communities and tend generally to be low-traffic areas that do not have a reliable customer base to support business development. As a result, businesses have been reluctant to move into these areas and expend the necessary funds to develop the infrastructure for creation of jobs. It simply has not been profitable, without a customer base, to keep those businesses operating.

The HUBZone program seeks to overcome these problems by providing the means for Federal procurement activities to become customers for small businesses that locate in HUBZones. While a small business works to grow, expand its payroll, and establish a solid base of commercial or other customers, federal business opportunities can be of vital importance. Federal prime and subcontracts can become an important source of revenue for a HUBZone small business, and prime contracts in particular can help stabilize revenues, establish valuable past performance record, and maintain future profitability.

In past years, the HUBZone program has encountered issues relating to the statutory requirement that a HUBZone firm be entirely owned and controlled by individual U.S. citizens. This requirement means that all HUBZone applicants need to be owned by human beings directly and not human beings organized as business entities. However, many small business owners and small business investors prefer to take advantage of various corporate forms in order to limit the personal liability for themselves and their families. Exceptions for Alaska Native Corporations, Indian tribal governments, and community development corporations were added by the Small Business Act reauthorization legislation in 2000. Even with those changes, the presence of a corporate entity or a limited liability company with an ownership stake in a small business would have automatically disqualified an otherwise eligible firm from participation in the HUBZone program. Small agricultural cooperatives, which already maintain presence in rural HUBZones, would have faced similar restrictions. These rules unnecessarily impede the flow of capital to the very areas that need it the most and create compliance conflicts with other small business procurement programs.

Section 151 addresses this problem through streamlining and revision of the eligibility requirements for HUBZone small businesses to include small businesses that are 51 percent owned by United States citizens, as well as to include small businesses which are small agricultural cooperatives or are owned and controlled by small agricultural cooperatives.

In addition, HUBZone firms owned by the Indian tribes have been facing peculiar challenges due to statutory requirements that they must hire a certain percentage of its workforce performing a federal contract or subcontract from Indian reservations or adjacent areas. These requirements, while motivated by the desire to spur economic development of the tribes, over time had the unintended consequence of putting tribally-owned firms at a disadvantage in comparison with all other HUBZone concerns by imposing a geographic restriction on the kinds of contracts that tribally-owned HUBZone firms could perform. Geographic restrictions also impeded business synergies between tribally-owned HUBZone firms and Alaskan Native Corporations. To remedy this disparity, Section 151 is providing tribally-owned HUBZone concerns the option of qualifying for the program based on locating in, and hiring workers from, either Indian reservations or any other HUBZones on the same terms as available to other HUBZone firms. Congress notes that the Indian tribes, as owners of the HUBZone firms, will be receiving expanded economic benefits from new contracting opportunities.

SECTION 152. EXPANSION OF QUALIFIED AREAS

Congress observes that the HUBZone area qualifications are also in need of improvement. Paradoxically, economically distressed rural communities in states with high unemployment—among the neediest of needy areas—currently do not qualify for the HUBZone program because rural areas currently must qualify in relation to the statewide unemployment average. As an example, in calendar year 2003, Alaska had a statewide unemployment rate of 8.0 percent. To qualify as a HUBZone area, it was necessary for an Alaskan rural community to have an 11.2 percent unemployment rate. But, in 25 of the 50 states, a rural community could have qualified as a HUBZone with an unemployment range of 7.8 percent or less.

Section 152 addresses this problem by modifying the definition of a ''qualified nonmetropolitan county'' to provide the option of comparing the unemployment statistic for that area to the statewide average or to the national average. The new statutory HUBZone definition should give the Small Business Administration flexibility to address both national and state-wide unemployment disparities without hurting the states that have comparatively low unemployment overall, but with pockets of serious unemployment.

Congress recognizes the drastic economic ramifications of military base closures and that the HUBZone program can uniquely harness the strength and the creativity of the private sector by providing incentive for small businesses to relocate to areas suffering such ramifications. According to congressional research, more than 300 military bases closed or realigned between 1988 and 2003 and more than 50 percent of these bases were located outside of a designated HUBZone. Therefore, Congress intends that, upon the later of the enactment of this act or the date of final closure, existing as well as future military base closure areas be designated as HUBZones for a period of five years in order to reinvigorate the productive capacity of such areas and leverage existing local customers and a skilled workforce. Congress believes that new businesses and new jobs created through the HUBZone small firms mean new life for areas affected by base closure.

Additionally, Congress notes the existence of numerous complaints that the current definition of HUBZone qualified areas based on census income data, in conjunction with the definition of HUBZone qualified redesignated areas, fail to provide adequate time to recoup a return on investment. These concerns appear justified. Congress observes that the HUBZone program is relatively young, and the federal government is not even close to meeting its statutory prime contracting goal of 3 percent. Because the HUBZone program was enacted into law in 1997, the initial HUBZone areas were designated on the basis of the 1990 Census. However, the federal government conducted another census in 2000. As a result, many areas were redesignated after only 3 years of the program's existence. The statute currently grandfathers the redesignated areas into the program for 3 years.

Congress notes that, at the time of the last redesignation, the small business community received comparatively few benefits from the HUBZone program despite the substantial workforce recruitment, compliance, and business development efforts that must be expended by each of the HUBZone firms. These small businesses, which made business decisions to pursue the HUBZone strategy by locating in a HUBZone, adjusting their ownership structure, and recruiting HUBZone residents are in danger of being penalized for the federal government's slow initial implementation of the HUBZone program. Further, anecdotal evidence indicates that it may take a long time for a new firm to secure a federal contract, and that multiple-order contracts commonly envision task orders over a number of years. In these circumstances, a 3-year grandfather clause would appear not to provide sufficient time for a small business to generate a return on the HUBZone investment. By comparison, companies under the §8(a) program can maintain such a designation for 9 years, and a general small business designation can be maintained indefinitely. Therefore, Congress imposes a moratorium on HUBZone area redesignations by providing for an extension of the redesignation period until the conclusion of the 2010 Census. No certified HUBZone firm shall be decertified as a result of either the redesignation process based on the 2000 Census data or any revised unemployment data subsequent to December 21, 2000, the date of passage of enactment of the HUBZone in the Native America Act. It is the intent of Congress to have the Small Business Administration reinstate any HUBZone firm previously decertified based on these two criteria.

Congress also finds that, concurrently with the moratorium, a study on the effectiveness of the HUBZone area definitions, including the redesignation period, must be conducted by the Office of Advocacy of the United States Small Business Administration. The Office of Advocacy is chosen to conduct this study for its particular expertise in small business procurement, rural small business development, and general small business matters. Congress directs the Office of Advocacy to examine the impact and effectiveness of the HUBZone definitions on small business development and jobs creation, and expect that the Office of Advocacy will periodically consult with congressional small business committees on matters concerning this study. Findings and recommendations of the study must be reported to congressional small business committees by May 1, 2008.

SECTION 153. PRICE EVALUATION PREFERENCE

With regards to the application of existing HUBZone price preferences to international food aid procurements conducted by the United States Department of Agriculture (USDA), Congress concludes that the preferences as they currently stand are hindering the goals of U.S. foreign humanitarian food assistance programs. This view is supported by extensive consideration of market data from the Kansas City auction office of the USDA Farm Service Agency, the structure of auction tenders and other auction processes, as well as data supplied by the industry. It appears that there is a risk of various unintended and undesirable consequences to applying the current HUBZone mandate to international food aid acquisitions. In particular, it appears that, in the context of food aid tender auctions, the claimed job gains fostered by the current price preference are offset by job losses in other communities, the non-HUBZone small businesses attempting to compete may experience undue harm, and the competitive supplier base may atrophy. In turn, this may undermine USDA's capacity to secure adequate foodstuffs for malnourished persons and increase the costs to the food aid programs without realizing adequate jobs creation and business development benefits.

The HUBZone price preference alternative adopted in this act (a 5 percent price evaluation preference on 20 percent of the contract) would alleviate these potentially damaging effects on the U.S. food aid system. Congress believes that this approach would preserve the HUBZone program's goal of providing HUBZone-eligible companies with a meaningful opportunity to compete while ensuring that the USDA has an adequate capacity of supply from which to draw to deliver emergency food aid in catastrophic situations. This approach would also eliminate the current HUBZone program's application problem which directly penalizes non-HUBZone small businesses due to the nature of the food aid auctions. The potential for job losses in other communities would be limited. Importantly, this approach also reflects the cornerstone of America's efforts to provide food assistance to the world's neediest people through competitive markets.

According to President Dwight D. Eisenhower and congressional architects of the Small Business Act, an overarching purpose of small business procurement programs is to assure a vibrant, competitive supplier base for the Federal Government. Price preferences are employed to further this purpose, and should be structured accordingly. Congress notes that, in general, price preferences have been a valuable tool for encouraging a more robust supplier base. Nevertheless, Congress believes that, in these very special circumstances, it is important to encourage competition by keeping multiple vendors actively bidding in our food assistance programs to secure the lowest cost procurement and emergency supply chains in the case of humanitarian crisis. This approach builds on the current small business 10 percent set-aside by an additional 20 percent allocation of every tender to small businesses and HUBZone applicants. It guarantees full and open competition, including competition pursuant to the Small Business Act, in food aid procurement tenders to assure that U.S. food aid programs do not suffer consequences inconsistent with the intent of the price preference program. The approach in this legislation safeguards the dual interests of a vibrant small business presence in federal procurements and robust food aid programs.

SECTION 154. HUBZONE AUTHORIZATIONS

Congress notes that the Federal Government has failed to meet its statutory HUBZone contracting goals every single year these goals have been in effect. Continuous, dedicated authorization of the HUBZone program is essential to continue the effort to bring economic opportunities to the HUBZone areas. Therefore, Congress extends the current authorization of appropriations of $10,000,000 for the SBA's HUBZone program through Fiscal Year 2006.

SECTION 155. PARTICIPATION IN FEDERALLY FUNDED PROJECTS

Section 155 removes the burdensome paperwork requirements for additional certification by firms seeking to perform any State, or political subdivison projects that utilize federal dollars if they are currently certified, or otherwise meet the applicable qualification requirements, for participation in any program under §8(a) of the Small Business Act.

This change will: (1) provide federally certified §8(a) small businesses with access to all State and local projects funded in whole or in part by the Federal Government; (2) eliminate the burden of requiring §8(a) small businesses to get certifications from the State or local government or both in addition to their federal certification under §8(a); and, (3) decrease certification costs and eliminate time delays associated with the burden of receiving additional State or local government certifications for businesses authorized to participate in program established by §8(a) of the Small Business Act.

SECTION 161. SUPERVISORY ENFORCEMENT AUTHORITY FOR SMALL BUSINESS LENDING COMPANIES

This section creates a new §23 of the Small Business Act. It gives the Administrator specific enforcement and supervisory authority over Small Business Lending Companies (SBLCs) and Non-Federally Regulated SBA Lenders as those terms are defined in §162 of this conference report. The vast majority of lenders authorized to make loans pursuant to the Small Business Act have their lending and other activities overseen and regulated by federal financial regulators, including loans and corporate transactions related to their general lending practices. The Administrator makes no effort at regulating lending institutions except for their authority to make §7(a) loans.

In contradistinction, there are a few institutions that are authorized to make loans pursuant to §7(a) of the Small Business Act that are not typical lending institutions. SBLCs (except for two which are wholly-owned by national banks) are subsidiaries of industrial corporations and thus not subject to any regulation by financial regulators, other than certain filings made with the Securities and Exchange Commission. Non- federally regulated SBA lenders have some state oversight but the extent varies according to state law. The only authority that the Administrator has with respect to these

lenders is the ability to prohibit them from making loans pursuant to §7(a). The Administrator has no authority to take other regulatory action, similar to that available to banking regulators, to protect the public and the federal treasury. Congress concurs with the Administrator's request that greater authority is needed to regulate SBLCs and Non-Federally Regulated SBA Lenders.

The basic approach adopted by Congress enables the Administrator to supervise the soundness and safety of institutions authorized to make loans pursuant to §7(a) but are not otherwise subject to the strict oversight imposed by federal financial regulators. Congress concurs with the Administrator's request that specific enforcement and supervisory authority are needed. These authorities include the power to: issue cease and desist orders, impose civil money penalties, mandate capital standards, and remove officers and directors who are acting in an unsafe and unsound manner. The power and authority tracks closely the powers granted to the Administrator with respect to regulation of SBICs and their officers and employees. In some cases, Congress differentiated regulatory powers applicable to SBLCs and those applicable to Non-Federally Regulated Lenders. Nothing in this section grants the Administrator the authority to be extended to overall corporate management of the parent that owns a SBLC.

Congress provides for the Administrator to issue capital directives mandating maintenance of certain capital standards, including the requirement to increase its level of capital. The section also authorizes the Administrator to issue cease and desist orders by the SBLC or Non-Federally Regulated Lender. To ensure that the capital directive is used sparingly and only in appropriate circumstances, the Administrator is required to promulgate regulations on capital directives and may only delegate the authority to the Associate Administrator for Capital Access.

The Administrator also is empowered to suspend or remove officials that have management responsibility for the entity's lending pursuant to §7(a) of the Small Business Act. No authority, explicit or implied, is authorized to remove or suspend officials that do not have management responsibilities with respect to §7(a) lending. Thus, Congress expects that the Administrator take action not to suspend the Chief Executive Officer of General Electric Corporation but only its SBLC subsidiary.

Prior to the issuance of any order under this section except for a capital directive, the Administrator is required to provide any target of the order a hearing pursuant to §§554, 556, and 557 of the Administrative Procedure Act. The section delegates the responsibility of conducting the hearing to administrative law judges but the final responsibility on determining whether an order should issue rests with the Administrator based on the record developed at the adjudication. The approach is similar to that used by independent federal regulatory agencies such as the Federal Communications Commission or Federal Trade Commission. Those agencies use administrative law judges to conduct hearings and the commissioners use that record as the basis for their legal and policy determination. This bifurcation of the hearing from the decisionmaker ensures that the hearing will be fair and provide an opportunity for the target of an order to make the best possible case before an impartial fact-gathering tribunal.

The Administrator is authorized to issue orders prior to a hearing if extraordinary circumstances exist and the order is needed to protect the financial or legal position of the United States. The Administrator only should use the power to issue orders without a hearing only under those circumstances in which an agency issues a rule without notice and comment, i.e., a truly exigent circumstance, see, e.g., NRDC v. Evans, 316 F.3d 904, 912 (9th Cir. 2002); Utilities Solid Waste Group v. EPA, 236 F.3d 749, 754 (D.C. Cir. 2001) (good cause to forgo notice and comment applies only in emergency circumstances), or when a federal court would issue an ex parte temporary restraining order (but in order to preserve and protect the federal government rather than the status quo). Cf. Granny Goose Foods, Inc. v. Brotherhood of Teamsters & Auto Truck Drivers, 415 U.S. 423, 439 (1974) (noting that ex parte restraining orders necessary evil to protect status quo). The section then provides that the procedures for holding a hearing, including the notice requirement, be commenced within 2 days after the issuance of the order. Congress believes that this comports with the fundamental fairness exhibited by federal courts when issuing an ex parte temporary restraining order.

Congress' approach defines final agency action for purposes of a challenge to the issuance of an order by the Administrator and authorizes that a challenge may be commenced in federal court within 20 days after issuance of a final order. For purposes of fundamental fairness to individuals, Congress also believes that interim relief in federal court is appropriate for a stay of an order issued prior to hearing until the hearing itself is completed. Both of these provisions were added out of an abundance of caution. Although Congress believes that federal court jurisdiction challenging the Administrator's action may constitute a ''federal question'' pursuant to §1331 of the Title 28, United States Code, Congress determined that explicit authority to challenge the Administrator's orders in federal court removes any question that this decision has been remitted solely to the discretion of the agency and is not subject to review under Heckler v. Chaney, 470 U.S. 821 (1985).

This section authorizes a court to appoint a receiver for the entities subject to regulation pursuant to this section. The receiver is entitled to take possession of assets of the SBLC or Non-Federally Regulated SBA Lender. Congress intends this authority to extend only to the SBLC or Non-Federally Regulated Lender's portfolio of loans or other instruments guaranteed by the Administrator including any debentures, participating debt, or securities issued pursuant to the Small Business Investment Act.

Congress believes that suspension, revocation, or cease and desist is an extraordinary remedy. Each requires an extremely high burden of proof related to willful misconduct that may present a difficult case for the Administrator to prove. Therefore, the bill also provides the Administrator with the authority to seek court-imposed civil penalties for the failure to file reports required by the Administrator. Such penalties shall issue when the failure to file is willful and not due to neglect. The failure to file required reports for more than two reporting periods is, in the opinion of Congress, sufficient, but not the only evidence of willful neglect. Congress expects the Administrator to promulgate regulations outlining the factors that determine willful neglect for the purposes of civil penalties (as an aid to the entities regulated pursuant to §23). These regulations also must contain standards for exempting SBLCs and Non-Federally Regulated Lenders from the civil penalty provisions as well as the procedures used for determining whether the institution qualifies.

SECTION 162. DEFINITIONS RELATING TO SMALL BUSINESS LENDING COMPANIES

Almost all of the lenders authorized by the Administrator to issue guaranteed loans pursuant to §7(a) are lending institutions regulated by a federal financial regulator. However, there are a few institutions that make guaranteed loans that are not subject to federal financial regulatory oversight or regulation by a state banking authority. The Administrator classifies these institutions generically as ''small business lending companies.'' However, that universe actually consists of two separate entities—small business lending companies (not financial institutions) and financial institutions not subject to any agency authorized to review the safety and soundness of depositary institutions. Since §161 adds a new §23 granting the Administrator power to regulate these entities, §162 adds two new subsections to the definitions in the Small Business Act defining small business lending companies and nonfederally regulated SBA lenders.

SECTION 201. AMENDMENT TO DEFINITION OF EQUITY CAPITAL WITH RESPECT TO ISSUERS OF PARTICIPATING SECURITIES

Congress determined that changes were needed in the definition of equity capital with respect to any company that issues participating securities. Such companies, participating securities SBICs, commit to invest an amount equal to the outstanding face value of participating securities solely in equity capital. Equity capital refers to common or preferred stock or a similar instrument, including subordinated debt with equity features. Equity capital issued by participating securities SBICs previously provided for interest payments to be made to the Administration contingent upon—and limited to—the extent of earnings on equity capital. However, since the inception of the Participating Security SBIC program, the majority of SBICs have not realized sufficient profits with which to meet their financial obligations to the federal government. This has resulted in serious financial loss for the federal government. In order to mitigate these losses, the definition of equity capital has changed so that participating security SBICs do not have to realize profits on their investments in order to make payments to the Administration. If a participating security SBIC is experiencing overall losses on their investments but has other sources of funds such as invested excess funds, royalty payments, licensing fees and the like, Congress intends that these funds may be used to meet their obligations to the Administration.

SECTION 202. INVESTMENT OF EXCESS FUNDS

This section provides SBICs with additional flexibility for handling funds prior to investments in small businesses by allowing SBICs to invest such funds in additional types of securities. Currently, SBICs holding cash, prior to investing in a small business, are only permitted to invest directly in obligations of the United States, obligations guaranteed by the United States, or in certificates of deposit maturing within one year or savings accounts that are in institutions insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation. This section modifies the current restriction by permitting SBICs to invest in securities, mutual funds, or instruments, which themselves invest solely in the obligations that are currently permitted. For instance, Congress expects that SBICs will be able to invest in mutual funds that, in turn, invest in the government-backed obligations already authorized for investment in SBICs. Congress believes that this modification will provide SBICs with greater flexibility and a wider range of short-term investment options.

SECTION 203. SURETY BOND AMENDMENTS

Section 203(a) clarifies that the current $2 million limit on surety bonds applies to the

bond guarantee and not the contract size. Congress adopted this clarification to prohibit contracting officers from determining that small businesses would not qualify for an Administration-backed surety bond for a contract worth less than $2 million even though it was part of a bundle of contracts that exceeded $2 million. For example, a small business might be denied a surety bond if the small business had a contract for $1.5 million, but that contract was part of a $12 million bundle of contracts that had been awarded simultaneously.

Section 203(b) requires that an audit of each participating surety shall occur every three years instead of annually. This reduction in the frequency of audits will save participating sureties time and money and allow them to allocate these resources to more productive uses. In addition, this will enable the Administrator to focus on more critical elements since the sureties already provide reports on a periodic basis that would identify problems during the interregnum between audits.

Currently certain sureties designated by the Administrator may issue, monitor, and service surety bonds issued pursuant to Title IV of the Small Business Investment Act. This authority ceased to be operative on September 30, 2003 (but has been extended for short periods of time on a temporary basis). Congress determined that the authority for this program should be made permanent. Section 203(b) makes that change by repealing §207 of the Small Business Reauthorization and Amendment Act of 1988.

SECTION 204. EFFECTIVE DATE OF CERTAIN FEES

Loans made pursuant to Title V of the Small Business Investment Act do not require any appropriation. Fees charged to borrowers and CDCs absorb the costs associated with the issuance of such loans. When the zero-subsidy for the program was instituted, Congress made the fee authority temporary to see whether the program could survive without an appropriation. The program has succeeded admirably and Congress does not expect that an appropriation to fund loans made by CDCs will be made for the foreseeable future. As a result, Congress determined it was pointless to continue, as temporary, the Administrator's authority to charge fees for loans made pursuant to Title V of the Small Business Investment Act. Section 204 grants the Administrator permanent authority to charge fees.

Mr. President, I oppose language that has been included in the fiscal year 2005 Omnibus Appropriations that was authored by U.S. Representative DAVE WELDON the so-called Abortion Non-Discrimination Act amendment. This language will have a chilling effect on women's access to legal reproductive health services.

The Weldon language would allow a broad range of health-care entities to refuse to comply with existing Federal, State, and local laws and regulations pertaining to abortion services. This harmful language will severely limit patients' rights and access to services and information, thereby impeding their ability to make informed decisions about their health care options.

I join my colleagues in supporting a conscience clause that would allow doctors to opt-out from providing abortion services due to their moral or religious beliefs. That's why I worked with former Senator Dan Coats in 1996 to construct a conscience clause that is in law today that ensures medical students and medical teaching institutions have the ability to refuse to participate in abortion training if it is against their personal beliefs, while ensuring that women would have access to the highest quality medical care.

But this is not what the language in the Weldon amendment does. The Abortion Non-Discrimination Act is instead a sweeping new exemption from current laws and regulations pertaining to abortion services. Far from constituting a ''conscience clause,'' as the sponsors claim, the language that is included in the Omnibus is an overly broad opt-out from compliance of state or local laws ensuring access to abortion services which could have the consequence of limiting the availability of safe and legal health care.

This language would change existing law to say that Federal, State, or local governments may not require a health-care entity—broadly defined to include insurance companies, hospitals, and HMOs, among others—to perform, provide coverage of, pay, or even, most shockingly, refer for abortion services. Any law or regulation that did so would be considered ''discrimination'' against the health-care entity, in the words of the bill, and the requirement could not be enforced. What's more, the State or local entity that tried to enforce that law, would lose all funding under this bill.

Further, this language ignores the fact that more than 40 states already have conscience clauses that are in law today that allow individuals—and in many states larger health entities—to opt out of providing abortion services. In doing so, the authors of this provision undermine what in many cases were hard fought and carefully crafted conscience clauses instituted by our State and local governments.

Instead of accepting the language included in the bill before us, the Senate must have the opportunity to work, as Senator Coats and I did in 1996, to devise a compromise that would result in a conscience clause that allows for conscientious objection without impairing the provision of health care in America.

I am opposed to the inclusion of this language in the omnibus. This language will have a detrimental effect on women's health, it will override a state's or a locality's ability to require access to these services, and it will prevent women from exercising their right to decide what health care services they want to seek and limit their ability to access information about such services.

Senator BOXER has received a commitment to revisit this issue with consideration of legislation that would repeal this language before March 1, 2005. I join my colleagues in supporting a conscience clause but I object to the language included in this bill and the process that has brought us to this point today.

Mr. KERRY. Mr. President, I oppose the passage of the Omnibus appropriations conference report.

The bill before us was written in a process that is the legislative equivalent of painting a room in the dark. You don't know exactly how the room will look until you turn on the lights, but you can be sure that it will be a mess. And, of course, that is what has happened. This bill is a mess.

The Republican leadership has taken nine spending bills, funding 13 Government agencies with more than $388 billion, and combined them into a single bill that is more than 3,000 pages long. On top of all that spending, they have included several riders that make unrelated changes in Federal law. Most of these bills were never debated or amended by the full Senate. Many of the provisions haven't even had a committee hearing. The only people who have had a chance to review and amend the bill are the Republican leadership and the White House, and all of that went on behind closed doors. And the public, the press and almost every Member of Congress has had no real opportunity to review them before we vote and send them to the President to become law.

So it comes as no surprise that this massive spending bill, created by a terribly flawed process, is itself terribly flawed.

The Republican majority and the Bush administration have provided inadequate investments in education, housing, small business and a number of other important domestic priorities.

The Community Oriented Policing Systems program, called the COPS program, has been eviscerated, and funding for the Local Law Enforcement Block Grant program has been cut. Both of these programs help our cities and towns fight crime and protect our citizens but putting well-trained and well-equipped cops on the street. And both programs had played an increasingly important role in homeland security.

The bill does not keep our promise to care for our veterans. The funding level included in the conference report for veteran's healthcare, while above last year's level, is insufficient to meet the needs of our veterans. Today, 500,000 veterans are prevented from receiving health care through the Veterans Administration. New veterans are fighting to obtain the services they have earned. Thousands more are waiting for disability ratings. The Congress had an opportunity to make a real difference in the lives of those who have given so much for this country, and the Congress failed.

The bill harms small businesses by failing to provide access to the capital they need for investment and growth. As the ranking member of the Senate Committee on Small Business and Entrepreneurship, I know how critical small business loans are to expanding economic opportunity, especially in low-income neighborhoods. Unfortunately, the bill eliminates all funding

and increases fees for the program at the Small Business Administration that is the largest source of small business loans in the Nation.

I will not try to list all the worthwhile programs that have been cut or eliminated, because the list is just too long. The point is simple: dozens of Federal investments that help our cities and towns, our schools, our small businesses, our police, our environment and much more have been needlessly cut. And those cuts will do needless harm to communities and families all across the country.

And along with the spending provisions of the bill, the White House and the Republican leadership have attached riders that make changes in Federal law. These are provisions that have not been considered by the House or Senate, and in many cases have not received a committee hearing or markup.

The bill includes a provision that will prevent Federal, State and local governments from requiring any institutional or individual health care provider to provide, pay for, or refer for abortion services. Ten of my female colleagues, including two Republicans, have expressed their strong opposition to that provision and affect it may have on reproductive health services. In a letter to the Appropriations Committee, they point out that the provision has never been considered and never had a hearing in the Senate. It comes down to this: whether you support or oppose this provision, and I oppose it, this is no way to do the people's work. Whatever you think of this provision, it does not belong in a 3,000 page spending bill. It deserves a hearing, a debate and vote.

Another provision that was included with no vote, hearing or discussion by the Senate would allow congressional staff access to the tax returns of individuals and businesses. There is absolutely no justification for such a provision in this bill or anywhere else. It is a shocking abuse of power by the Republicans. This provision, which would allow congressional staff to review any private citizen's tax return, is unacceptable. It tramples the rights of our citizens and grossly violates the public trust. I am pleased to hear the assurances of the majority leader that this provision will be removed from the bill. However, we need to understand how it came to be included in the conference report. Who in the Congress sponsored this provision? Who in the White House approved it, since we know the White House has blessed this bill?

Is there any good in this bill? Of course there are many worthwhile Federal programs that are funded. Like a broken clock is right twice a day, a bill spending $388 billion will get a few things right.

I am pleased that the conference report includes $62 million for the YouthBuild program, which is a highly effective comprehensive program that helps at-risk youth obtain an education and take responsibility for their lives and their communities. YouthBuild is the only national program that provides young adults an immediately productive role in the community while also providing equal measures of basic education toward a diploma, skills training toward a decent paying job, leadership development toward civic engagement, adult mentorship toward overcoming personal problems, and participation in a supportive mini-community with a positive set of values.

And there are other good programs this bill has funded adequately. I am grateful for the good that will come from this legislation, including funding for Federal projects and programs in Massachusetts.

On a whole, the bad outweighs the good in this bill, and I will vote against it.

Mr. LEVIN. Mr. President, it is difficult to vote against this omnibus appropriations bill because it provides funding for many programs that I support. In fact, it contains many provisions that I worked to have included.

However, we are confronted with this legislation containing funding for fiscal year 2005 which under normal circumstances would have been contained in nine separate appropriations bills and which should have been done prior to the beginning of this fiscal year last October 1. Once again, for the third consecutive year, and all too frequently in recent years, the Senate finds itself considering a massive appropriations bill, in this case totaling about 3,000 pages and spending nearly $400 billion, and containing important legislation which doesn't belong in an appropriations bill at all. We have had only a matter of hours to read and consider this bill.

This is a process which reflects poorly on the Congress both because it represents a failure to get the Nation's work done on time, and because of its huge size and the inclusion of matters which were not previously considered in the Senate hinders the kind of careful consideration and debate which wise decisionmaking demands. It is certain that Senators will only learn after the fact details about many provisions which have been added.

And perhaps most importantly, because these omnibus bills are delayed until the waning hours of each Congress, the White House is included in the meetings as the language is written, in order to avoid a Presidential veto. This weakens the constitutional prerogative of the legislative branch to control the Nation's purse strings and it undermines the critical oversight role which the Congress plays, in part, through its appropriations activities when they are conducted in the normal manner.

One example of the consequences of this hurried and extraordinary process is a provision in the bill late yesterday by our Republican colleagues that provides the chairman of the House or Senate Appropriations Committee or his or her staff access the tax returns and other tax return information of any corporation or individual. Further, it would exempt the chairman or staffer gaining access to these returns from any provision of law governing the disclosure of income tax returns. The House did not debate that provision. The Senate did not debate that provision. However, somehow it ended up in this bill. This is an outrage. The Senate passed a resolution earlier tonight in an effort to eventually remove this provision from law, however if this bill is adopted, this provision violating the privacy of income tax returns will become law and we will have to hope that the House of Representatives will follow through and the President will sign the resolution to remedy the situation.

For every egregious provision like the one above that we find, there could be several more that were missed.

I am also concerned about the failure of this bill to adequately fund vital education initiatives. The bill before us underfunds title I by $500 million below the President's budget request; this critical program provides aid to states and school districts to help educationally disadvantaged children achieve the same high academic performance standards as other students. The bill before us also underfunds the important Individual with Disabilities Education Act by $415 million and it underfunds the National Science Foundation at $62 million below the fiscal year 2004 funding level and $278 million below the budget request. Additionally, this legislation does not provide for an increase in the maximum Pell Grant award—the very foundation of aid for many needy students. It remains at the current level of $4,050, rather than increasing toward the authorized maximum award level of $5,800.

This bill also cuts funding for local law enforcement programs that could compromise the safety of communities around the country. Not only are our police on the beat essential for maintaining community safety, but they are the first line of defense against potential terrorist attacks. This bill cuts funding for the Community Oriented Policing Services, COPS, program by over $140 million from last year's funding level. This program provides vital funding to our first responders and I cannot support such a drastic cut in funding.

Throughout Michigan and the rest of the country, our cities are struggling to finance urgent upgrades to municipal sewer systems to prevent discharges to the environment or private property. These communities have very high water and sewer rates and cannot handle additional debt. The State Revolving Loan Fund, which has received $1.35 billion per year from Congress in the past several fiscal years, has helped to clean up polluted waters, however more money is needed to help communities such as ours in Michigan with

significant needs. This bill does the opposite; it cuts funding for the State Revolving Loan Fund which will harm our ability to clean up our waters and upgrade our aging sewer systems.

This bill deletes a provision contained in both the House and Senate Labor-HHS appropriations bills that would have prohibited enforcement of the administration's overtime regulation that went into effect in August 2004.

I am also disappointed that this bill provides less funding for the IRS than the administration requested. This legislation provides $400 million less than the President requested. This overall dollar figure reflects $166 million less than requested for tax enforcement, which is a non-sensical and irresponsible decision. Tax enforcement is an unusual area of the budget where a relatively small increase pays for itself many times over by increasing the amount of revenue collected. Just days ago the IRS announced that its fiscal year 2004 enforcement revenue of $43 billion represented a roughly four-to-one return rate on its overall budget of $10.2 billion, a return that is even greater when only enforcement funding is taken into account. And this return on investment doesn't even take into account the fact that vigorous enforcement also has a word-of-mouth effect that goes beyond the direct revenue generated. Unfortunately, this conference report does not give the IRS nearly the resources it needs to ensure this vigorous enforcement, so we will continue to leave honest taxpayers shouldering an unfair share of the burden while many tax dodgers escape scot free. When only one in five known tax cheats is even chased by the IRS, and when fewer than 1 percent of the estimated 1 to 2 million individuals dodging taxes by using offshore bank accounts have pending IRS enforcement actions, there is obviously a lot more the IRS could be doing to improve enforcement.

Mr. President, while this bill funds many programs that I support, on balance I cannot support this legislation. For the reasons I have mentioned, and others, I will vote against this Omnibus bill.

Mr. CONRAD. Mr. President, I will vote against the omnibus appropriations conference report. The bill before the Senate contains 9 appropriations bills, 7 of which were never debated, amended, or voted upon by the Senate. The bill spends $388 billion, and, together with its explanatory language, it is 3,646 pages long.

Throughout the day today, I and several members of my staff have been reading and analyzing the provisions of this bill. During the examination, we discovered a particularly egregious provision. It would have allowed an agent of the chairman of the House or Senate Appropriations Committee to look at the tax return of anyone in America. And, further, it would have allowed them to release the private information contained in those returns without any civil or criminal penalty. That would have created the opportunity for an abuse of power almost unprecedented in our history.

Thankfully, my staff and I were able to catch this, and after strenuous debate, the provision will be nullified. But this is an indication of how completely flawed this process has become. None of us can know what other inappropriate provisions are in this bill. There simply has not been enough time to thoroughly scour the more than 3,600 pages in this bill.

There are a number of provisions in this bill that are good for North Dakota that I worked hard to have included, but it is clear to me this appropriations process is broken. Former President Ronald Reagan in his 1988 State of the Union Address told us we should not do business this way. He was right.

For that reason, I am obligated to oppose this conference report.

Ms. MIKULSKI. Mr. President, this is the toughest VA/HUD bill we have ever faced.

In putting this bill together, we were told by the Republican leadership that we had to do two things. First, we had to fund veterans medical care $1.2 billion above the President's budget request. Second, we had to fund NASA at the President's budget request of $16.2 billion. In addition, we had to provide enough money to renew Section 8 housing vouchers. Even though this was not a priority for the President, it was a priority for us.

I agree with these priorities. I have fought for these priorities. But in order to fund these priorities, we had to cut $3 billion from other programs. This is a shell game.

The Republican leadership gave us an allocation for conference that is $3 billion less than we had for our Senate bill. With the exception of VA medical care, Section 8 and NASA, we had to cut all other programs an average of 4 percent below last year.

For the first time in history, we had to cut essential programs to pay for these priorities. These are real cuts to programs that help people and communities. This is the illusion of being compassionate. We were forced to do this because of the budget caps that we are forced to live under by the Republican leadership.

These spending caps put a stranglehold on essential programs. The Republican leadership created this situation and unfortunately, the American people will pay the price.

Our No. 1 priority has always been our veterans. Senator BOND and I will always make veterans the number one priority in this bill. We have increased veterans medical care by $1.5 billion over last year, and $1.2 billion more than the President requested in his budget. We eliminated the President's proposal to increase deductibles and co-pays for veterans. It is wrong to ask veterans to pay more for their medical care, especially when we are fighting a war. We created a new prosthetics and holistic care program to find new ways to treat and care for veterans, especially for our veterans returning from Iraq and Afghanistan.

For this reason alone, we had to produce a bill, even under these circumstances. If we didn't produce a bill this year, we would not have enough money to care for our veterans, particularly our veterans returning from Iraq and Afghanistan.

We have increased funding for NASA to help fund the repairs to the Space Shuttle so we can return to flight next year and fix the Hubble Space Telescope.

Returning the Shuttle safely to flight is our top NASA priority. We are fully committed to implementing the recommendations of the Gehman Commission, and we have given NASA sufficient funding to accomplish this goal. We have provided the full budget request, $4.3 billion, to fund the Space Shuttle and we have provided NASA with unprecedented flexibility to add more funds for the Space Shuttle, if they need it.

We added $300 million to NASA's budget to fund a servicing mission to the Hubble Space Telescope, the most successful scientific instrument since Galileo's telescope. I have fought to save Hubble and I am proud that my colleagues have joined me in this fight by providing an additional $300 million to fund a servicing mission in 2007.

We also made a down payment on the President's Exploration Initiative so we can begin a new era in space exploration and we protected NASA's critical science programs such as Living With A Star and Earth science applications to help us better understand the Earth's environment.

For National Service, the overall budget was cut by over $3 million compared to last year but we were able to fund AmeriCorps at a level that supports 70,000 new volunteers, despite the cut in funding. This will allow us to maintain the momentum we started last year.

However, these increases come at a price. To provide these needed increases for veterans and NASA, we had to cut essential programs, ''including housing programs. Senator BOND and I have a responsibility to fund the renewals of Section 8 vouchers. We added funding for Section 8 renewals, but we had to cut other programs to pay for it.

We were forced to cut housing for the elderly by $26 million. Housing for the disabled is cut by $10 million. The Community Development Block Grant Program, one of our most popular programs in this bill, and one of the most important programs for State and local governments, is cut by $200 million compared to last year. We should not have to be forced to shift funding from one essential program to another.

For EPA, we were forced to make cuts because of the budget cuts imposed on us by the Republican leadership. The clean water State revolving

fund was cut by $250 million compared to last year. That means every State will get less money for sewer construction.

EPA's successful science and technology programs—the programs looking at innovative and cost effective solutions for environmental protection—are cut by $40 million compared to last year. Overall, EPA is cut by over $300 million compared to last year.

Thanks to the Republican budget cuts, we are shifting the burden of environmental protection to State and local governments. I am opposed to this and fought it every step of the way.

For NSF, Senator BOND and I have fought to incease funding for science and technology by fighting to double NSF's budget over 5 years. Yet, the budget cuts imposed on us forced us to cut $60 million from NSF's budget compared to last year.

Fortunately, we were able to increase funding for our historically black colleges and universities and maintain graduate stipends at $30,000 per year—two of my top priorities.

But we will not be able to maintain our leadership in science and technology if we are forced to cut NSF funding. We will not be able to produce the new technologies that lead to the new jobs if we have to cut basic research funding. This is not a sound policy.

Senator BOND and I have done the best we could do under the circumstances. We had no choice but to produce a bill. A CR would have been worse for our veterans and we could not let that happen. We have soldiers returning from Iraq and Afghanistan. Without an increase in VA medical care, we would not be able to care for them once they return and enter the VA system.

Senator BOND and I would never let that happen, but it is wrong to have to cut other important programs to pay for it. I hope that we will not face this situation next year.

Mr. BUNNING. Mr. President, today I voted to approve the Conference Report to Accompany H.R. 4818, the Consolidated Appropriations Act of Fiscal Year 2005. As many of my colleagues in both the Senate and the House of Representatives have discussed at length today, this bill contains a provision, Section 222, which could be interpreted in a way as to cause concern regarding the protection of the privacy of I.R.S. data of U.S. taxpayers. As a Member of the Senate, and particularly as a member of the Senate Finance Committee, I take the American taxpayers' rights to privacy regarding their personal income tax information very seriously. I supported a joint resolution, passed earlier today by the Senate, which calls for the removal of this provision from this conference report. In addition, I understand that the chairmen of the House Appropriations, Senate Appropriations, House Ways and Means and Senate Finance Committees have made clear their intentions to insure that this provision is deleted or otherwise removed at the earliest possible opportunity. I also understand that the President of the United States is expected to issue a statement indicating that this provision of the conference report shall be disregarded. It is with reliance upon these commitments, and with my intentions to follow this issue closely to insure that this situation is corrected at the earliest possible opportunity, that I cast my vote in support of this conference report today.

Mr. GRASSLEY. Mr. President, today the House and Senate are considering whether to approve the conference report to H.R. 4818. H.R. 4818 is what is commonly called in the Congress an omnibus appropriations bill. Basically, an omnibus bill rolls a number of other bills into a single legislative vehicle for an up-or-down vote on the final package. It is a method frequently used by the Appropriations Committee at the end of the legislative session after the committee has failed to complete its work in regular order. It enables the Appropriations Committee to appropriate funds at the end of the year. Without this appropriation, the Government would shut down. So, it is must pass legislation.

Work on this bill was completed last night around midnight. Since that time, my Finance Committee staff has been scouring the package to determine whether there are any provisions within the jurisdiction of the Finance Committee in the bill. Unfortunately, the Appropriations Committee often includes authorizing language on matters within the jurisdiction of my committee, but fails to notify us. The result is usually poorly drafted and short-sighted provisions, many of which have unintended effects. Unfortunately, this year is no different.

Let's just take one area—international trade. A few years ago, the Appropriations Committee included an amendment which required that monies collected as countervailing duties and antidumping duties be distributed to the petitioners who filed the underlying cases. Many of our trading partners thought this provision violated our international obligations because it enables petitioning industries to not only have duties placed against competing imports, but to also receive these duties. The World Trade Organization agreed and found the amendment to be contrary to our trade obligations. Nevertheless, the law is still on the books. As a result, many of our export industries may face retaliatory sanctions.

As I said, this amendment was slipped into an appropriations conference report without full debate in the Senate. The Finance Committee, as the committee of jurisdiction and the committee with expertise in international trade, never had a chance to review the amendment. Now, I'm not surprised that a bill that was never considered by the committee of expertise or even the full Senate was found to violate our international commitments.

But, even aside from the WTO ruling, there are a number of other problems with the way the amendment operates. For example, earlier this year the Congressional Budget Office issued a report in which it found that, regardless of the economic harm which can be caused by retaliation, the amendment is detrimental to the overall economic welfare of the United States. An earlier report issued by the Department of Treasury Inspector General found that the Bureau of Customs and Border Protection made $25 million in overpayments when disbursing funds. The report also faulted the Bureau of Customs and Border Protection because qualifying expenditures claimed by domestic producers are not verified on a routine basis. So, there are a lot of problems with the way this program functions that are totally independent from our WTO obligations.

But because the Finance Committee never had an opportunity to review the amendment, these problems were never addressed. Instead of working with the Committee to address these problems, they took a different tack. In this year's omnibus appropriations bill they decided to require our United States Trade Representative and the Department of Commerce to negotiate the right for WTO members to distribute monies collected from antidumping and countervailing duty measures. In short, they are directing our trade negotiators to go back to the negotiating table and try to negotiate for something which we have already lost. I doubt our trading partners will be sympathetic.

The Appropriations Committee also required the Office of the United States Trade Representative to create a new position of Chief Negotiator for Intellectual Property Rights Enforcement. Now, this may be good idea—but, again the Finance Committee has not had an opportunity to review this provision so we do not know if this is an appropriate use of government resources or not. We do know that the decision about whether to create new trade negotiating positions is up to the Finance Committee, not the Appropriations Committee.

Unfortunately Mr. President, these provisions are just exemplary. There are many other provisions in the bill dealing with international trade that, frankly, should not be in there. Whatever position you may take on the merits of these provisions, international trade negotiations and antidumping and countervailing duty laws are plainly matters within the jurisdiction of the Committee on Finance. The vast trade implications of these provisions were not carefully weighed by the Committee on Finance. This is bad precedent—and I sincerely hope we will not see similar actions in the future.

Mr. KOHL. Mr. President, I rise today to oppose the Omnibus appropriations bill. I think the American

people would be appalled by the process under which the Senate is considering this bill. Provisions have been added that have never been debated, never had a hearing, and never had a vote in the Senate. It is thousands of pages long, and yet the Senate has had only a few hours to read the bill. We are just beginning to learn about all of the provisions that have been added.

Already, we have learned about an outrageous provision that would allow for a complete reversal of longstanding privacy protections. The bill contains a provision that allows Appropriations Committee chairman, or their designees, to review the tax returns of any American citizen. Any individual, any corporation could have their very private information poured over by any number of people. Not only would the private, sensitive tax information be available to the Chairmen and their staffs—they would be able to distribute that information without incurring any penalties. This egregious ''oversight'' is inexcusable. That a provision with this impact, on both privacy rules and on powers of the Senate, would be slipped in at the midnight hour with no oversight, is an offense to every Member of the Senate and most importantly, to the American people.

While I am relieved that promises have been made to remove this egregious provision, this is just an example of the danger that comes with rushing a bill like this through the Senate. This is simply indefensible. The American people deserve a more serious effort, and I cannot support a bill that has been rushed through in this manner.

I am also troubled by much of what we already know about this bill. This bill demonstrates that the budget deficit our Nation is facing today is causing real cuts in important programs and real pain for working families. These tight budget numbers are the consequence of a fiscal policy that puts reckless and expensive tax cuts for the wealthiest in our country above all other priorities. That policy has left us with huge deficits and the inability to fully fund some of our Nation's most pressing needs—needs like education, health care, law enforcement and housing. Clearly, we need to take another look at our Nation's fiscal policy and finally put together a budget plan that meet the needs of American families.

The Omnibus appropriations bill before us simply falls short on too many of our priorities. I recognize that it includes a $500 million increase for the title I education program for disadvantaged students and a $607 million increase for special education. I am grateful that increases were provided during these difficult times but let's not forget that even with these increases, funding for No Child Left Behind is still far below the levels authorized when the law passed. We are still not coming anywhere close to our commitment to fund 40 percent of the costs of special education. And once again, the maximum Pell Grant award has been frozen leaving more students with higher student loan debts or shut out of higher education altogether. These are just a few examples. I believe we should be able to do better when it comes to our Nation's students and schools.

In addition, I am very disappointed with the practical elimination of the COPS Universal Hiring program. The Omnibus appropriations bill allocates a paltry $10 million for this nationwide program—a program that has added tens of thousands of police officers to police departments across the country. Not surprisingly, the COPS program has been overwhelmingly popular among our local police departments in Wisconsin and beyond. Moreover, crime has been steadily decreasing in the past decade thanks in part to the COPS program. A mere $10 million is not enough for a program that received more than $300 million just a few years ago. Quite simply, this appropriations bill demonstrates an insensitivity to the needs of our police officers who are also the first line of defense in the war on terror.

This Omnibus bill also contains inadequate support for energy saving research. One of the programs that I was disappointed did not receive sufficient funding in this bill was the Department of Energy's Industrial Technologies program. This program is an important effort to invest in our manufacturing base by increasing energy efficiency. This program invests in research to improve industrial energy efficiency and environmental performance in eight basic, energy intensive industries named by DoE as Industries of the Future: aluminum, chemicals, forest products, glass, metal casting, mining, petroleum and steel.

An example of such a program in Wisconsin that is applicable to all eight DOE Industries of the Future in Wisconsin is the project ''Wireless Sensor Network for Advanced Energy Management Solutions'' which applies advanced communications and sensors technology to industrial motors. The projected benefits from this program in 2020 include energy savings of 279 trillion Btus, $1.3 billion and 116 million pounds of pollutant reduction.

It is my hope that DOE reconsider this very important technology development and that the Interior Appropriations subcommittee focus next year on this program because of the impact it will have on our manufacturing capabilities in the United States.

I am also very concerned about the across-the-board cut that is included in this bill. The bill includes a cut of 0.83 percent that will apply to every program. That means the increases some programs received will be scaled back, and those programs that received flat funding will actually get a cut from last year's levels after the across-the-board reduction goes into effect.

I am particularly disappointed that this bill fails to address one critical area that is very important to me regarding dairy. As I have stated many times before on the floor of the Senate, dairy is an extremely important part of the economy of the Upper Midwest. For Wisconsin alone, employment associated with dairy farming, processing and related activities is estimated to be about 160,000, generating roughly $5 billion in income annually.

During the 2002 farm bill, a new dairy program was created, called the Milk Income Loss Contract, MILC, program, to provide countercyclical assistance to all dairy farmers in the nation, whenever market prices for milk fall below certain trigger levels. The program provides assistance in the form of direct payments to producers, up to the first 2.4 million pounds of production annually, when market prices are low. While the MILC program uses the market as a reference price to trigger assistance, it does not directly intervene into the market.

In 2002 and the first half of 2003, dairy prices reached 25-year lows. During that time, the MILC program provided dairy producers with much needed assistance. Wisconsin dairy producers have received $413 million in assistance under the program to date.

Without a doubt, dairy producers prefer to receive their income from the marketplace. Fortunately, milk prices have recovered over the last year, and as a result, the MILC program is now dormant. However, the safety net provided by the MILC program has been extremely helpful, particularly during times of low market prices. Unfortunately, the MILC program is scheduled to expire in September of 2005, 2 years earlier than the rest of the farm bill commodity programs.

Recognizing this problem, a bipartisan, multiregional coalition of Senators sought to remedy the situation during this year's appropriations process by extending the MILC program for 2 more years. Such an extension would put the MILC program on equal footing with other farm bill commodity programs.

On October 7, the President of the United States personally entered the debate on MILC extension. He traveled to Wisconsin to voice his support for the MILC program and before a group of Wisconsin dairy families stated:

> I know that the Milk Income Lost Contract Program is important to the dairy farmers here in Wisconsin. The milk program is set to expire next fall. I look forward to working with Congress to reauthorize the program so Wisconsin dairy farmers and dairy farmers all across this country can count on the support they need.

Our effort to extend the MILC program was also endorsed by a bipartisan, multiregional group of Governors. I ask unanimous consent that the Governors' letter of support be printed in the RECORD.

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

Nov. 12, 2004.

Hon. TED STEVENS,
Chair, Senate Appropriations Committee,
Hart Senate Office Building, Washington, DC.
Hon. ROBERT BYRD,
Ranking Member, Senate Appropriations Committee,
Hart Senate Office Building, Washington, DC.
Hon. BILL YOUNG,
Chair, House Appropriations Committee,
Rayburn House Office Building, Washington, DC.
Hon. DAVID OBEY,
Ranking Member, House Appropriations Committee,
Rayburn House Office Building, Washington, DC.

DEAR SENATORS STEVENS AND BYRD; REPRESENTATIVES YOUNG AND OBEY: We are writing today to urge you to support a two-year extension of the Milk Income Loss Contract (MILC) program, as was recently passed by the Senate Appropriations Committee by a vote of 18 to five.

The MILC program, created by the 2002 farm bill, has been extremely helpful to dairy producers nationwide, by providing financial assistance when milk prices fall below certain target prices. The program has helped to stem the tide of dairy farm loss in our states, especially when milk prices fell to historic lows in 2002 and the first half of 2003.

Without question, dairy producers in our states prefer to receive their income from the market. As designed, the MILC program is dormant when market prices are strong, as they have been during most of 2004. When milk prices fall, however, the MILC program provides an effective safety net for the dairy-dependent communities in our states.

Unfortunately, the MILC program is scheduled to expire on September 30, 2005, two years earlier than the other farm bill programs, The bipartisan Senate provision would extend the MILC program by two years, to bring it in line with the timing of the rest of the farm bill, assuring a continued safety net for dairy farmers nationwide in the event of future price declines.

We therefore strongly urge you to support the inclusion of the Senate MILC extension provision on one of the remaining Fiscal Year 2005 appropriations conference reports scheduled for enactment this year.

Sincerely.

Governor Jim Doyle, Wisconsin.
Governor Mark R. Warner, Virginia.
Governor Bob Holden, Missouri.
Governor Edward Rendell, Pennsylvania.
Governor John Baldacci, Maine.
Governor Jennifer Granholm, Michigan.
Governor Mike Rounds, South Dakota.
Governor Kathleen Babineaux Blanco, Louisiana.
Governor Tim Pawlenty, Minnesota.
Governor James H. Douglas, Vermont.
Govemor Michael Easley, North Carolina.
Governor Dirk Kempthorne, Idaho.
Governor Tom Vilsack, Iowa.
Governor George E. Pataki, New York.
Governor Bob Taft, Ohio.
Governor John Hoeven, North Dakota.

Mr. KOHL. Our MILC extension was adopted twice by Senate conferees on appropriations measures, and each time it was shot down by House negotiators. Notwithstanding assurances of executive support and gubernatorial support, House Republican negotiators thwarted our efforts to include MILC extension in the various appropriations measures. I am extremely disappointed they did so.

One can reasonably assume, given the President's assurances in Wausau, WI, that MILC extension will be a part of his budget submission next year. While that is welcome, I caution my fellow MILC supporters and dairy farmers all across the nation to take that eventual development with a grain of salt.

Budget resolutions themselves are not enacted into law. They form a blueprint for subsequent Congressional action. Putting MILC in the President's budget, by itself, won't get the job done. It will take concerted and cooperative effort on both sides of the capitol to extend the MILC program.

Despite the serious problems I have noted above, it is worth mentioning several positive things in this bill that are of importance to my State, and I want to thank the chairman and ranking member, Senators STEVENS and BYRD, for working to accommodate my priorities.

First, I am pleased that juvenile justice programs fared much better than the President's original budget request. In that proposal, juvenile justice programs—which fund afterschool and other juvenile crime prevention programs, intervention initiatives that work to redirect troubled teens, youth mentoring programs, substance abuse prevention and education projects, and programs that help keep kids out of gangs—received just under $200 million. Through our work with Senators GREGG and HOLLINGS throughout the year, we have been able to increase that number to $384 million in this appropriations bill and I thank my colleagues for their support and cooperation. Though encouraging, we must remember that juvenile justice programs and our children deserve more funding than that. Just three years ago, these programs received roughly $550 million. Dollars spent on juvenile crime prevention is a wise investment. We can and must do better.

I am also grateful for the efforts of Senators SPECTER and HARKIN in working so hard to accomodate my State's needs for additional funding for Hmong refugees. The U.S. Government announced in December, 2003, that 15,000 Hmong refugees living in Thailand would be resettled in our country, primarily in Wisconsin, Minnesota and California. The resources provided in this bill will provide job training, health care, education and other support services and help our communities assist them with their basic needs. I know it was very difficult to find scarce resources in this tight budget, and I greatly appreciate the hard work of Senator SPECTER and Senator HARKIN to meet this need.

The bill before us also makes progress in meeting the need to provide assistance for low-income people trying to pay their rising heating bills. Funding for LIHEAP has been seriously underfunded coming into the heating season. As the prices of heating oil and natural gas continue to go up, an economic disaster was around the corner for many working families. While this bill did not provide the entire $600 million in emergency funds that many of my colleagues and I thought was necessary, it did provide $300 million. This additional funding raises to $2.2 billion the amount of regular and emergency funding available to help families meet there energy needs. In my state of Wisconsin, this account is crucial to helping the disadvantaged make it through the long winter.

In addition, one of my top priorities this year has been to restore full funding for the Commerce Department's Manufacturing Extension Partnership program, so I am especially pleased that we have been able to provide a total of $109 million for this vital program, a dramatic increase above the fiscal year 2004 funding of $39 million and a $3 million increase above funding in fiscal year 2003. Wisconsin is one of the most manufacturing-dependent States in the Nation, second only to Indiana, and this budget will be able to support the Wisconsin Manufacturing Extension Partnership program and the Northwest Wisconsin Manufacturing Outreach Center, the two MEP centers in my State. MEP provides critical assistance to small- and medium-sized manufacturers throughout the Nation. It is one of the only Federal programs which exists to help manufacturers maintain their technological edge and thus, retain jobs. Unfortunately, the fiscal year 2004 budget and the administration's fiscal year 2005 budget request included deep cuts to the program leading to the firing of staff and the closing of local offices around the country. While we were able to get the Commerce Department to reprogram some funding at the end of fiscal year 2004 to stave off further cuts, it was essential that we put this program back on track for fiscal year 2005.

In addition, I am pleased we have added bipartisan legislation to the Omnibus that will extend the benefits of the Satellite Home Viewer Improvement Act for another five years. We needed to act quickly to extend some sections of the satellite law we passed in 1999 because they were set to expire this year. To be sure, compromises were made to achieve this goal. But, we feel a deal was struck that is fair to all parties—consumers, satellite companies, and broadcasters alike.

Let me discuss how this bill will further spur competition between cable and satellite, which in turn will benefit consumers. Our bill will allow satellite companies to retransmit ''significantly viewed'' stations into local markets on a royalty-free basis. Cable companies have enjoyed this privilege for years, and it is time to extend this right to the satellite industry. By doing so, satellite companies will be able to craft a local channel line-up more similar to what cable currently offers.

Furthermore, through working with my colleagues, particularly Senator HATCH, we were able to assist low power TV stations, like Channel 41 in

Milwaukee, carry valuable local programming and sports broadcasts that other stations do not carry. Satellite television consumers in southeastern Wisconsin and around the country will benefit from more local programs and more choices. It represents a tremendous win for consumers and local sports fans. Simply, we extended a statutory license to low power TV stations in the same way those stations receive that privilege in the cable world. This is an important pro-consumer measure that we are able to successfully include in the Omnibus.

Finally, this bill includes funding for many important programs that will improve the lives of people in Wisconsin. Projects that provide job training, health care and dental care to uninsured families, afterschool programs, mental health services, caregiver training, transportation, crime prevention and economic development—all of these programs will have a real benefit for families and communities in my State. I am grateful for the hard work of the committee in accomodating these Wisconsin priorities.

As ranking member of the Agriculture Subcommittee, I would also like to make a few remarks about what is included in Division A of the bill, providing fiscal year 2005 appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies.

First of all, I want to congratulate Senator BENNETT who has now completed his second year as chairman of the Agriculture Subcommittee. In the period he has served as our chairman, his grasp of the policies, programs, and problems related to this subcommittee's jurisdiction has been outstanding. It has been a great pleasure for me to work with him, and I look forward to our continuing partnership next year.

Again this year the resources available to the Agriculture Subcommittee have witnessed a decrease from the previous year. Yet in spite of those constraints, Chairman BENNETT was able to provide some important increases to benefit American consumers and those who live and work in our rural areas. This conference report includes more than $5 billion for the WIC program. This amount is significantly higher than the fiscal year 2004 level or that of either the House or Senate bills. This appropriation will help meet caseload requirements for the coming year in spite of higher than expected food costs and participation rates.

This conference report includes new funding for a number of plant and animal disease problems including research for soybean rust, mad cow disease, avian influenza and a number of other emerging issues. More than $33 million is provided to establish a national animal identification program, as is funding related to conservation, rural development, food and drug safety, and more.

However, I must mention concerns I have with this conference report. I am concerned about reductions in the rural water and wastewater programs. Further, although the Public Law 480 title II program is funded at near the Senate level, worsening conditions around the world and the administration's reluctance to use the Emerson Humanitarian Trust, worries me that international food assistance may fall short and our contributions to humanitarian relief around the world may go wanting.

I also feel it is important to mention a growing, and unfortunate, practice on which this subcommittee has had to rely again this year. In order to achieve the funding levels for discretionary programs that we have in this conference report, serious reductions or rescissions in other programs had to be realized. This is not a wholly new occurrence. For many years, this subcommittee has effected limitations on a number of mandatory programs, notably those funded through various farm bills, in order to meet discretionary targets. However, due to a strangling of resources provided to this subcommittee in discretionary allocations, reductions in mandatory programs are becoming more and more severe.

My grave fear is if discretionary constraints continue at the rate we have seen the past couple of years, we will hit the limit on savings we can achieve and there will be nothing left to rescind. If and when that happens, the demands for carrying out farm programs, protecting American consumers, ensuring food and drug safety, keeping our environment clean, providing basic services for rural families, and meeting new challenges such as mad cow disease, soybean rust and all the rest will not diminish and we will simply not be able to provide what is necessary. On that day, we, and all of America, will be standing in the middle of a very tragic train wreck and we will all be asking each other how and why we let this happen. I hope that before that day comes, we will be able once again to have the resources necessary to meet the demands we were given the trust to overcome.

Having said that, I do want to praise the work of Chairman BENNETT. With the limitations I have just outlined, he has crafted a very balanced bill that will serve America well. He has done an outstanding job with limited resources and we should all be very proud of him for that.

I also want to recognize the majority staff who has worked so well with mine on putting this conference report together. I would like to mention Fitzhugh Elder, Hunter Moorhead, and Dianne Preece. I especially want to recognize the majority clerk, Pat Raymond, for her outstanding service, not just to his subcommittee, but to the Senate overall. I want to note that Pat will be leaving the Senate after the first of the year and we will all miss her and wish her well.

I would also like to recognize Galen Fountain, Jessica Arden, Bill Simpson, Tom Gonzales and Meagan McCarthy of the minority staff and Phil Karsting of my personal staff for all their hard work on this bill.

While I am pleased that the Omnibus appropriations bill includes many of my priorities, on balance, I cannot support it. First, this bill shortchanges too many of our nation's most important priorities. This Nation's fiscal policy throughout the last several years has led to large and irresponsible deficits, and as a result, we are facing an appropriations bill that is unable to meet some of the most pressing needs of our families and communities.

Finally, I cannot support this bill because the process by which it was put together and rushed through the Senate has been unacceptable. It is three thousand pages long and we have had only a matter of hours to review it. We have already learned about an egregious provision that would infringe on the privacy of Americans' tax returns, and as we have more time to review the bill, it is likely we will find more troubling provisions. I hope that this unfortunate process will not be repeated in the future. People in Wisconsin and across the Nation expect a more serious effort from the Senate. I urge my colleagues to oppose the conference report.

Mr. DODD. Mr. President, I regrettably voted against the adoption, of the conference report tonight. I say ''regrettably'' because I appreciate the efforts of Senator STEVENS, BYRD, and others to fashion sound legislation for the country, including the State of Connecticut. I am grateful to them. I applaud their efforts. However, I felt compelled to oppose this legislation because of the troubling way this bill was brought before this body and because of certain provisions about which I held deep concerns.

A few hours before the vote tonight, we were handed a piece of legislation 3,200 pages in length that combined nine appropriations bills worth over $380 billion. It is important to note that these appropriations bills did not follow the normal legislative process. Instead of being considered and voted on separately by the Senate and House and reconciled in a conference committee, they were combined into an existing conference report and sent to both the House and Senate with limited time for debate and no chance of amending. Furthermore, this omnibus bill was largely written under a shroud of secrecy—a shroud so thick that it became apparent this afternoon that not even the Senate leadership or Senate Appropriations Committee chairman knew fully what was contained in this legislation.

Thanks to our colleague Kent Conrad and his staff this afternoon, we learned of an extraordinary tax provision buried in the middle of this 3-foot thick bill—a provision apparently unbeknownst to the majority that launches an unprecedented assault on the personal privacy. This provision allows

certain Members of Congress or their designees—designees that could include anybody from staff members to private contractors—to request the tax returns of any United States citizen without having to give any reason for requesting the returns and without having any limitations on how to use those returns. Simply put, it is an unprecedented abuse of congressional power and a frontal assault on our civil liberties.

I am told that the fact remains that this legislation contains a provision that strikes at the heart of our nation's civil liberties. Moreover, that this provision will be repealed by the House and Senate before becoming law. While I am comforted by this move, I remain deeply troubled that other damaging provisions such as the one above might remain in this bill.

A second issue over which I hold deep concerns is that this conference report essentially allows health care providers to ''gag'' medical professionals and deny women from obtaining medically necessary information and services concerning reproductive health. This so-called Federal refusal clause would exempt health care providers from any existing federal, state, or municipal law that ensures that women have legal access to abortion services and reproductive health information. It would also bar states and municipalities from enforcing their own access laws without jeopardizing all of their federal funding for health and educational initiatives. While supporters of this provision claim that it solely serves as a ''conscience clause'' that protects the religious beliefs of certain health care providers, it is clear to me that this provision is yet another veiled attempt to undermine a woman's constitutional right to choose.

I am encouraged that Senator BOXER has reached an agreement with the Senate leadership to introduce and consider a bill next year that will strip this provision. As legislators, I believe that we should not work to uphold the rights and freedoms proscribed by the Constitution. We should not work to stifle or remove them. Therefore, I urge my colleagues to support the constitutional rights of women as enshrined by Roe v. Wade. I urge them to support initiatives that properly and effectively make a woman's life and well-being a top priority.

Furthermore, I am concerned that this conference report fails to contain several important measures that were previously approved by the House and Senate. One such measure prevents the Labor Department to, in effect, deny overtime pay to as many as 8 million workers across our country. While both the House and the Senate opposed this policy by bipartisan majorities, that opposition was ignored by Republican conferees. Many workers who now qualify for overtime pay would find their jobs reclassified as a managerial or professional position, thus making them ineligible for overtime pay if they work in excess of 40 hours.

This change is significant because overtime pay can provide as much as 25 percent of a worker's annual income. Instead of working toward creating new jobs and helping working families and individuals, the legislation creates yet another obstacle for millions of Americans to provide for themselves and their families.

Second, this conference report fails to stop the outsourcing of American jobs. The conference report that was before us tonight fails to reverse a Bush administration policy of allowing government functions to be outsourced to other countries—thereby causing thousands of job losses at home.

Finally, the conference report wholly underfunds important domestic initiatives such as education and health. It shows once again the current Administration's failure in guaranteeing the well-being of all Americans.

I regretted voting against this bill tonight because it does provide several million dollars for important initiatives in my home state of Connecticut and across the Nation. However, in my view, it carries too many negative provisions for me to support. I will continue to work with my colleagues in rectifying the bill's shortcomings in the coming months and new session of Congress.

Mr. STEVENS. I ask for passage of the bill, and I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back and all time has been used.

Mrs. BOXER. 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.

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

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

Mrs. BOXER. Mr. President, I am strongly opposed to a provision included in this omnibus bill that has never been debated or considered by the Senate. It denies millions of women basic information about their constitutional rights and endangers women who are in desperate situations in pregnancies caused by rape or incest or pregnancies that threaten their health or their life. Again, this provision has never been considered or debated by the Senate, yet it is included in this appropriations bill.

Given the rules of the Senate, there is no way I can strike this provision of the bill at this point. I could delay the passage of the bill, but I cannot strike this outrageous provision.

When the Senate returns to session in January, I will be introducing legislation to repeal this so-called Weldon provision. I feel strongly the Senate must debate, consider, and vote on this issue. It is too important to millions of American women to be slipped into an Omnibus appropriations bill. Therefore, I ask the majority and soon-to-be minority leaders to commit to bring before the Senate by April 30, 2005, my bill to repeal the so-called Weldon amendment, with a minimum of 4 hours of debate and an up-or-down vote on my bill without amendment. I ask the majority leader if he will comment on this?

Mr. FRIST. Mr. President, I thank Senator BOXER for allowing us to move toward completion of the Omnibus appropriations bill today. I commit to her that no later than April 30, 2005, the Senate will consider her bill to repeal the so-called Weldon amendment regarding abortion conscience clauses that is included in the Omnibus appropriations bill. When we consider that bill, we will have no less than 4 hours of debate equally divided on the bill, with Senator BOXER controlling half the time. There will be no amendment or other motions in order to the bill, and at the conclusion or yielding back of time the Senate will conduct an up-or-down vote on the Boxer bill.

I further commit to the Senator from California that this debate and vote will not occur on a Monday or a Friday and that it will not occur during the evening or a late night session.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I thank the majority leader for making this agreement and allowing the Senate to complete its work this year. I commit to the Senator from California that I will ensure the agreement that is reached today will be upheld.

Mrs. BOXER. I thank the two leaders and I urge the vote.

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

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the conference report. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent. The Senator from Colorado (Mr. CAMPBELL), the Senator from New Hampshire (Mr. GREGG), and the Senator from Indiana, (Mr. LUGAR).

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN), and the Senator from South Carolina (Mr. HOLLINGS), are necessarily absent.

I further announce that, if present and voting, the Senator from Delaware (Mr. BIDEN) would vote ''no.''

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

The result was announced—yeas 65, nays 30, as follows:

[Rollcall Vote No. 215 Leg.]

YEAS—65

Alexander	Bingaman	Burns
Allard	Bond	Cantwell
Allen	Breaux	Chafee
Baucus	Brownback	Chambliss
Bennett	Bunning	Clinton

Cochran	Grassley	Pryor
Coleman	Harkin	Reid
Collins	Hatch	Roberts
Cornyn	Hutchison	Santorum
Craig	Inouye	Schumer
Crapo	Johnson	Shelby
Daschle	Landrieu	Smith
Dayton	Lieberman	Snowe
DeWine	Lincoln	Specter
Dole	Lott	Stevens
Domenici	McConnell	Sununu
Dorgan	Mikulski	Talent
Enzi	Miller	Thomas
Feinstein	Murkowski	Voinovich
Fitzgerald	Murray	Warner
Frist	Nelson (FL)	Wyden
Graham (SC)	Nickles	

NAYS—30

Akaka	Ensign	Lautenberg
Bayh	Feingold	Leahy
Boxer	Graham (FL)	Levin
Byrd	Hagel	McCain
Carper	Inhofe	Nelson (NE)
Conrad	Jeffords	Reed
Corzine	Kennedy	Rockefeller
Dodd	Kerry	Sarbanes
Durbin	Kohl	Sessions
Edwards	Kyl	Stabenow

NOT VOTING—5

Biden	Gregg	Lugar
Campbell	Hollings	

The conference report was agreed to.

Mr. LEAHY. Mr. President, I rise today to applaud the fact that the Satellite Home Viewer Extension and Reauthorization Act of 2004 has been included in the Omnibus Appropriations conference report. The House is likely to pass the conference report later today. The fate of the conference report is less certain here in the Senate, and I still have not made up my mind how I will vote as I am still reviewing the text of the bill. I am pleased, however, that the Satellite Home Viewer Extension and Reauthorization Act of 2004 has been included. This new law marks important progress for rural Americans by providing greater access to more television options or these consumers, making more local TV channels available to them, encouraging more digital TV offerings, and providing head-to-head competition with cable TV.

I was pleased to sponsor the original Senate bill with Chairman HATCH, and Senators DEWINE and KOHL, which was introduced on January 21, 2004. At our Judiciary Committee hearing on the bill we heard from the President and CEO of Vermont Public Television, John King, who testified about the benefits of local-into-local television to Vermonters and the importance of getting both satellite carriers to offer it in Vermont. He also noted that all of the Vermont network stations should be offered statewide, including in Bennington and Windham counties. He testified that those counties receive local news from the Schenectady area and from the Boston TV market, respectively, not from Vermont stations.

I can recall hearing from many Vermont families over the years about this issue. In fact, in a letter dated February 20, 2004, I heard from almost 20 Vermont State representatives and State senators about the importance of getting satellite-delivered Vermont stations into Bennington and Windham counties. Indeed, the Vermont General Assembly adopted in both houses a joint resolution urging that ''the Vermont Congressional delegation assist in assuring the availability of Vermont-based television stations on all home satellite delivery systems in the state.'' I am pleased to announce that this just got done with the passage of this new law.

Once the President signs this bill, both satellite carriers, the Dish Network, also known as EchoStar, and DirecTV will be able to offer all Vermont TV stations in all Vermont counties. The Dish Network has been offering Vermont TV stations over satellite for over 2 years, except in those two counties, and DirecTV announced this month that they would begin offering local TV service in Vermont.

Both of these national satellite companies will also be able to offer TV satellite service in analog—as they do now—and in digital after full implementation of this new satellite law.

The Hatch-Leahy Satellite Home Viewer Extension Act of 2004 was approved by the Senate Judiciary Committee on June 17, 2004. All the members of the Judiciary Committee supported that bill.

When the bill was reported out of committee, I noted that the bill does far more than just protect satellite dish owners from losing signals as had happened in 1997 and 1998. I pointed out that the new satellite bill protects subscribers in every state, expands viewing choices for most dish owners, promotes access to local programming, and increases direct, head-to-head, competition between cable and satellite providers.

Easily, this bill will benefit 21 million satellite television dish owners throughout the nation, and I am happy to note that around 90,000 Vermonters receive satellite TV.

I was pleased to work on this bill not only with the Vermont Congressional delegation but also with my colleagues from New Hampshire, Senator SUNUNU and Senator GREGG. We, along with Senator JEFFORDS, introduced legislation to ensure that satellite dish owners in every county in each of our States would be able to receive signals, via satellite, from our respective in-State television stations. While our two States represent a small television market as compared to some of the major population centers, this provision is nonetheless very important to residents in six of our collective counties—two in Vermont and four in New Hampshire. I also coordinated these efforts with Congressman SANDERS and Congressman BASS of New Hampshire. Viewers in both States in those counties will simply choose whether they want to watch WMUR from Manchester, or watch WVNY or any of the other Vermont stations. For the first time, these residents in both States will be able to receive home State news and programming via satellite.

For too long, Bennington and Windham counties have not been able to receive television news about what is happening in Vermont. Because of Vermont's alpine topography, with many towns in the saddles of our mountains, thousands of Vermonters did not receive Vermont television stations over the air. This new provision solves that problem.

I have received input from all Vermont stations on this effort. I also had my staff meet with representatives from all the Vermont stations to go over the details. I appreciate the input of Peter Martin of WCAX; John King and Ann Curran of Vermont Public Television; Bill Sally of Fox, WFFF; Paul Sands of WPTZ and WNNE, NBC; Ted Teffner of WCAX; Eric Storck and Ken Kazabowski of WVNY, ABC. My staff also met with representatives of Adelphia Cable, Vermont's largest cable provider, and other providers.

As I mentioned on the Senate floor in September, this effort will also allow additional programming via satellite through adoption of the so-called ''significantly viewed'' test now used for cable, but not for satellite subscribers. Generally applied that test means if a family were in an area in which most families in the past had received TV signals using a regular rooftop antenna, then those families could be offered that same signal TV via cable. By having similar rules, satellite carriers will be able to directly compete with cable providers who already operate under the significantly viewed test. This gives home dish owners more choices of programming.

In 1997, we found a way to avoid cutoffs of satellite TV service to millions of homes and to protect the local affiliate broadcast system. The following year we forged an alliance behind a strong satellite bill to permit local stations to be offered by satellite, thus increasing competition between cable and satellite providers.

I want to thank Chairman HATCH, along with Senators KOHL and DEWINE, for providing such strong leadership in this effort. In 1998 and 1999 we developed a major satellite law which transformed the industry by allowing local television stations to be carried by satellite and beamed back down to the local communities served by those stations. This marked the first time that thousands of TV owners were able to get the full complement of local network stations. In 1997 we found a way to avoid cutoffs of satellite TV service to millions of homes and to protect the local affiliate broadcast system. The following year we forged an alliance behind a strong satellite bill to permit local stations to be offered by satellite, thus increasing competition between cable and satellite providers.

We also worked with the Public Broadcasting System so they could offer a national feed as they transitioned to having their local programming beamed up to satellites and then beamed back down to much larger audiences.

Because of those efforts, dish owners in Vermont and most other States can

watch their local stations instead of receiving signals from distant stations. Such a service allows television watchers to be more easily connected to their communities as well as providing access to necessary emergency signals, news and broadcasts.

The good news is that this bill is great for every state in the nation. Consumers in every county in every state will be offered, over time, more satellite TV choices. This effort is an example of how the Congress can work together on complex issues to benefit families all across America.

Many Members had a hand in crafting this bill. Subcommittee Chairman DEWINE, and his chief of staff, Pete Levitas, and David Bolling, and ranking member Senator KOHL and his staff, Jeff Miller and Jon Schwantes, were very helpful in crafting the Committee bill.

In the other body, Chairman SENSENBRENNER and subcommittee chairman LAMAR SMITH did a tremendous job on the Judiciary copyright issues. They worked with their Democratic colleagues including ranking member JOHN CONYERS and subcommittee ranking member HOWARD BERMAN to report out a strong bill.

The leaders of the Committee on Energy and Commerce worked on issues related to their jurisdiction and together with the Judiciary Committee developed a combined bill for House floor action. That was a great idea and they proposed a seamless package. As I have stated several times before, H.R. 4518 represented a very careful balancing of interests and was good for consumers, good for the affected industries, good for copyright holders and good for rural America. Staff of Senate and House leadership helped facilitate the process of working out some of the differences between different versions of the bill.

Many staff worked diligently on this effort, including David Jones with Senate Judiciary and David Whitney with House Judiciary, both of whom were instrumental in crafting good solutions to complex problems.

Many House and Senate Commerce Committee staff pitched in and worked together to get this bill done. James Assey, Bill Bailey, Rachel Welch, Gregg Rothschild, Alec French, Peter Filon, Sampak Garg, Neil Fried, Mike Sullivan and Howard Waltzman are some of the House staff on both Committees who worked hard to get the job done.

I know that my staff appreciated the helpful assistance provided by staff of Speaker HASTERT, Bill Koetzle; Majority Leader FRIST, Libby Jarvis; and Chairman STEVENS, Christine Kurth and Lisa Sutherland, in this difficult process.

I appreciate the efforts of my Judiciary counsel Ed Barron. As he did during the last reauthorization, Ed tried to work with everyone involved to help build a consensus on all the issues. Ed did an extraordinary job as he has done on all the other major projects I have asked him to do over the last 18 years.

In the next Congress, I look forward to monitoring the implementation of this law and am ready to work with all involved in this process to address any concerns that may arise.

Mr. ENSIGN. Mr. President, I rise today to report on a tremendous step forward for public safety, our economy, closing the digital divide, and bringing next generation high definition television to rural America. The House and Senate today passed legislation that will fundamentally impact the future of television especially in rural America. Today the U.S. Congress set aside entrenched special interest group wish lists and took a strong step forward toward making high definition digital television available in unserved areas.

The Satellite Home Viewer Extension and Reauthorization Act of 2004 enjoyed broad bipartisan support and is now headed to the President's desk. I applaud my colleagues from the Commerce and Judiciary Committees, from both sides of the aisle, and from both Chambers. The leaders of these committees did not bow down to the furious lobbying of those who have sought to slow down the digital transition and that attempted to gut the important pro-consumer digital white area provisions designed to make available high definition programming to rural Americans. This legislation sends an unmistakable message that we are not going to allow a digital divide like we have for broadband to occur in the new world of digital television. With this legislation, consumers who cannot receive digital television programming over the air, will now have a chance to receive it from satellite providers who are ready, willing and able to get high definition programming to unserved areas.

One of the most exciting benefits of this legislation, is that it creates incentives and pressures to speed the return of this valuable analog television spectrum. There are endless possibilities for powerful new innovations for consumers that will flourish when new unlicensed wireless spectrum is made available. Consumers will benefit from new devices and services we haven't even contemplated yet.

Public safety also needs to have access to this spectrum to ensure they have the ability to communicate in dark stairwells and wet basements. We know that the characteristics of this spectrum are such that they can penetrate walls and travel over greater distances. The 9/11 Commission tells us that we need to make this spectrum available.

The bill also mandates that satellite providers phase out their use of two-dish markets, across the country in 18 months. Currently, customers in some markets need a second dish to receive some stations and since many customers choose not to receive a second dish, some stations are not seen. This legislation ends that practice.

Our work today, while a tremendous victory, is but the first step forward in what I believe history will mark as the turning point in the U.S. Congress recognizing that blindly clinging to the world of 1940's analog television is only harming our economy, our most rural areas, public safety and is stifling innovation. Today the Congress made an affirmative determination that all Americans deserve to have equal access to digital television programming regardless of geographic location.

The purpose of this legislation is simple; to make sure consumers are not denied digital television based on where they live or whether the digital conversion has been completed in their area. People outside major market areas, like those in rural Nevada, should not be left behind in the DTV revolution.

This legislation includes strong protections against abuse, and tough penalties to ensure satellite providers comply with a fair and equitable process by which all Americans can take part in the digital transition in a realistic timeframe. Local broadcasters who have been unable to turn up a full-power digital signal due to circumstances beyond their control will not be unfairly penalized.

With the passage of the Balanced Budget Act of 1997, the Congress established a timeline for catching up our Nation's television broadcasting with rapidly changing technology. In fact, we gave broadcasters a multi-billion dollar public asset in the form of free spectrum for digital television with the explicit understanding that their analog spectrum be returned by December 31, 2006. Unfortunately, years of litigation, lobbying and foot dragging has made it likely that we will miss this deadline. Next year the Congress will be considering a new hard deadline for completion of this transition and it is my intention to work vigorously to ensure that these dates not be allowed to slip any longer than necessary.

Equally important will be ensuring that we do not forget about those consumers for whom a new digital television set, cable or satellite receiver or digital converter box does not fit in their near-term buying plans. The Senate Commerce Committee has considered numerous proposals to ensure that these consumer's screens don't go dark when a hard deadline passes. Next year the Congress needs to decide on an approach to ensure that especially lower income consumers will be adequately accommodated. There are many good proposals on how to best ensure we protect these consumers, and there is no doubt in my mind that the tremendous proceeds of the spectrum auctions will give us the resources necessary to ensure a successful transition.

Our work also remains unfinished for cable operators who wish to provide the same important services to rural Americans as will now be available to satellite customers. Consumers stand

to benefit even further from competition in the multichannel video programming distribution marketplace if cable providers are afforded some of the same opportunities we have made available to satellite. We have to be careful not to tip the balance in favor of one industry over another. This is why the bill includes a provision requiring the FCC to study and report back to Congress in nine months on the impact of retransmission consent and certain blackout rules on competition in the multichannel video programming distribution market and, in particular, on the ability of rural cable television systems to provide their customers with digital broadcast television programming.

Millions of people in rural areas subscribe to cable television service, often from small cable operators. Once again, it is not our intent to create a competitive advantage for one technology over another consumers should not be forced to choose between DBS and cable in order to receive digital broadcast television signals. I look forward to receiving the commission's report and I am confident the committee will give serious consideration to any recommendations for additional legislative action contained therein.

This Congress sent a powerful message today that we understand the importance of the digital transition, and the powerful benefits for public safety, television viewers, innovation, public safety and our economy. I fully expect the momentum of this victory will carry forward into the next Congress where we can build on these great accomplishments for consumers.

TECHNICAL CORRECTIONS TO H.R. 4818

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of H. Con. Res. 528, which the clerk will report.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 528) directing the Clerk of the House of Representatives to make technical corrections in the enrollment of the bill H.R. 4818.

The Senate proceeded to consider the concurrent resolution.

AMENDMENT NO. 4076

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST], for Mr. STEVENS, proposes an amendment numbered 4076.

The amendment is as follows:

At the end of the resolution, insert the following:

Strike Section 222 of Title II of Division H.

The PRESIDING OFFICER. Under the previous order, the amendment at the desk is agreed to, and the concurrent resolution, as amended, is agreed to, and the motion to reconsider is laid upon the table.

The amendment (No. 4076) was agreed to.

The concurrent resolution (H. Con. Res. 528), as amended, was agreed to.

CONGRATULATING SENATOR STEVENS

Mr. FRIST. Mr. President, I congratulate the Senate Appropriations chairman, our President pro tempore, TED STEVENS. Since 1971, for 34 years, Senator STEVENS has served on the Appropriations Committee, and for the last 8 years, or almost 8 years, he served as chairman of that committee, with a 1-year interruption in 2002 to be its ranking member.

Beginning with the new Congress in January, the chairmanship of the committee will pass to another Senator. So today the chairman has brought to the floor the last appropriations bill under his chairmanship, the Consolidated Appropriations Act of 2005.

It is only appropriate that this final bill was put together—and we all saw it play out over the last several hours, days, and weeks—with the same hard work, the same focus, the same tenacity, and the same perseverance which has characterized his leadership of this committee over the last many years.

I do, on behalf of the Senate Republican caucus—indeed, the entire Senate—say, thank you, Mr. Chairman, for all you have done.

It would be a mistake, also, if as leader I did not recognize the extremely hard work of the chairman's staff under the superb leadership and guidance of the staff director, Jim Morhard. At the end of this Congress, Mr. Morhard will be leaving public service after over 26 years, most of it spent right here in the Senate.

Jim, we thank you for your dedication and your service to Government, to this institution, and to the Appropriations Committee.

There have been a lot of long days and long nights over the last several weeks for staff, and some staff, particularly those on the Energy and Water Appropriations Subcommittee, have literally gone for over 48 hours straight without sleep to bring us to this point today and tonight where we have passed this legislation. I know I speak for all Senators on both sides of the aisle when I say thank you for your work done under some very challenging and very difficult circumstances.

This has also been a challenging year for the budget and appropriations process. We were able, though, in spite of all those challenges, to establish an enforceable $821.9 billion spending limit for this year. The bill today, along with the other four appropriations bills enacted to date, have lived by that strict spending limit we established.

Total appropriations, excluding defense and natural disaster emergency spending, will increase 3.9 percent over last year with the enactment of the bill that we passed tonight.

More important, appropriations for nondefense, nonhomeland security spending will increase by less than 1.7 percent, and that is the smallest growth in nondefense spending in this area of the Federal budget in nearly a decade.

So, yes, this has been a very tough bill setting priorities and making difficult tradeoffs to stay within the spending limit, while at the same time addressing the priority items, all of which is not easy, to say the least, but within the strict confines of this bill, it does provide $19.5 billion for veterans medical care, $16.2 billion for NASA, $28.6 billion for the National Institutes of Health, and $57 billion for the Department of Education, among other important, significant domestic programs.

The bill also provides nearly $3 billion in necessary funding to address the pandemic of HIV/AIDS, and that is $700 million more than last year. It also provides $400 million, actually over $400 million in humanitarian and refugee assistance for Sudan and $1.5 billion for the Millennium Challenge Account.

Despite the tightness of this budget, Chairman STEVENS and Senator BYRD have brought a great bill before us today, and a great bill has been passed tonight. Yes, we know it does not please everyone; there is no way it possibly could. But it is the final product of this Congress that has been agreed to and a product of which we can be quite proud.

I do appreciate the Senators' support for this bill, and it does bring to completion the fiscal year 2005 appropriations process. Thank you, Chairman STEVENS.

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

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

Mr. SESSIONS. Mr. President, I was reluctant to cast my vote against this bill which has a lot of good things in it, and it is not as bad as some bills that have come through, but I want to share some of my concerns and thoughts tonight.

We have had charges for sometime that we have used accounting gimmicks to get around the budget caps or limits in the bill. This bill's gimmicks are not as bad as we have had in some years, but there are some here, and I think we ought to talk about them.

Our budget for the year was $821.919 billion for the discretionary account. In order to comply with the budget resolution, this omnibus bill relies on roughly $1.6 billion in practices that many of us have described as gimmicks. And there is an additional $400 million in spending that was designated as an emergency which is not subject to the budget limitations. So it is basically $2 billion over what the budget limit should be, unpaid for and funded by freezing the debt in reality.

How did we get there? An $821 billion budget was the discretionary spending. The Senate insisted on $4 billion more in additional spending above the budget resolution. While insisting that spending remain within the overall limit, the administration sought funding for certain Presidential priorities at higher levels than provided either by the House or the Senate. As a result, the omnibus bill pays for this additional spending, I am pleased to say, with an across-the-board cut, across all the accounts, of .8 percent, less than 1 percent, but it did pay for most of that. It reduces the accounts in all bills and helps reduce the amount of debt that would be incurred by this spending bill. While we would prefer to live within our budget, this across-the-board cut is better than increased debt.

However, rather than paying for all of the increases with this across-the-board cut, which we could have done by perhaps having a 1-percent reduction across the board, the bill includes a series of at least four accounting maneuvers.

First, the omnibus bill includes an accounting shift regarding public housing authorities, PHAs.

Currently, the Federal Government subsidizes the operating costs of PHAs. However, the PHAs are on different fiscal years and normally get their full annual allocation at the beginning of their fiscal year, October 1. The omnibus bill will include language requiring all PHAs to convert to a calendar year budget, resulting in $1 billion in savings for 2005. No cuts, nothing but a maneuvering of the calendar year budget and that would save $1 billion. But it is not a saving, is it? The effect of the provision is to defer costs into the future to allow for additional spending now and spending that will likely be assumed into the baseline of our spending, and the baseline of spending is very important.

I will take a moment to discuss why baseline is so important. When we increase annual spending by $2 billion, that is a significant hit to the taxpayer. It does not sound like a lot out of a $821 billion budget. We have had worse years, I will admit, but still a significant hit.

Next year, when we begin the budget and appropriations season, that $2 billion will be assumed into the baseline, meaning to fund all the programs at the previous year's level, we will need to spend another $2 billion.

Second, the bill rescinds roughly $300 million in defense appropriations. It took $300 million from defense, raising the concern for some that defense spending may be reduced in priority and we ought not to take anything from defense we cannot fully justify, and I do not think we need to in this time of war take anything from defense.

In addition, it is unclear such a rescission will result in true savings. For instance, the fiscal year 2004 omnibus included a similar $1.8 billion rescission of defense and unused emergency spending from post-9/11 to help meet last year's budget resolution. That $1.8 billion was later restored in the Department of Defense conference report and it was labeled an emergency. So what happened? It is pretty clear, is it not? What happened was that last year we used this reduction of defense by $1.8 billion and later we declared it an emergency, which means it is not subject to the budget limitations of the budget, and we funded it by increasing the debt. In other words, we went around the budget limits, the budget caps, we agreed to.

Third, the bill relies on new data suggesting that receipts have increased in the Crime Victims Fund by $283 million. However, CBO, the Congressional Budget Office, does not publish an updated economic outlook until January and thus to have access to such funds it would be necessary to direct CBO to assume such revenues in its scorekeeping.

The committee has left the directed scorekeeping provision out of the text due in part to past objections by some conservatives to such provisions, and thus when a CBO score is finally produced, it will probably result in the omnibus exceeding the budget resolution.

Finally, the omnibus will also include an extra $300 million for the Low-Income Energy Assistance Program, LIHEAP, another $300 million beyond the regular appropriations, because of high energy prices. This will be designated as an emergency and it will not be counted against the budget resolution, even though past LIHEAP contingencies have been paid for within the budget parameters. So LIHEAP has been declared an emergency.

I do not think we need to be in a position of saying that simply an increase in the energy prices justifies a $300 million increase in spending straight to the debt and violating our budget. In addition, the bill provides an additional $100 million in emergency designations, $7 million for the Postal Service, and $93 million for Sudan.

If we measure our spending by maintaining the same rate of increase, we will not only have to spend the $2 billion next year, but we can assume more than $2 billion on top just to maintain the rate of increased baseline. So a $2 billion increase this year becomes a $4 billion increase next year, or at least an increase in the debt. And this is the way it works: We go over the budget this year by $2 billion. Then next year, we have to have a budget that funds that same $2 billion, and if our habits continue the same and our appropriators cannot stay within the $821 billion or whatever our budget number is next year, and it will be somewhat higher, then we will have another $2 billion or maybe more through additional gimmicks next year, because I do not think we have ever done an appropriations bill since I have been in the Senate that has been truly honest, without some gimmicks.

Now, I figured this out. If we did it just $2 billion—and, remember, often we have done worse than this bill and had more than $2 billion in gimmicks—then the next year there is another $2 billion plus the $2 billion we raised up this year, and so it is $4 billion up, and the next year it is $6 billion up, and next year it is $8 billion. Add those to the amounts that have been tapped and hit the country with deficit spending, in over 10 years I calculate it would be $132 billion. So this $2 billion a year is not a one-time deal. It tends to become part of the baseline of Federal spending, and as a result of that it grows exponentially over time. That is how we get out of control.

Now, the way we reached a surplus in our budget account and eliminated the deficit throughout the 1990s fundamentally was good control of spending—not perfect but pretty good. Remember, this Congress shut down the whole Government for a while, trying to contain and cut spending. At any rate, over a period of time we did a pretty good job of controlling spending. This year's budget is good on discretionary spending. It is less than a 1-percent increase. I am proud of the Senate for doing that. I am proud of President Bush for supporting it. It was the right decision. We have done a pretty good job of staying with that. But I want to point out that just this $2 billion excess can make a large difference in the total over a period of years.

If we would remain true to the limits we all agreed to in our budget, the $821 billion, and we stayed flat at that, it would make a big difference over time, a lot more than people think. If we had not had this offset, which I salute our appropriators and the leadership in this Senate for taking a .8-percent reduction across the board to fund most of this, we would have been in lot worse shape. We got so close. My concern is, why not go all the way? Why not be true to the budget we agreed to, the budget limits we had? If we had done that, I think we could be more proud of our work today.

I conclude by expressing my concern about the budget and the need to stay absolutely true to it. If we will, it will make a huge difference over a period of years in our goal to substantially reduce the deficits that are facing our country. Again, I want to say how much I appreciate the leadership of Senator FRIST, Assistant Majority Leader MCCONNELL, and Senator STEVENS for the work they have done on this bill. It is a very difficult job.

We do not need to be doing this every year. My best judgment is that we absolutely need to do a budget that is good for 2 years. We do not need to be doing this every year. We could work more carefully on it, more responsibly, and end up with a spending level we can agree to and not have two opportunities to break it—there would only be one opportunity to break it—and I believe we can make real progress in maintaining fiscal integrity in our Government by doing so.

I yield the floor.

Mr. DOMENICI. Parliamentary inquiry: Is now a time to speak or are we in some kind of special business?

The PRESIDING OFFICER. The Senator may be recognized.

Mr. DOMENICI. I seek recognition, to use 5 minutes as in morning business.

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

TWO-YEAR BUDGETING

Mr. DOMENICI. Mr. President, I know it is late and there is nobody here. Somehow or another, it seems like, when you have things that are moving along and moving rather slowly, you have to regularly call them to the attention of the Senate.

I do not have anything but great praise for how we got here with this bill. Everybody is saying it could not be helped. Senator REID and I understand. A piece of this bill is ours. We could never get it done until late in the session because it seemed as if nobody wanted to understand the problem we had. We couldn't do the things we were supposed to do because there was a misunderstanding in the budget about how to pay for things. So that was done.

The thing is, if Senators had before them tonight, before this bill, a final vote on a measure that said we are going to do this every 2 years instead of every 1 year, and we are going to do a budget resolution for 2 years, do you know what would have happened? It would have passed with 75 votes because people around here understand we do not have to do this every year. You can do it for 2 years, with 2-year budgets and the right to have, in between those appropriations bills, the special kind of special needs appropriations.

It certainly would not be like it is now. You have those now and you have appropriations every year. You have the supplemental appropriations.

I took this minute to say someone, sometime—maybe before I leave here—will do that. I actually believe the House is ready. They voted on it. They didn't have the bill we would have, but we could go to conference. But I just want to use this last few minutes. Nobody is around and I ought to be out of here at home. I have some new grandchildren at home and they can't watch me at this late hour because they are too little, so I should be gone.

But it is good to have an example. Frankly, I think if we had 2-year appropriations, we wouldn't have this because I think the individual bills would be done, if you had, instead of every year, 2 years to do them. I think we would have a lot of time for oversight and other things we do not do. In fact, my memory is not as good as it was and I can't tell you the percent, but a huge amount of the Senate's voting time and floor time is used for just three things: budget, appropriations, and supplemental appropriations. That is a huge amount of the time. I don't know how we get all the other things done.

So if we could do it every 2 years, it seems to me we would all be the better for it. We would be less apt to have this kind of thing occur with an omnibus, meaning overall, many—all put in one.

I yield the floor.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

BOY SCOUTS OF AMERICA

Mr. FRIST. Mr. President, in a bit we will be wrapping up. There is a lot of business that is being tended to and it will probably be 30 minutes or so before we officially wrap up. I thought I would address several issues that have come to my attention over the last several days and cover some of the events that have occurred earlier this week.

The first is an issue that leads from what we learned earlier this week when the Department of Defense warned American military bases worldwide to cease officially sponsoring the Boy Scouts of America.

The Department issued its directive in response to a lawsuit filed by the American Civil Liberties Union. The Illinois chapter of the ACLU accuses the U.S. Government of improperly supporting a group which administers a religious oath. The ACLU's legal attack has forced the Defense Department to suspend its decades long tradition of supporting Scouts and it may even prevent Scouts from celebrating their annual jamborees on Defense installations. But it does not stop here.

There is fresh evidence that the ACLU intends to end all Federal support for the Boy Scouts of America. In their view, where there is Government, there cannot be faith. The separation of church and state is a bedrock principle of our Republic, and Americans are grateful that we are free to worship as we choose without Government interference or fear of persecution. But to this legislator, the ACLU's continued attacks on the Boy Scouts is starting to become its own form of persecution.

The Boy Scouts of America is a congressionally chartered organization. It serves a patriotic, charitable, and educational purpose. Furthermore, its support by the Federal Government is outlined in U.S. law. I was a Boy Scout as a young boy in Nashville, TN. All three of my sons, Harrison, Jonathan, and Bryan, have been Boy Scouts here as we have lived in Washington, DC.

We have found, and it is generally accepted, that Boy Scouts and Scouting is a noble tradition, an honorable tradition, that inculcates the very best of our values. Since its founding in the early 20th century, scouting has served America's communities and families with distinction and with honor. The Boy Scouts and the Girl Scouts promote character in leadership by instilling in our youth values such as honor, duty, charity, integrity. These programs help prepare our young people for the ethical and moral choices that they will face throughout our lives.

It is for these reasons that I introduced a bill called the Save Our Scouts bill to reaffirm our longstanding commitment to the tradition of scouting. The legislation stipulates that no Federal law, including any rule, regulation, directive, instruction, or order shall be construed to limit any Federal agency from providing any form of support to the Boy Scouts of America or Girl Scouts of the United States of America or any organization chartered by the Boy Scouts of America or the Girl Scouts of the United States of America.

Activities supported include holding meetings, jamborees, camporees, or other Scouting activities on Federal property, or hosting or sponsoring any official event of such organization.

I am disappointed that this bill did not pass by unanimous consent, but I am hopeful that in the next Congress common sense will prevail and both Chambers will give their unanimous support to protecting the Scouts.

Scouting has served generations of American boys and girls. It has earned its place in the hearts of millions of Americans who look back fondly, just as I do, on that special time of merit badges, hikes, fellowship, and service. I am confident that we will preserve this honorable tradition for years and generations to come.

INDIVIDUALS WITH DISABILITIES ACT OF 2004

On a separate issue, late last night a very important bill called the Individuals with Disabilities Act of 2004 passed and is now on its way to the President's desk for his signature. Several years ago, I had the opportunity in this body to chair what was then called the Subcommittee on Individuals with Disabilities, and over that Congress, that 2-year period, spent a great deal of time focused on this particular legislation called IDEA, Individuals with Disabilities Education Act.

I commend the Senators from New Hampshire and Massachusetts who have done a tremendous job in their bipartisan work on this very important legislation. There are more than 6.5 million children with disabilities who are served through IDEA, along with more than 430,000 special education teachers. The Individuals with Disabilities Act of 2004 carefully addresses the needs of those disabled children and the schools they attend.

The bill refocuses Federal law on outcomes for disabled children, ensuring that States focus on academic results, not process, while still guaranteeing the rights of the child to be protected.

Teachers are now burdened with hours of paperwork that take away from classroom instruction. I have seen the paperwork requirement. Teachers have shown me stacks of forms that are 6 inches, even a foot high, page after page. They are required to complete these forms before they can take care of the needs of those disabled students.

This bill enables those teachers to devote more of their time and more of their energy to the classroom, and in turn their students benefit from more of their undivided attention. The attention is on the students with disabilities rather than on paper.

The staff of Senators GREGG and KENNEDY deserve great credit for their hard work and effort that made final passage of this conference report possible. In particular, I recognize the tremendous work of staff members Denzel McGuire and Connie Gardner for their commitment, their dedication and labor on behalf of disabled students.

As I mentioned, it was late last night that that bill passed, and it is on the way to the President, again a tremendous achievement for this body. I congratulate the chairman and the ranking member on the success of this bill.

MEDICAL MODERNIZATION ACT

Mr. President, because we will be leaving tonight and will not be here over the course of the week, I want to address a bill called the Medicare Modernization Act. Next week is the 1-year anniversary of the Senate's historic passage of this act, the Medicare Modernization Act. Since we will not be here next week, I want to again just mention, on this anniversary, a few days early, the historic significance of this bill.

First, the Medicare Modernization Act represents the most significant improvement to the Medicare Program since its inception almost 40 years ago. It also represents one of the great bipartisan achievements of the 108th Congress. Because we acted, because this bill passed 1 year ago, seniors will gain access to more affordable prescription drugs, the most powerful tool in American medicine today.

Up until passage of that bill, this powerful tool in American medicine, prescription drugs, was not a part of the Medicare Program. They were not covered under Medicare at all. To me, it made no sense. To this Congress, it made no sense to deny affordable access to seniors to prescription drugs in this program if you are going to be promising it, if your obligation to them is true health care security.

Seniors and individuals with disabilities will enjoy better and more cost-effective care through disease management and chronic care management because of this bill. They will have access to expanded preventive care, such as annual physical exams, because of this bill. The overall quality of care will improve over time because Medicare will begin, for the first time in the program, to measure and, indeed, pay for quality performance.

We will also improve health care safety and efficiency through means such as electronic prescribing and other innovative reforms. We know this whole process of electronic prescribing or e-prescriptions will have a direct impact on reducing those unintended and unnecessary medical errors. It will improve patients' safety for our seniors when they receive their care.

Because we acted a year ago, seniors and individuals with disabilities will soon enjoy true health security. I am pleased to say that real help already is in place. The bill will not be fully implemented for another year yet but already help is in place. Less than 1 year after the Medicare bill became law, nearly 6 million seniors were already getting substantial savings on their prescription drugs through that Medicare prescription drug discount card.

As an aside, if you are a senior and you are receiving prescription drugs today, you are on prescription drugs today, and you do not have that Medicare prescription drug discount card, please call 1–800–MEDICARE and talk to the Medicare representatives and ask them how you can get that card because that card can give you immediate savings.

If you are a low-income senior, it is especially important because if you sign up for that card before the end of December, you get an additional $600 value on that card. I say an additional $600 value; that is in addition to the discounts of 15 or 20 or 25 or even 30 percent that everyone gets on that Medicare discount card.

I have a couple of examples in my home State of Tennessee. Almeta Chesney of Knoxville, TN, came to a drug card enrollment event I hosted in May. I had the opportunity to host several of these events across the State to help educate our seniors as to the advantages of this card. She enrolled in the prescription drug discount card program and is now saving over $230 every month. Before she had the card, before we passed the bill, she didn't have the card. She was having to pay an additional $230 which she is not paying today. That is $230 in savings that is in her pocket now, so she can save or invest or spend. Now, $230 a month is nearly $3,000 a year because of that prescription drug card that she can get through Medicare, that she got through Medicare.

Mary Surber, 86 years old, also signed up for a card at an event I held in October in Knoxville. She will save over $2,000 a year, a savings of 87 percent of her annual drug bills. Again, this Medicare Modernization Act in this first phase, where you can get that Medicare drug discount card, has huge potential savings for seniors who are on prescription drugs.

The Medicare Modernization Act is helping younger Americans gain access to more affordable health insurance coverage through portable and tax-free health savings accounts.

The health savings account, although we passed it in the Medicare bill, is available for people in this body, our colleagues. I do encourage my fellow Senators and other Federal employees to look at a health savings account. For the first time in the Federal Employees Health Benefits Program, FEHBP, our health care program, you can have that option of getting a health savings account. I look forward to looking at it very closely, and I expect I will sign up for a health savings account in the next couple of weeks, and I encourage others to look at that.

The advantage of these health savings accounts—and, again, they are new with the Medicare Modernization Act—is that they are portable. You can take them with you. If you change jobs, the personal savings account, health savings account, you can take it with you from job to job. If you don't use that savings account in 1 year, the good thing about it is you can roll it over to the next year. So it has this rollover component. It has the savings component which grows tax free. The interest actually grows, but you can put in money tax free and you can take money out tax free.

So these health savings accounts are tremendous. They are already giving younger Americans and others more control over their health care choices and hard-earned dollars, health savings accounts, being a high deductible policy coupled with this personal, portable health savings account that did become rolled over.

All of this was in the Medicare Modernization Act that was all passed by this body in a bipartisan way over a year ago—almost a year ago. I am deeply thankful for the cooperation and the hard work and dedication of my colleagues in this body to overcome years of partisan gridlock. We had hunkered down for years, having affordable access to seniors through Medicare, yet we never did it. It used to be just talk. But, indeed, a year ago we delivered that on the floor of the Senate. We finally have offered seniors the security they need and the choices they deserve.

I am very proud of our health care accomplishments, proud they provide a platform to build on on which we can take our next steps to making health care more affordable and more available and more dependable for all Americans.

Although we are bringing, really, tonight—and we will come back on December 7 for a very short period—to a close the 108th Congress, I am very excited about looking to that agenda in the 109th Congress on health care, where we address what bothers most Americans today, or what bothers most Americans, and that is the soaring cost of health care.

That has a huge impact on the number of uninsured in this country, as we look at issues such as medical liability, where in States such as Florida and

Ohio and Pennsylvania there is a medical liability crisis, a lawsuit abuse crisis which has a direct impact on raising the cost of health care but, probably even more importantly, diminishing the access to health care in ways that are hurting people—hurting the quality of care, hurting the access where moms or future moms are losing their obstetricians; where you have to worry, if you are driving through parts of Ohio or Florida that, if you have an accident, if you are so unfortunate to have an accident, that there might not be a trauma surgeon on call.

Because of the impact these unnecessary frivolous lawsuits are having, it is driving physicians out of the practice of medicine, out of obstetrics. No longer can they afford to take a call at these trauma centers.

We have a great foundation to build on as we address health savings accounts, health care security and prescription drugs for seniors and individuals with disabilities. In that bill, we open the door to paying for performance and paying for quality of ownership of health care accounts, of stressing chronic disease management, managing for illnesses such as diabetes and hypertension, of being able to look at health care in an integrated way of pulling all the little stovepipes together in a way to the benefit of individual patients.

There has been real progress in the past, and I look forward to a really exciting future as we go forward to address this new agenda in health care that focuses on the individual patient, focusing on consumer-driven medicines, focusing on provider-friendly health care that is patient-centered and that is the model of the future, the model that we will continue to work toward.

SUDAN

Mr. FRIST. Mr. President, the fourth issue I want to mention is an issue that even before the last recess—I remember on the night before closing the Senate down we had a period of time similar to this before the final business and the final what we call wrapup was brought to the floor—I was talking about this very same issue. I was talking about a similar type of issue a year ago, and I am going to bring it back to the floor right now because it is an issue that is close to my heart. It is an issue that affects me in profound ways. It is an issue that I don't have the answer to yet, and no one does, but it is an issue that by continually focusing a shining light on it, by educating others, we can change the course of humanity in this part of the world. This part of the world is the Sudan in Africa.

This week the Sudan Government agreed once more to make peace with its southern region. Civil war has gone on for about 23 years. About 5 million people have been displaced from homes. Over 2 million people have died in this civil war which has now gone on for about a quarter of a century.

I have spent a little time in Sudan. I was there in August a couple of weeks before the Republican Convention, and I was there about 10 months or 11 months ago as well. I was there the year before that and the year before that and the year before that. So the Sudan is close to my heart.

While it is encouraging news that we are much closer to peace and the international community is hopeful, we still can't overlook a crisis. Again, this is a north-south civil war on which we are making real progress. But in the whole western part of this huge vast country of Sudan is a region called Darfur. This Darfur region that is about the size of France is a region that is in crisis.

For 22 months, the Sudanese Government has waged war against the people of the Darfur region. Despite two United Nations Security Council resolutions, pressure from the international community and neighboring countries, the government of Khartoum continues its genocidal campaign. Last week Khartoum ostensibly agreed to halt attacks, but within hours of their agreement Sudanese police raided a camp in southern Darfur destroying homes and driving out civilians.

Tens of thousands of innocent victims have died as a result of government-sponsored violence, and 1.8 million more have been displaced from this Darfur region. Entire villages have been burned to the ground. Women have been raped and children have been abducted and executed. Special United Nations envoy Jan Pronk warns that Darfur is on the brink of anarchy.

We cannot stand by as the people of Darfur suffer. We cannot allow another Rwanda. They are calling out to us. They are pleading for our help. We have a responsibility to act.

In about mid-August, I visited a refugee camp called Touloum in the country of Chad. The country of Chad is just to the west of Sudan and just to the west of this Darfur region, which is in the western aspect of Sudan. Touloum is several hours northeast from the capital N'Djamena.

I met with refugees and community leaders in this refugee camp. What I saw and what I have heard in Touloum in this camp was truly appalling. Thousands of refugees were housed in dust-covered tents. Many more lived in makeshift shelters of gathered wood and plastic sheathing. Some of the itinerant refugees just moving into the camp and waiting to get into the camp had simple sticks with either clothes or sheets or rugs, pulled together and slept there for days waiting to get into the refugee camp.

I remember the moms and many children running around, some way or another. The children are fairly malnourished and having been on the road for a period of time walking through the bush, what we call cachectic in medicine but skinny and clearly no muscle tissue at all and sunken faces but still smiling, still playing, and still fashioning, with a piece of balled up cloth, playing soccer.

There was a lot of dust there. The rainy season had not quite yet hit.

I had the opportunity to speak with a gentleman named Asman Adam Abdallah. In Darfur, he had been a man of prominence, an officer of his tribe, a government official. He was from a village called Jemeza just north of the regional capital of El Fasher.

During the attack on his village, he became separated from his family. That tends to be the rule. He didn't know if his family was still alive. He didn't know how he would be able to go back to find them.

He told me their story—recounting that he watched 15 people of his village killed one by one by one by one. It had taken him about 18 days to reach the safety of this refugee camp called Touloum.

Sudanese Government planes bombarded Asman and his fellow survivors as they trekked first to the Tine, which is a town on the Sudanese-Chadian border.

Another refugee in that Touloum camp described how during a raid on her village several soldiers grabbed a baby to check and look at what the sex, what the gender of that child was. The soldiers began arguing back and forth as to whether to kill that little baby boy. She overheard one soldier remarking but ''he is so young.'' It appeared that the soldiers were under orders to kill all male children.

I heard of a mentally disabled 15-year-old boy being thrown into a burning house and an old paralyzed man burned alive in his hut. I heard stories of women raped in front of their own children.

I asked one refugee in Touloum what would it take for him to go home. He said to me: I will go if you come with me and stay with me.

The Janjaweed attacks described to me were disturbingly similar. The Janjaweed are preceded by aerial attacks by Government planes flying overhead.

In some cases, soldiers in government uniforms participate on the ground and they made references, according to these witnesses and the villagers whom we talked to, references to orders from Khartoum. Survivors tell of racial slurs being probed at them as the Janjaweed swept through their villages, killed the men, killed the boys, and razed the homes.

The dictatorship in Khartoum claims it has no control over the Janjaweed, but I believe otherwise. I believe if they were sincere in their efforts to make peace, peace indeed would be at hand. The direct line between the Government of Sudan, the Janjaweed, and the raping, the pillaging and murder is so direct that I am convinced, with an order from the top, the crisis would stop. It would immediately end.

The regime in Khartoum, however, has cynically concluded it can survive a moderate amount of diplomatic pressure and continue the genocide. I refer,

again, to this to be ''genocide.'' Indeed, it was in the Senate that, through a resolution which was unanimously accepted, we called it genocide. That is what it is.

Khartoum seems to believe it can ignore the mostly rhetorical pressure that has been brought to bear by the international community. That, unfortunately, has been what the international community has done. The light has been shone on the tragedy that has occurred there, but the response from the international community has not yet been as strong or as bold as it must be.

Khartoum believes the threat of a Chinese veto at the United Nations Security Council will protect it from more serious sanctions. We have to prove them wrong.

About 7 years ago I first went into Sudan. Osama bin Laden left Sudan about 1996 and shortly thereafter I had the opportunity to first go into the Sudan as part of a medical mission team. I have been able to visit the Sudan, Uganda, Kenya, and now Chad, the countries surrounding Sudan, as part of this medical mission work. A little hospital called Lui in southern Sudan that I visited this August now sees about 40,000 patients a year. There is still no running water there, and there is still no electricity. There is a generator, but there is still no villagewide electricity. It is in the southern region of Sudan.

The first few times we flew into that area, there was no hospital, or the hospital had been locked up, with landmines all around, for about 18 years, and we could not operate in the little hospital. That has been closed down for almost two decades. So the first operations were performed in a little schoolhouse. I remember vividly driving up and they said, this is where you will be operating. It was clearly a little schoolhouse because you walked into the room we were operating in the next day and there was a big chalkboard there. There was a chalkboard on the opposing wall, literally. Within 24 hours we did those first operations.

After a couple of years operating in the schoolhouse, the landmines were taken out. It was demined. The old hospital was demined. Today, as I said, from the first few patients, almost 40,000 patients were seen last year, with thousands of operations performed, still under primitive conditions.

Once you have a health care entity or a doctor-patient relationship or surgery being performed, all of a sudden trust is reestablished. And although there was no village there at the time because people had been displaced from their homes and driven back into the surrounding hills, once that doctor-patient relationship began, soon thereafter a little commercial activity started and people would come and camp outside the facility. Then the next year I would go back and instead of having one little cart there selling tobacco or maize, there would be five or six. The next year there would be 30. Now there is a huge market. Now there is a church that has opened and a school that has opened. It has become a village now with people coming from hundreds of miles around to this, still, only full-service hospital or clinic in southern Sudan.

In the southern Sudan, this region of Lui, I also had the opportunity to go up to the Nuba mountains, which was an interesting first trip for me because the Nuba mountains had been closed for a period of time to all aid. There was no United Nations aid coming in because the Government at that time—again, this was 6 or 7 years ago—said it was too dangerous and they would not let relief agencies go in. I had the opportunity to go in. The fact I could get in—at the time I was a U.S. Senator but predominantly traveling as a medical missionary—it was safe enough for us, so aid could go in and aid is going in from around the world to that part of the world.

I had the opportunity to go to Bapong, a town in the upper west. I remember flying into Bapong and we treated a patient right off the field we landed in. Somebody brought a patient there. I remember vividly the patient would have died, if we had not come in, because of a huge abscess, infection, in his thigh. I remember it so vividly. By that very simple procedure, very, very simple procedure, this man's life was saved. In fact, as a surgeon, it was a very easy procedure, but there was a medic—we called him a medic; a medicine man—no formal training, who was responsible for the villagers. Because of superstition and because he had never done it, he did not know how far he could actually cut with the knife and the patient still be able to live. By grabbing his hand and my hand wrapped around his hand, it gave him confidence to go a little bit deeper. When we went a little bit deeper, the infection was released. I remember the joy in his face because he realized that action, indeed, had in essence saved this patient's life.

In Bapong, I was told by regional leaders that the government was deliberately targeting civilians and denying them basic medical needs. Ten days after my visit, government forces attacked Bapong and killed 2,000 people.

It is long past time for the Sudanese Government to cease and desist activities that have resulted in civil war and punishment. Countless innocent people have died. Now the crisis is risking—I hope it does not occur—but there is a risk of it spilling over into neighboring countries.

This fall, the Senate and House unanimously passed resolutions pressing for the immediate suspension of Sudan's membership on the United Nations Commission on Human Rights. All 535 legislators, 100 in this body and 435 in the House of Representatives, agreed that Sudan's membership on a commission to protect human rights is a travesty, a cruel trick at the same time that such oppression and death is going on in the Darfur region. It defies all decency that a nation that is actively engaged in genocide against its own people could occupy a position of honor and authority on a commission in the United Nations devoted to human rights. It does not make sense. It is wrong.

I applaud the President and Secretary Colin Powell for their effort to bring accountability to the Khartoum Government. This administration has shown immense leadership in addressing the crisis in Darfur. The United States is providing over 80 percent of the supplies flowing to Darfur in eastern Chad. It is something that we as a Nation should be proud of, we are proud of.

Since February of 2003, we, this body, our Government, have provided $218 million for Sudan. The Senate foreign operations bill provides $611 million more for fiscal year 2005 and an additional $75 million for African Union peacekeeping activities.

In September, Secretary Powell came before the Senate Foreign Relations Committee and unflinchingly declared the situation in Darfur to be government-sponsored genocide.

Last month, the President authorized the use of three C–130 transport planes to convey 3,300 Rwandan and Nigerian peacekeeping troops into Darfur. We have much to be proud of, but there is much more to do.

The United Nations Security Council is concluding its 2-day meeting in Nairobi, Kenya, right now. During this week's meeting, council members discussed all sorts of approaches, mainly carrot-and-stick approaches, to bringing Khartoum into compliance with those international human rights standards.

U.N. Ambassador Jack Danforth, a former colleague of ours from this body, has worked hard to press the U.N. to take bold and concrete action. I support him with every fiber in my body for this critical work, for this difficult work, for this challenging work.

As you can tell, I am deeply committed to the future of the Sudanese people. I will be back there on a regular basis. What I learn, I do bring back to this floor. And whether it is translating it into our Sudan Peace Act of years ago, or into our observations and declaration of genocide in the Darfur region, or increasing aid to that part of the world to facilitate peace, or to support the tremendous leadership and tremendous work of Ambassador Danforth, we must be there as a nation. And we will be there as a Senate.

The plight of the Sudanese people calls out to all freedom-loving nations, not just to the United States. So I encourage other nations to look, to observe, but then to act, and to assist or work side by side with the United States of America as we address these challenges.

As a Senator speaking on this floor, as a physician, as a doctor, as a human

being who cherishes life, I believe it is our duty to answer that call.

CLEAN WATER

Mr. FRIST. Mr. President, I am going to mention one final topic as we wait for the final wrapup business to be concluded. It is a topic that is related to the topic I just discussed because it centers on the continent of Africa. It focuses on a different issue, but an issue that has real global consequence.

I traveled to Africa last year with our colleagues from this body, Senator WARNER, Senator DEWINE, Senator ENZI, Senator ALEXANDER, and Senator COLEMAN. We visited a project to bring clean water to people. This was down in the southern part of Africa in Mozambique. The project is to get clean water to the village of Tshalala, Mozambique.

This particular project is funded by a wonderful organization whose leadership I admire tremendously, supported by generous people all over this country, indeed, around the world, the group called Living Water International.

Now, this was out in the bush. It was out in a very rural area. The project was located in a neighborhood that was small. It was a very dusty, very poor neighborhood. But that neighborhood had clean water, and it came from a simple well with a hand pump. We all pumped from this well. It functioned easily. It became the whole centerpiece, of course, and the real focus for that entire community.

Access to clean water is a women's issue. It is a public health issue. It is a sanitation issue. But I started by saying it is a women's issue because it is the women in Africa—all over the continent in Africa, in Mozambique and in Tshalala—who, before having a well, would be the ones who would walk for, not just minutes, but hours in order to get water for their family. But women in that part of Tshalala did not have to walk miles with jugs of water to provide for their families. Instead, the well supplied their households with clean drinking and bathing water.

What Living Water International does is very simple. It teaches residents to drill wells. It trains them in sanitation and equips them with the tools and knowledge to maintain water equipment.

The pump we saw in Tshalala cost, in American dollars, about $2,800. It improves the standard of living. It spares many of the women that backbreaking labor. It saves them time and allows them to be with their children. This well saves the lives of dozens of villagers.

From a public health standpoint, from a sanitary standpoint, it saves lives. It is exactly the sort of resource that is lacking in much of the world. Clean water ranks high among the world's health problems. The statistics are staggering. They should alarm any person of conscience.

What are they? According to the World Health Organization, over 1.8 million people die each year as a result of diarrheal disease. Almost all of it is caused by waterborne illness—1.8 million people.

Over 40 percent of the world's population, most of it in undeveloped regions of Africa and Asia, live without access to clean water. Without intervention, the problem could get much worse. In the next 50 years, 3 billion people will join the human family. Most will live in areas that lack clean water.

Economies in the poorest regions of the world will be unable to develop unless good water systems are in place. Agriculture alone consumes anywhere from 70 to 90 percent of available water supplies. Manufacturing, likewise, is nearly impossible without clean water.

Just as important, unsafe water poses a clear security threat. Water basins do not follow national borders, and conflict over them will escalate as safe water becomes even scarcer. These conflicts may come to threaten our own national security.

Modest, pragmatic, clean water projects that yield real measurable benefits will make things better. While we would like to build First World water systems everywhere, we obviously have to acknowledge limits of time and resources.

Over the last several decades, the United States, the United Nations, Japan, and dozens of other nations and organizations have worked to bring the world clean water. Despite sincere efforts, we have not made enough progress. There is much more to be done. Access to clean water has even declined in some parts of the world.

Our experiences in Africa showed us the magnitude of the problem we face. They offer four important lessons about how we can improve access to clean water, to safe water, to healthy water around the globe.

First, any strategy must involve the entire community that it serves.

Local businesses, nonprofits, and individuals should own, maintain, and improve the water sources that serve them. Without adequate local support and local expertise, water systems will fall apart.

We should also promote cost-sharing with water users to create a sense of ownership. At the Tshalala well, for example, community members contribute 5 percent of the total cost toward maintenance.

Second, the U.S. and other developed nations must mobilize both public and private resources to confront this problem.

This may require legislative action. A strategy should leverage resources to increase our projects' scale and avoid duplication of effort. Private organizations can provide a vast reserve of humanitarian and hydrological expertise. We should work to build coalitions of governments, international organizations, water utilities, and other private enterprises, foundations, scientific institutions, and NGOs.

Third, education should play a key role in any strategy.

Simple hand washing, for example, prevents disease transmission. But a single set of dirty hands can contaminate an entire water source. This aspect is going to take more than simple outreach. Real hygiene improvements will happen only if people have access to adequate, reliable, convenient water resources.

Fourth, where appropriate, clean water should rank high among our health aid priorities.

The developed world spends billions on health aid. Health care professionals have long understood the strong connection between clean water, basic sanitation, and good health.

Last year, USAID spent less than $325 million for international drinking water supply and sanitation. Less than $20 million of this amount went to Africa—the very region that has the most severe water crisis. Clearly, these are inadequate sums.

Our large and worthy investment in the battle against HIV/AIDS in Africa and around the world cannot succeed without clean water; they are interrelated. And neither can our vision for a safer, healthier, and more prosperous world.

The people of the world need clean water to live. They deserve it. With our help and firm commitment, they can get it.

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

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

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be a period of morning business, with Senators speaking for up to 10 minutes each.

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

CONDOLEEZA RICE

Mr. FRIST. Mr. President, I come to the Senate floor to applaud President Bush on his nomination of Dr. Condoleezza Rice for Secretary of State. She is an outstanding choice, and the American people are fortunate to have a public servant of her talent and intellect.

During her tenure as National Security Advisor, Dr. Rice has been a steady and trusted confidant to the President. In her role of crafting policy and helping guide decision making, she has demonstrated extraordinary skill. But this should come as no surprise.

Dr. Rice is a woman of remarkable accomplishments. Throughout her life, she has applied her razor sharp mind and steely determination to reach the highest peaks of achievement.

Dr. Rice was born in 1954 in Birmingham, AL. By the age of 3 she was already a piano prodigy playing hymnals for her family. By age 5, she was playing beside her mother on the church organ bench.

At 19, Condoleezza earned her bachelors degree in political science cum laude, Phi Beta Kappa from the University of Denver and a year later, her Master's from Notre Dame. And at the young age of 26, having earned her Ph.D., Dr. Rice became an assistant professor at Stanford University.

A decade later, Dr. Rice was elevated to the post of Provost, essentially the chief operating officer of the University.

From 1989 to 1991, Dr. Rice served the first Bush administration as Director, and then senior Director, of Soviet and East European Affairs at the National Security Council.

During this time, Dr. Rice brought her considerable expertise in Eastern European affairs to the administration's handling of the collapse of the Berlin Wall, Germany's reunification, and the transition of the Soviet Union to the Russian Federation. This, combined with her years of foreign policy experience, particularly in the post 9/11 context, make her distinctly qualified to lead the Department of State.

As the President said in his announcement, we are a Nation at war. As Secretary of State, Dr. Rice will have the responsibility of advancing democracy and freedom across the globe, not only to protect us from attack, but to fulfill America's unique moral purpose.

Outlaw regimes must be confronted. Dangerous weapons proliferation must be stopped. Terrorist organizations must be destroyed. Dr. Rice has both the ability and experience, from fighting the Cold War to the War on Terror, to meet these daunting challenges.

Dr. Rice possesses a rare combination of management and administrative experience, public policy expertise, high academic scholarship, and not least importantly, a graciousness that will serve America's interests well. In these difficult and challenging times, America needs a leader of her caliber.

Dr. Rice has said that growing up, her father John, and her mother, Angelena, taught her that in a country where racial segregation and Jim Crow were an ugly fact of life, she had to be twice as good to get ahead. I think it is fair to say that she has surpassed this high charge.

Dr. Rice is an author, classically trained pianist, ice skater, and tennis player. She speaks Russian fluently and is an avid fan of football. We are grateful that she has set aside, at least for the moment, her ambition to become Commissioner of the National Football League.

A woman of deep faith in God, liberty, and freedom, Condoleezza Rice will protect and serve our national interests. I should also note that Dr. Rice would be the first African American woman to serve as Secretary of State.

I urge the Senate to give Dr. Rice their strong support. I hope and expect to see her confirmed swiftly so she can begin addressing the urgent threats and challenges that face our great Nation.

TRIBUTE TO RALPH BOLING

Mr. MCCONNELL. Mr. President, I rise today to pay tribute to Mr. Ralph Boling, a fine Kentuckian who passed away at the age of 76 on September 27, 2004.

Mr. Boling, a native of Hancock County, KY, dedicated his life to serving others. His service began with a stint in the U.S. Army. After protecting his country, he returned to his beloved Hancock County and served as an auctioneer, an oil-well driller, the Hancock County road foreman, and the superintendent of the Hawesville Water Works.

In 1970, Mr. Boling was elected sheriff of Hancock County. He served until 1973, was reelected to a second term in 1978, and served until 1981. By taking this post, Mr. Boling was continuing a family tradition: Both his father, Claude, and his mother, Leva, had previously served as Hancock County sheriff. President Ronald Reagan then appointed Mr. Boling to serve as the United States Marshal for the western Kentucky district, a post he held for 12 years.

Mr. Boling resigned as a U.S. Marshal to run for judge-executive of Hancock County. On November 2, 1993, he defeated the two-term incumbent with over 58 percent of the vote; he carried each of the county's eight precincts as well as absentee ballots. During his 5-year tenure, Mr. Boling worked tirelessly with people across party lines to put the community first. He successfully closed the county's landfill and pushed for the creation of the county's career center. Thanks to Mr. Boling, the Hancock County Career Center is a resource for job opportunities, worker training and continuing education today.

Mr. Boling's proud family tradition of public service continues with his granddaughter, LeAnn Crosby, who works as a field representative in my Bowling Green, KY, office.

His dedication to the Hancock County community went beyond a career choice. He was a member of Hancock Lodge No. 115 and served various positions in the organization. He was a member of the Fraternal Order of Police and was active within the Blackford Baptist Church. And one of his greatest passions was rooting for my alma mater, the University of Louisville basketball team.

Today I ask my colleagues to joining me in paying tribute to the life of Mr. Ralph Boling. He will be missed by his family, his friends and constituents in Hancock County, and the entire Commonwealth of Kentucky.

TRIBUTE TO TONY CRUISE

Mr. MCCONNELL. Mr. President, I rise today to pay tribute to Mr. Tony Cruise, the morning voice of WHAS radio in my hometown of Louisville, KY. His love of Louisville and his perseverance and dedication to WHAS is something to be commended. Tony and his family moved to Louisville in 1969. As a child, he fell in love with the city and the voices he heard on the local radio. While most members of the media community long for the ''big time'' of New York or Los Angeles, Tony's dream, since he was a young man, was to be the morning anchor for WHAS, home of such Kentucky radio giants as Van Vance and Wayne Perkey.

Tony received his first radio job at WWKY in Winchester as the Saturday afternoon disc jockey in 1980. His career almost ended after his first show. Fortunately for future WHAS listeners, Tony was a quick learner. He graduated from Eastern Kentucky University with a bachelor's degree in mass communications in 1982.

In 1992, there was a position available at WHAS. Tony wanted this position so badly that he waited outside the station for station manager Skip Essick to head home, so he could lobby for the position. His persistence paid off, when that October, Tony was hired. He hosted ''Sports Talk,'' a call-in show that mainly focused on the interstate feud of athletic prowess between my alma mater, the University of Louisville, and the University of Kentucky.

In May of this year, Tony realized his lifelong dream, when he was named the newest morning show host at WHAS. Unlike many radio personalities these days who love to offend, Tony is a decent, honest man who opens his heart to his listeners every morning. No wonder he is welcome in so many Kentucky homes, including mine.

Tony is a friend of mine and I have been privileged to be a guest on his show. It is a terrific program. The Louisville community agrees, as some 120,000 people tune in to ''The Cruiseman'' as he is known, every week. I enjoy and commend him for his excellent work.

I ask all my colleagues to join me in paying tribute to Mr. Tony Cruise for his outstanding contributions to the Louisville community.

TRIBUTE TO JAMES PATTERSON

Mr. MCCONNELL. Mr. President, I rise today to pay tribute to an upstanding and generous member of the Louisville, KY, community, Mr. James Patterson.

Born and raised in Louisville, Jim, as his friends call him, has always loved two things: his hometown, and baseball. He attended the University of

Louisville, also my alma mater, where he starred on the Cardinal baseball team and graduated in 1955 with a degree in marketing.

After graduating, Jim served a stint as a Captain in the United States Air Force and eventually returned to Louisville, which is also my hometown, where he embarked on a very successful business career as a restaurateur. Quite frankly, if you have ever eaten in Louisville, chances are you ate in one of Jim's restaurants. In 1959, he became a franchisee of Jerry's Restaurant. Ten years later he founded the Long John Silver's seafood restaurant chain. Under Jim's leadership, Long John Silver's rose to number one in the country, and today is the largest seafood restaurant chain in the world.

Jim helped found Chi-Chi's Mexican Restaurant, Rally's Hamburgers, and Western Restaurants. He has also founded the companies AmeriCall Services, Resource America and First Phone, worked with Gulfstream Petroleum, and currently owns Pattco LLC, a privately held investment vehicle.

Jim has always believed in sharing his success with the city he loves. In 1998, he founded School Choice Scholarships, a privately funded program that helps low-income families pay tuition for their elementary-aged children to attend private schools. School Choice Scholarships provide assistance for 650 Louisville youths, 250 of whom owe their scholarships to Jim personally.

Jim has finally combined his two loves, Louisville and baseball, by donating a very generous sum to enable the University of Louisville to begin construction on a new, $10-million baseball stadium, which broke ground this October 7. In their gratitude, the university has named the facility the Jim Patterson Stadium.

Today, I ask my colleagues in the Senate to join me in paying tribute to Jim Patterson for his passion, kindness, and charity. He is a valuable member of the Louisville community.

TRIBUTE TO JAMES C. RUSSELL

Mr. MCCONNELL. Mr. President, I rise today to pay tribute to one of Kentucky's barons of bourbon, Master Distiller James ''Jimmy'' C. Russell. This year marks Jimmy's 50th year of service at the Wild Turkey Bourbon Distillery in Lawrenceburg, KY. Jimmy is so beloved at Wild Turkey, they named one of their finest products after him in 2000—the 10-year-old Russell's Reserve. I recently toured the Wild Turkey Bourbon Distillery, where Jimmy showed me the bourbon-making process personally. The bourbon distillery tradition in Kentucky dates back to 1789, and has been handed down through generations of Kentuckians. Bourbon is truly a Kentucky product—named, in fact, for Bourbon County, Kentucky. Ninety percent of all bourbon worldwide is made in the Bluegrass State, and one of the most famous brands is Wild Turkey.

Jimmy was born and raised just 5 miles from the Wild Turkey distillery, and both his grandfather and father worked there. Jimmy entered the family business in 1954 when he got his first job at the Lawrenceburg distillery. He mastered the craft under Mr. Bill Hughes, Wild Turkey's second Master Distiller, and Mr. Ernest W. Ripy Jr., the son of one of the original owners of Wild Turkey.

Jimmy is especially proud that the family tradition will continue, as his son, Eddie, has worked at the Wild Turkey distillery for the past twenty years.

Jimmy has become a legend in the distilled-spirits community over the last five decades. He is a director of the Kentucky Distillers Association, and spends time as a goodwill ambassador for Wild Turkey Bourbon. Throughout the Wild Turkey Bourbon Distillery, he is known as a ''master distillers' master distiller.''

Jimmy is a respected figure in his hometown of Lawrenceburg. He is a deacon at his local church and a supporter of Anderson County High School athletics. He also adores his wife of fifty years, Joretta, and their rose garden.

Today I ask my colleagues to join me in honoring and recognizing Mr. James C. Russell, Master Distiller, and his 50 years of loyal service to the Wild Turkey Bourbon Distillery and the Lawrenceburg, KY, community.

COOPERATIVE RESEARCH AND TECHNOLOGY ENHANCEMENT ACT OF 2004

Mr. LEAHY. Mr. President, I am pleased that the House has voted to pass the Cooperative Research and Technology Enhancement Act, the CREATE Act of 2004, sending this important and needed legislation to the White House for the President's signature. This past March, I joined with Senator HATCH, Senator KOHL, and Senator FEINGOLD introducing the CREATE Act, which will provide a needed remedy to one aspect of our Nation's patent laws.

In 1980, Congress passed the Bayh-Dole Act, which encouraged private entities and not-for-profits such as universities to form collaborative partnerships that aid innovation. Prior to the enactment of this law, universities were issued fewer than 250 patents each year. Thanks to the Bayh-Dole Act, the number of patents universities have been issued in more recent years has surpassed 2,000—adding billions of dollars annually to the U.S. economy.

The CREATE Act corrects a provision in the Bayh-Dole Act which, when read literally, runs counter to the intent of that legislation. In 1997, the United States Court of Appeals for the Federal Circuit ruled, in Oddzon Products, Inc. v. Just Toys, Inc., that nonpublic information may in certain cases be considered ''prior art''—a standard which generally prevents an inventor from obtaining a patent. The Oddzon ruling was certainly sound law, but it was not sound public policy, and as a result some collaborative teams have been unable to receive patents for their work. As a consequence, there is a deterrent from forming this type of partnership, which has proved so beneficial to universities, the private sector, the American worker, and the U.S. economy.

Recognizing Congress' intended purpose in passing the Bayh-Dole Act, the Federal Circuit invited Congress to better conform the language of the act to the intent of the legislation. The CREATE Act does exactly that by ensuring that non-public information is not considered ''prior art'' when the information is used in a collaborative partnership under the Bayh-Dole Act. The bill that the House passed today also includes strict evidentiary burdens to ensure that the legislation is tailored narrowly so as only to achieve this goal that—although narrow—is vitally important.

I also wish to draw attention to Senator HATCH's statement of June 25, 2004, in which he explained some of the more complex issues surrounding the CREATE Act. I agree entirely with his comments, which I will prove useful for those seeking a background understanding of this legislation.

Again, I thank the House for moving to pass this legislation as the 108th Congress drew to a close, and I would also like to thank in particular Senator HATCH, Senator KOHL, Senator FEINGOLD, Senator GRASSLEY, and Senator SCHUMER for their hard work in gaining this bill's passage.

HONORING OUR ARMED FORCES

CORPORAL JARROD L. MAHER

Mr. GRASSLEY. Mr. President, I rise today to pay tribute to a fellow Iowan, Marine Cpl Jarrod Maher, who gave his life for his country in Iraq, and to express my heartfelt sympathy to his family. A native of Imogene, IA, Corporal Maher was serving in the Baghdad suburb of Abu Ghraib as a member of the 1st Battalion, 4th Marine Regiment, 1st Marine Division, 1st Marine Expeditionary Force stationed in Camp Pendleton, CA. Only 2 weeks after his graduation from Shenandoah High School, Maher became a marine. Corporal Maher is survived by his father and mother, Kevin and Jacque Maher, as well as numerous siblings.

Jarrod Maher will be missed by a great many people. His service and sacrifice represent Iowa at its best. In describing him, his father, Kevin Maher said, ''He loved being a Marine, but he also loved coming home. He loved the farm. He loved to help.'' In honor of Jarrod's spirit of selflessness, I ask my colleagues in the Senate and my fellow Americans to join me in paying respect to Marine Cpl Jarrod Maher.

INDIVIDUALS WITH DISABILITIES EDUCATION ACT

Mr. KOHL. Mr. President, I express my support for the Individuals with Disabilities Education Act conference report that passed the Senate yesterday. It is not a perfect bill, but I believe it represents a fair balance of the concerns of schools and parents of children with disabilities. Above all, it upholds the rights of all children with disabilities to a free, appropriate education in our public schools. It promises them access to a high quality education to help them succeed and live productive lives. And it includes strong monitoring and enforcement provisions to ensure that that promise is kept.

The bill includes several improvements over current law that will help secure the rights of children with disabilities and uphold the rights of parents advocating for their children. First, it holds schools accountable for educating disabled students by giving the Secretary of Education the tools to monitor how well States and schools are complying with the law and sanctioning those that fail to serve disabled students. It provides flexibility and resources for early intervention and preschool services for younger children, and promotes transition services for older students in order to prepare for their post-school years. It preserves the Individualized Education Programs to ensure that parents have quarterly reports of their child's progress and short-term objectives for those with the most severe disabilities. It provides for more teacher training and strengthens teacher quality requirements so that students are taught by highly qualified teachers. It also adds options for parents and schools to work together to resolve disputes, but preserves the right to due process if a school is out of compliance.

At the same time, this bill also responds to many of the concerns raised by schools and teachers. It provides relief from unnecessary and burdensome paperwork so that teachers can focus their attention on educational services. It provides more opportunities to resolve conflicts and disagreements other than through costly and acrimonious litigation. And it provides more resources for professional development so teachers are equipped to deal with the often complex but critical needs of students with disabilities.

This bill also addresses the serious issue of discipline—an issue that has caused many concerns over the years by both education officials and parents of children with disabilities. The bill includes a bipartisan compromise that clarifies and strengthens discipline provisions so that schools can remove children who pose a serious danger to themselves or others to an alternative setting, while ensuring that those children continue to receive services. At the same time, this compromise protects the rights of disabled children in disciplinary action by preserving the manifestation determination so that children are not punished for behavior caused by their disability, and continuing services if a child is placed in an alternative setting. I know that some parents are worried about these revised discipline provisions and would prefer current law. I agree that we must continue to monitor these provisions carefully to ensure they are implemented fairly and with the best interests of disabled children in mind.

Despite these positive features, I am very disappointed that this bill does not move us any closer to fully funding IDEA. When IDEA was first enacted in 1975, Congress made a commitment to fund 40 percent of the costs, in recognition of the added expenses schools would incur in serving disabled students. Today, the Federal Government is funding IDEA at the highest levels since it was created—but sadly, that funding only covers approximately 19 percent of the costs. I have cosponsored and supported legislation that would require mandatory full funding for IDEA, and as a member of the Appropriations Committee, I will continue to fight for full funding of IDEA. It is past time for the Federal Government to live up to its obligations.

The conference report is not a perfect bill. Clearly, there are provisions that will trouble both sides—both the educational community and the families of disabled children. But on balance, I think the bill represents a real compromise and has great potential to lead to improved educational services for children with disabilities. It attempts to create a balanced approach that recognizes the challenges faced by teachers and schools, while still ensuring that all children with disabilities have access to the highest quality education. I will continue to work to fully fund its provisions so that the promises it makes will become a reality. This bill is worthy of the Senate's support and I urge my colleagues to vote for it.

BOEING 767 TANKER LEASE

Mr. MCCAIN. Mr. President, yesterday I spoke on the Senate floor regarding the investigation into the Air Force proposal to acquire Boeing 767 aerial refueling tankers. During my 45 minute remarks, I had made reference to certain letters, press articles and e-mails I ask unanimous consent that that material at a cost of $3,200.00 be printed in the RECORD of today's proceedings.

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, Dec. 2, 2003.

Hon. PAUL WOLFOWITZ,
Deputy Secretary of Defense,
Washington, DC.

DEAR SECRETARY WOLFOWITZ: I commend the Secretary of Defense and yourself for the prompt actions you have taken regarding the Air Force's tanker aircraft program, in light of recent extraordinary personnel actions taken by the Boeing Company. Your decision to require a ''pause'' in the execution of any contracts to lease and purchase tanker aircraft is a prudent management step.

Further, I concur in your judgment to task the Department of Defense Inspector General, DOD–IG, to conduct an independent assessment. However, I believe that the DOD–IG assessment should go further than the review described ion your letter of December 1, 2003. The DOD–IG inquiry should pursue the trail of evidence wherever it leads, in accordance with standard IG procedures. This inquiry should examine the actions of all members of the Department of Defense and the Department of the Air Force, both military and civilian, top to bottom, who participated in structuring and negotiating the proposed tanker lease contract which was submitted to the Congress in July 2003.

Your recent actions clearly indicate that there are many outstanding questions that must be answered before proceeding with this program. I expect that you will consult further with the Congress as you receive the report of the DOD–IG and that no actions will be taken with respect to the lease and purchase of KC–767 tanker aircraft until the Congress has had an opportunity to review the DOD–IG report. Ultimately, this program, as restructured, must be executed in a manner that is fully consistent with Section 135 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136).

With kind regards, I am

Sincerely,

JOHN WARNER,
Chairman.

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, Nov. 19, 2004.

Hon. DONALD H. RUMSFELD,
Secretary of Defense,
Washington, DC.

DEAR MR. SECRETARY: On December 2, 2003, Chairman Warner wrote to Deputy Secretary Wolfowitz to request that the Department of Defense Inspector General (DOD IG) conduct a thorough investigation of the KC–767A tanker aircraft program. According to Chairman Warner's letter ''this inquiry should examine the actions of all members of the Department of Defense (DOD) and the Department of the Air Force, both military and civilian, top to bottom, who participated in structuring and negotiating the proposed tanker lease contract which was submitted to the Congress in July 2003.'' A copy of that letter is attached.

It was our understanding that the requested DOD IG review would assess not only individual responsibility for any allegations of criminal violations of law; but, equally important, individual accountability for management decisions and executive oversight. In essence, the Senate Committee on Armed Services, in order to conduct its necessary legislative oversight of the Department of Defense, needs to know what happened, who was accountable and what actions must be taken to prevent this situation from happening again.

It is astonishing to us that one individual could have so freely perpetrated, for such an extended period, this unprecedented series of fraudulent decisions and other actions that were not in the best interest of the Department of Defense.

We recently found out that no such managerial accountability review has been undertaken by the DOD IG. Rather, the DOD IG limited his review to determining whether there was evidence to press criminal charges. We are deeply concerned by this development. Given the Chairman's letter, why was a decision made not to do this work?

Congressional oversight of the proposed contract to lease 100 KC–767A tanker aircraft, a contract which is now prohibited by section 133 of the National Defense Authorization Act for Fiscal Year 2005, uncovered the most significant defense procurement scandal since the Ill Wind bribery and fraud

cases of the 1980s. It is imperative that the Department take actions to hold those responsible accountable. Otherwise, the fallout from this Air Force procurement scandal will have disastrous effects on the integrity of the acquisition system.

In our view, an assessment of accountability should include a review of all members of the Department of Defense and the Department of the Air Force, both military and civilian, who participated in structuring and negotiating the proposed tanker lease contract. Most importantly, this should include Secretary of the Air Force Jim Roche, and Assistant Secretary of the Air Force Marvin Sambur. We reiterate the Committee's request that the DOD IG immediately initiate such an accountability review.

Again, we do not understand how one individual could have amassed so much power that she was able to perpetuate such fraud against the federal government and other actions that were not in the best interest of the Department of Defense. Where was the oversight? Where were the checks and balances? At a minimum, the acquisition chain of the Air Force, and perhaps DOD, was woefully inadequate. The fact that no Departmental review of these questions has been conducted raises significant accountability and oversight questions that go far beyond this one case. We trust you will endeavor to rectify the situation and hold those who are responsible accountable.

Sincerely,

CARL LEVIN,
Ranking Member.
JOHN MCCAIN,
U.S. Senator.
JOHN WARNER,
Chairman.

DEPUTY SECRETARY OF DEFENSE,
Washington, DC, Nov. 19, 2004.

Hon. JOHN W. WARNER,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As you know, the Department soon will complete the analysis of alternatives (AoA) for recapitalization of the KC–135 tanker aircraft fleet, and that portion of a broader mobility capability study (MCS) related to aerial refueling. Based upon the recommendations of the Defense Science Board, I accelerated, to November of this year, the schedule for completion of these initiatives. The AoA and MCS will be critical to our development of a plan to recapitalize the tanker fleet, and to provide adequate aerial-refueling capabilities for military aircraft over the long term.

In structuring the AoA and MCS, we recognized that we should base the recapitalization of the fleet on a thorough and careful assessment of the ways in which we might perform the aerial-refueling mission. To ensure that we consider all viable solutions, the AoA addresses a wide range of alternatives, from the retention and re-engineering of KC–135E aircraft to the development of a new military tanker aircraft.

Let me be clear: After we have selected an appropriate alternative, we intend to require competition. No matter which alternative we choose, leasing is not an option without new congressional authority.

Sincerely,

PAUL WOLFOWITZ.

[From the Defense News, Nov. 3, 2003]

FULL DISCLOSURE

In March, Defense News published a commentary by Adm. Archie Clemins, former commander in chief of the U.S. Pacific Fleet. In it, he advocated a U.S. Air Force plan to lease 100 planes from Boeing Co., which would modify the 767s for the Air Force's aerial refueling mission. That a Navy man would back an Air Force program is what made it intriguing.

What we didn't know at the time was that Clemins did not write the piece. Nor did he think on his own to write it. Nor, for that matter, did he even think to send it to Navy Times, a sister publication, without prompting.

In truth, a Boeing representative came up with the idea, asked Clemins to write it, and provided a writer to help get the job done. Boeing also suggested where he ought to send it and provided him the e-mail address.

Clemins says he was not paid for the article and stands by what it says. We believe that.

But he acknowledged that prior to writing the article, he had done some paid consulting work for Boeing, and that he has since developed a more formal consulting arrangement with the company. He said he made no effort to ''pull the wool over anyone's eyes.''

In publishing the piece, regardless of who actually wrote it, we provided a forum for the free flow of ideas. That is the purpose of our Commentary pages.

But we failed to do some things we should have done. We should have asked Clemins if he had a financial relationship with the program or the contractor. We should have asked if he had, in fact, written the article himself. And we should have weighed his answers in our thinking, because that information is essential to the context of his article.

Had we known those things, we might still have published his opinion. But we would have included the other writer's name and noted Clemins' relationship with Boeing among his credentials at the end of the article. As it was, we merely noted that he was the former commander of the Pacific Fleet—true, but not the whole story.

Full disclosure is what we're after. Here, we fell short. We will work hard to ensure this doesn't happen again.

[From the Seattle Times, Nov. 18, 2004]

LOCKHEED ALLEGATIONS FOCUS ON BOEING'S CHIEF EXEC

Lockheed Martin has introduced evidence in a civil lawsuit that allegedly demonstrates Boeing Chief Executive Harry Stonecipher knew former Air Force acquisitions officer Darleen Druyun gave Boeing preferential treatment in the award of billions of dollars of Defense Department contracts before she joined the company last year.

Additionally, Lockheed introduced evidence it says shows Stonecipher and James Albaugh, chief executive of Boeing's Integrated Defense Systems unit, attended a September 1998 meeting with Druyun and Air Force Col. Richard McKinney in which Boeing allegedly received details of a confidential Lockheed proposal to provide rocket launches to the Air Force.

Druyun received a nine-month prison sentence last month for holding job talks with Boeing while still overseeing Boeing business at the Air Force. She further admitted to awarding more than $5 billion of Defense Department contracts to Boeing in exchange for jobs for her daughter, her son-in-law and herself.

Boeing and Stonecipher have been adamant that if Druyun showed the company any favoritism, Boeing was not aware of it.

''The statements Ms. Druyun made in her sentencing papers came as a total surprise,'' Boeing said last month.

However, Lockheed said in a court filing last week that it has ''an e-mail written by Mr. Stonecipher admitting that Darleen Druyun had favored Boeing in the past.''

It is not clear from the filing when the e-mail was written. The e-mail itself was placed under seal by the court.

Lockheed and Boeing officials could not be reached for comment.

Lockheed is pursuing a civil racketeering lawsuit against Boeing in Orlando, Fla., that accuses Boeing of using 40,000 pages of stolen Lockheed documents to gain an unfair advantage in a multibillion-dollar competition to provide satellite launches to the Air Force.

Druyun was not tied to that case originally. But after her guilty plea last month, Lockheed sought Boeing e-mails and other documents showing contacts between Boeing and Druyun concerning both the rocket competition and several other contracts she awarded to Boeing rather than Lockheed.

In October 1998, the Air Force awarded 19 launches to Boeing and seven to Lockheed.

The Air Force cited Boeing's lower price-per-launch as a major reason for giving Boeing so many launches.

Lockheed said in last week's court filing that handwritten notes of the September, 1998 meeting between Stonecipher, Albaugh, Druyun, McKinney and other Air Force officials suggest Boeing also received unfair treatment in the award of those launches by receiving confidential Lockheed pricing data.

''The fact that high-level Boeing officials discussed their proposal strategy and Lockheed Martin's pricing with Ms. Druyun shortly before the final (rocket) proposal submission is damning,'' Lockheed said.

The meeting notes, taken by David Schweikle, project manager for Boeing's Delta IV rocket program, were, like the Stonecipher e-mail, placed under seal.

U.S. Magistrate Judge Karla Spaulding last week agreed to let Lockheed lawyers question a Boeing representative about communications with Druyun on six contract competitions, including the rocket-launch contract.

''It may lead to admissible evidence about whether Boeing had improperly acquired proprietary information of Lockheed and others that it discussed with Druyun,'' the judge wrote.

Boeing lawyers objected to the judge's order, and a hearing was set for next month to resolve the objections.

The Boeing attorneys, in court filings, said Lockheed's request for information on Druyun is too broad, has nothing to do with the case and is an attempt by Lockheed Martin to concoct new complaints against Boeing.

CHIEF WEAPONS BUYER FOR AIR FORCE QUITS

WASHINGTON—The Air Force's chief weapons buyer said yesterday he is resigning to help clear the way for promotions bottled up in Congress over a stalled $23.5 billion plan to acquire Boeing 767 tanker aircraft.

Marvin Sambur said he had resigned as assistant Air Force secretary for acquisition effective Jan. 20, or sooner should President Bush's next choice for the job be confirmed before then.

''It's becoming pretty apparent that if I stayed it would be very difficult for the Air Force to have anybody confirmed,'' Sambur said in a telephone interview.

On Tuesday, Air Force Secretary James Roche resigned in a move aides said was also designed to free up nominations of officers whose Senate confirmations were held up by Armed Services Committee member John McCain, R-Ariz.

McCain had blocked a range of promotions over the Air Force proposal to acquire 100 Boeing 767 aerial tankers, which he slammed as a government handout to Boeing.

Sambur was once the boss of Darleen Druyun, who admitted improperly steering billions of dollars of Air Force contracts to Boeing before joining the company as a

$250,000-a-year vice president in January 2003.

A former president and chief executive of ITT Defense, Sambur oversees the Air Force's $37 billion procurement budget.

[The Wall Street Journal, Sept. 3, 2003]

JOHN MCCAIN'S FLYING CIRCUS

No one denies that the U.S. Air Force needs more refueling tankers. The only questions are how and when to get them. Senator John McCain calls the Pentagon's answer, a leasing arrangement with Boeing, an unsavory example of the modern ''military-industrial complex,'' a mistaken argument he will no doubt pursue today at hearings before his Commerce Committee. It's hard to overestimate the importance of these flying gas stations. Long-range bombers make it to their targets only because they can refuel in the air. It was our tankers that enabled coalition aircraft to circle high above Iraq's battlefields for hours, providing ground troops with the capability to call in immediate, precision air strikes on emerging targets. ''Our tanker force is what makes us a global power'' is the way the Air Force chief of staff, General John Jumper, puts it.

Yet for all that power, America's tanker fleet is in sad shape because the tankers are simply too old to keep flying. The Pentagon is hoping to remedy this quickly by leasing the tankers from Boeing, and three of the four relevant committees in Congress have given their approval to the contract. The fourth—the Senate Armed Services Committee—will hold hearings tomorrow. Senator McCain's Commerce hearings today are his way of trying to preempt approval by running up his own Jolly Roger.

Let's hope he doesn't draw the fight out too long. The average tanker is now more than 43 years old. During a visit last year to Oklahoma's Tinker Air Base, then-Air Force Secretary James Roche realized the urgency of the problem when he peeled back the skin of a tanker being refurbished and found the metal underneath disintegrating.

Age isn't the only problem. Not only will the new Boeing 767s be able to refuel all planes in the military's inventory—unlike the existing KC 135E's—they carry up to 20% more fuel and three times the cargo. And the leasing arrangement used to get them to the Air Force is similar to the way foreign militaries buy planes, selecting off-the-shelf technology and then signing a contract for rapid delivery. This is how Israel and Singapore get the latest F–16s five years before the U.S. Air Force.

We're as opposed to sweetheart deals as anyone. But it seems to have escaped Senator McCain's notice that Boeing's main competitor here, the European consortium that produces Airbus, virtually defines corporate welfare. And so far as we can tell, the e-mails between Boeing, the Pentagon and the Air Force released by his committee last week seem to show only that Boeing was lobbying hard for a multibillion-dollar deal (surprise!) and that cost was a big concern.

In short, the real issue the Senate Armed Services Committee needs to zero in on here isn't just overall lifetime cost but value for money. The Air Force needs tankers now, and the leasing arrangement was deemed the way to get tankers into its hands most expeditiously, not least because it bypasses procurement procedures that could stretch out a buying decision for years.

Senator McCain and other critics like to talk about what he says are the billions more that a leasing deal will cost over buying these birds outright. Leaving aside the huge dispute over the price tag, let's hope the Armed Services Committee considers the costs our military might incur by not getting these tankers as soon as possible.

USAF E-MAILS ON BOEING 767 TANKER LEASE PROPOSAL

ORIGINATOR, DATE, SUBJECT

Roche, August 07, 2002, FW: Crosby Finds a Home at EADS; Bodie, Sept 04, 2002, Re: Fw: Defense Week Daily Update: EADS: Our Tanker Offer Cost Less Than Boeing's; Druyun, Sept 05, 2002, Our friend; Hodges, June 20, 2003, FW: KC–767 ''Savings'' for comment & Courtesy Copy of Memo; Wynne, June 23, 2003, Tankers; Weaver, May 7, 2003, 767 Lease; Druyun, Oct 9, 2002, Tanker Leasing; Calbis, Nov 7, 2001, CBO has questions about your scoring of the tankers; Roche, Friday, November 28, 2003, RE: Tankers; Roche, August 8, 2002, Re: hello?

Albaugh, Wednesday, September 18, 2002 8:03 PM, RE: Marvin Sambur; Ellis, Tuesday, December 17, 2002 9:36 PM, notes from jim Albaugh's meetings; Albaugh, Monday, June 23, 2003 3:00 PM, FW: Roche mtg 23 Jun 03; Wynne, Tuesday, July 08, 2003, Re: 767 and DepSecDef; Roche, Wednesday, April 16, 2003, RE: Tankers; Roche, Nov 19, 2002, 767 Lease; Roche, Monday, December 17, 2001 7:24pm, Re: 767 Leasing; Jumper, Tuesday, February 25, 2003 8:58pm, Re: Offsets for tanker lease; Wynne, Wednesday, June 25, 2003, RE: OSD(C) AND 767 LEASE; Lemkin, June 25, 2003, OSD(C) and 767 Lease.

Roche, Tuesday, July 08, 2003 9:44 pm, Re: Footnote; Roche, Tuesday, July 08, 2003, Lease; Roche, Wednesday, September 03, 2003, Re: Ken Kreig ltr; Wynne, Wednesday, July 09, 2003, RE: FW: Footnote; Cleveland, 15 May 2003, 1913, Re: Interview at NG; Jumper, June 22, 2002, RE: CNBC Interview—Tanker Recapitalization; Sambur, June 17, 2003, FW: USAF Green Aircraft Pricing; Sambur, October 10, 2002, RE: Tanker Leasing; Essex, August 03, 2002, FW: Potential OMB Problems with 767 Lease; Sambur, October 21, 2002, 767 meeting with OMB.

Sambur, September 11, 2002, 767 Tanker justification; Sambur, July 25, 2003, Re: SASC Tanker Lease Hearing; Sambur, November 19, 2003, FW: Tankers; Zakheim, November 25, 2002, RE: KC–767 Lease Delay; Wynne, July 08, 2003, RE: Footnote; Walker, August 21, 2003, Re: Revised OMB Circular A–11; Sambur, November 21, 2003, FW: 767 Update; Walker, Nov. 26, 2002, More Updates from GC; Wynne, June 24, 2003, Meeting; Wynne, July 17, 2003, Good Luck.

Wynne, November 01, 2003, RE: Two Issues—Tankers and Ship Funding; Burkhardt & Associates, May 3, 2002, WSJ; Roche, May 14, 2002, RE: Call from Boeing; Bodie, April 25, 2002, RE: US News; Roche, December 13, 2001, Fw: 767 lease; Roche, December 13, 2001, RE: Several items; Roche, March 30, 2002, RE: Tanker story; Custer, March 30, 2002, NDAA; Jumper, April 9, 2002, RE: Tanker Article; Roche, April 28, 2003, RE:.

Bodie, January 2, 2002, RE: Dear Bob; Aldridge, May 16, 2003, RE: Boeing; Roche, May 13, 2001, RE: 767 lease; Bodie, Friday, June 21, 2002 11:26 AM, RE: CNBC Interview—Tanker Recapitalization; Druyun, Wednesday, October 09, 2002 8:17 AM, OSD BRIEF TO LEASING WORK GROUP; Wynne, Tuesday, Jul 08, 2003, Re: FW: Footnote; Sambur, Tuesday, July 08, 2003 9:58 PM, Fw: Tanker Leasing Report to the Congress; Sambur, Tuesday, August 26, 2003 7:59 AM, $2B Issue with PA&E; Aldridge, Monday, November, 04, 2002 1:22 PM, Tankers and B–52's; Spruill, Tuesday, November 12, 2002 9:22 PM, RE: Tanker Leasing.

Some of the following records are transcriptions made by Senate staff of original documents provided by the Department of Defense.

USAF E-MAILS ON BOEING 767 TANKER LEASE PROPOSAL

From: James Roche
To: William Bodie
Date: August 07, 2002
Subject: FW: Crosby Finds a Home at EADS

Well, well. We will have fun with Airbus!

Jim.

From: Miriam Thorin
To: James Roche
Date: August 07, 2002
Subject: FW: Crosby Finds a Home at EADS

Paris.—European Aeronautic Defense & Space Co. NV (N. EAD) said Wednesday that it has appointed Ralph Crosby to head its North American operation. Until January, Crosby was president of Northrop Grumman's Integrated Systems division, EADS said in a statement.

''As our senior official in the U.S., (Crosby) will oversee our efforts to expand our business, develop industrial partnerships, and ensure strong customer relationships in this critical market,'' EADS said.

Crosby will assume his position on Sept. 1. Manfred von Nordheim, EADS's current top representative in the U.S., will continue to work as a senior adviser, the company said.

Cordially,

Alex.

From: Bill Bodie
To: James Roche
Date: Sept 04, 2002
Subj: Re: Fw: Defense Week Daily Update: EADS: Our Tanker Offer Cost Less Than Boeing's

We don't have to turn the other cheek, you know. I'm ready to tell the truth about Airbus's boom, footprint, and financial shortcoming. But maybe we should sleep on it.

W.C. BODIE,
Special Asst. to the Secretary and Director, Air Force Communications.

From: James Roche
To: Bill Bodie
Date: Sept 04, 2002
Subj: Re: Fw: Defense Week Daily Update: EADS: Our Tanker Offer Cost Less Than Boeing's

Importance: High

No, Sir, save it and blow him away. He admits that they were not technically qualified! And, we keep their record of bribes as our trump card! Jim.

DR. JAMES G. ROCHE,
Secretary of the Air Force.

From: Darleen Druyun
To: James Roche
Date: Sept 05, 2002
Subj: Our friend

I read with disgust the article on Airbus tankers from the new EADS CEO of North America. What BS . . . should not have been surprised at the slime . . . his day of reckoning will come hopefully.

From: James Roche
Date: Sept 05, 2002
Subj: Re: Our friend

Oy. I agree. I had hoped you would have stayed and tortured him slowly over the next few years until EADS got rid of him! Jim.

DR. JAMES G. ROCHE,
Secretary of the Air Force.

From: Williams Hodges
To: Marvin Sambur
CC: John Corley; Mark Murphy; Mark Beierle; Stephen Gray; James T. Rivard; Cheryl Allen; Nancy Lively; Allan Haenisch
Date: 6/20/2003
Subj: FW: KC–767 ''Savings'' for comment & Courtesy Copy of Memo

DR. SAMBUR: I received a call from Dave Trybula, who works for Rick Burke in

PA&E. HE stated he had just delivered a memo to Dr. Roche's office. I asked him if he could share what they had sent and he attached the memo in two files, below.

This was a total surprise and not ever mentioned in any of our discussions with Dr. Spruill or Dr. Schroeder. It appears that they have simply listed all their positions on the report and none of the accommodations reach with the leasing working group. Apparently, they no longer want to be part of the process.

I propose that we provide you with an email containing our counterpoints on their assertions, followed by a proposed response from Dr. Roche back to PA&E.

VR,

Wayne.

From: Marvin Sambur
To: James Roche
Date: June 20, 2003
Subj: FW: KC–767 ''Savings'' for comment & Courtesy Copy of Memo

BOSS: This is getting ridiculous!!!!

Marv.

From: James Roche
To: Michael Wynne
CC: Marvin Sambur
Date: June 22, 2003
Subj: FW: KC–767 ''Savings'' for comment & Courtesy copy of memo

MIKE: Ever since Pete left, the bureaucrats who opposed the 767 lease have come out of the woodwork to try to kill it-yet, once again. Mike, I won't sign a letter that makes the case that we shouldn't lease the planes. Ken Krieg's memo attached is a cheap shot, and I'm sure has already been delivered to the enemies of the lease on the Hill. It was a process foul. And Ken needs to be made aware of that BY YOU!

I can't control the corporate staff on acquisition issues. Mike, this is their way of asserting dominance over you. I know this sounds wild, but animals are animals. Pete had beaten them down. Now, they are taking you on. I'm sorry. Expecting professional behavior from them is something I gave up on a while back. Among other things, they are about to cause us to embarrass SecDef, who having approved the lease, will now have to explain why his staff is destroying the case for it. I'll do whatever I can to help you, Mike, but it's your job to get the corporate staff under control. If not now, then they will overrun you whenever you ''don't behave'' according to their desires. This is the same game they have played for years. They and OMB are trying to set the Air Force up to be destroyed by Sen McCain WITH OSD AND OMB ARGUMENTS. As you might imagine, I won't give them the chance, but I will make it clear who is responsible to Don. I refuse to wear my flack jacket backwards!

Sorry, Shipmate. Jim.

DR. JAMES G. ROCHE,
Secretary of the Air Force.

From: Michael Wynne
To: James Roche
CC: Marvin Sambur
Date: June 23, 2003
Subj: RE: KC–767 ''Savings'' For comment & Courtesy Copy of Memo

JIM: Thanks for your note—I see this as an OSD discipline problem myself. I will be taking it to the Secretary as well—better he hear it from two sources.

Mike.

From: Michael Wynne
To: Ken Krieg, PA&E
Date: June 23, 2003
Subj: Tankers

KEN: If the purpose of your note is to run acquisition from PA&E, we have a problem that needs immediate resolution. I have plenty of problems, but being 'fragged' didn't seem to be one of them, now I worry. If the SecDef wants to kill this he will, so far not—your note was not helpful to either one of us. I will continue to make decisions that have the potential for successful execution of the lease unless SecDef waves me off.

Best Regards,

Mike.

From: Ken Krieg, PA&E
To: Michael Wynne
Date: June 23, 2003
Subj: RE: Tankers

MIKE: That's not what I intended and I may have used the wrong instrument to communicate my concerns. I just want to get together with you and Jim to make sure you understand what we are worried about. That's why I asked for us to get together this afternoon.

KJK.

From: Ken Krieg, PA&E
To: James Roche
Date: June 23, 2003
Subj: FW: tankers

JIM: Understand from Doc that you are as mad as Mike. I am not trying to walk back anything. I am trying to get the strategy to drive the deal; the deal and contract to set the numbers; the numbers to be reopened in the report without a lot of hype.

Probably should have called you but I will explain later.

Want to get together with you and Mike to clear air.

KJK.

KEN KRIEG,
Director, Program Analysis & Evaluation and Executive Secretary, Senior Executive Council.

From: James Roche
To: Ken Krieg, PA&E
Date: June 23, 2003
Subj: RE: Tankers

Kenny, I love you, and you know that. I think you have been had by some members of the famous PA&E staff. You never should have put what you put in writing. It will now be used against me and Don Rumsfeld.

Jim.

DR. JAMES G. ROCHE,
Secretary of the Air Force.

From: Paul Weaver
To: James Roche
Date: May 7, 2003
Subj: 767 Lease

MR. SECRETARY: Rudy just called me and said that Marv Sambur was getting beat up by Mike Wynn again concerning the $125M dollar number per aircraft. Rudy would like to know if he needs to do anything like calling in the big guns to help out. I told him I would query you to get your advice.

GOD BLESS,

Paul.

From: Jim Roche
To: Paul Weaver
Date: May 07, 2003
Subj: Re: 767 lease

It's time for the big guns to quash Wynne! Boeing won't accept such a dumb contract form and price, and Wynne needs to ''pay'' the appropriate price! Jim.

DR. JAMES G. ROCHE,
Secretary of the Air Force.

From: Darleen Druyun
To: James Roche; Marvin Sambur
Date: Oct 9, 2002
Subject: Tanker Leasing

I would like to informally brief Bill Schneider on tanker leasing when he gets back from Germany. I had briefed him during the transition about the idea of leasing as a viable acquisition alternative. He has apparently had a positive conversation with Wolfowitz on leasing and is interested in quietly helping us. If you give a nod we will use the same charts we used to brief Gingrich which was very positively received by him.

From: James Roche
To: Darleen Druyun
Date: Oct 9, 2002
Subject: Re: Tanker leasing

Please do. Thanks much. Jim.

Dr. James G. Roche.

From: Philip T. Calbis (OMB)
To: John McClelland, Rob Goldberg
Date: Nov 7, 2001
Subj: CBO has questions about your scoring of the tankers.

John-Joanne Vines from CBO called with questions about your scoring of the tankers. Specifically how did you get to the 18 billion? Her analysis shows the NPV closer to $20 billion.

I called her back after talking it over with Rob and found out that she had a copy of your spreadsheet from the Senate budget committee folks. She was meeting with Boeing and the AF this afternoon. I asked her not to share your table with them (she said no problem because she wasn't ready to share her numbers with them either).

She would like for you to call her tomorrow at 202–226–5707. Apparently, the Senate budget committee is pressuring her to see things the AF way so Conrad can do Stevens a favor. So, talk it over with Rob and give her a call right back.

From: Jim Roche
To: Robin Cleveland
Sent: 9 May 2003 1712
Subj: Peter Cleveland Resume & Cover letter attached for export

Be well. Smile. Give tankers now (Oops, did I say that? My new deal is terrific.) :) Jim.

DR. JAMES G. ROCHE,
Secretary of the Air Force.

From: Jim Roche
To: Stephen Dyslas Northrup Grumman
Sent: 9 May 2003 1620
Subj: Peter Cleveland Resume and cover letter attached for export/import compliance attorney (DC) position–021495

STEVE: I know this guy. He is good. His sister (Robin) is in charge of defense and intel at OMB. We used to work together in Senate staff. If Peter Cleveland looks good to you, PLS add my endorsement. Be well. I've let Rummy con me one more time! Army! Best to Alice.

Jim.

From: Robin Cleveland
To: Jim Roche
Sent: 9 May 2003 1549
Subj: Peter Cleveland resume and cover letter/Import compliance attorney (DC) position–02 1495

JIM: This is my brother's stuff. I would appreciate anything you can do to help with NG. He is an incredibly hard working, disciplined guy—worked full time with two little kids putting himself through law school at night. I would be grateful. Thanks very much, Robin.

From: Robin Cleveland
To: Peter Cleveland
Sent: 15 May 2003 1913
Subj: Re: Interview at NG

Great hope it works before the tanker leasing issue get fouled up.

From: James Roche SAF/OS
To: Peter Teets Civ SAF/US
Date: Friday, November 28, 2003
Subj: RE: Tankers

Thanks, Pete. We can discuss on Monday.

Jim.

From: Peter Teets SAF/US
To: James Roche SAF/OS
Date: 11/27/2003
Subj: Tankers

JIM: I think it is important for you to know all I know about the situation surrounding the tankers. I sat in for you at the SecDef staff meeting last Tuesday. As we went around the table, Joe Schmitz (IG) mentioned the Boeing dismissal of Sears and Druyun. The SecDef then asked if in light of that should we take a second look at her involvement in any tanker lease related matters in order to deflect possible criticism from the SASC and unfavorable publicity. I said I thought that was a good idea, and that we (the Air Force) would do so. No further discussion on the subject occurred at the staff meeting. After the staff meeting I scheduled short separate meetings with Marv Sambur and Mary Walker for Tuesday afternoon following my return from a meeting at CIA. When I returned, I learned that Marv could not meet with me at the scheduled time because he was in Mike Wynne's office discussing Darlene's involvement with tankers. I then met with Mary and asked her to think through the Darlene situation, plus another matter regarding proper packaging of material on the AFA situation that Schmitz had said was required to be delivered to the SASC. Late Tuesday afternoon I then talked to Marv Sambur and got his assurance that a thorough review of the Darlene situation had been completed and that there was no way Darlene had any influence on our current plan for tankers. Furthermore, Marv said that a letter had been prepared for the DepSecDef to send over to the SASC indicating same, and notifying them of our intent to proceed. At that point, I thought the issue was resolved. On Wednesday morning I read the Wash Post article quoting Sec Rumsfeld as saying he had asked his staff to do a review of the tanker deal. I sent Marv and e-mail offering any help I could provide, and he responded with thanks, but it was clear that this situation had once again gotten out of control. I am sorry to report the news to you, but felt you needed the whole story as it unfolded.

Best Regards,

Pete.

From: Wynne, Michael Mr. OSD–ATL
To: Roche, James Dr. SAF/OS
Date: Tuesday, July 08, 2003
Subj: Re: 767 and DepSecDef

JIM: I am hoping this is about unity of command. Negotiations with OMB are down to a footnote. I've sent a stand-off note to Sen McCain and offered a meeting. Everyone's nervous as Boss testifies to SASC tomorrow.

Mike.

From: Roche, James Dr. SAF/OS
To: Wynne, Michael, Mr. OSD–ATL
Date: Tuesday, July 08, 2003
Subj: 767 and DepSecDef

Good friend and fellow prisoner of the Corporate Staff, please keep in mind, and do tell Paul, that neither you nor I will sign a stupid letter to the Congress regarding the KC–767's. Last time I checked, you have an IQ greater than room temperature—and, so do I. PA&E and OMB can kill the deal and make Pete Aldridge and Don Rumsfeld look like dopes. But, we shouldn't help them!

As you can tell, I finally got some time on my boat, and am feeling like my hero, Bull Halsey: Strike Fast, Strike Hard, Strike Often! Jim.

DR. JAMES G. ROCHE,
Secretary of the Air Force.

From: Roche, James Dr. SAF/OS
To: Wynne, Michael Mr. OSD–ATL
Date: Wednesday, April 16, 2003
Subj: Re: Tankers

Sounds good, Mike. Jim.

DR. JAMES G. ROCHE,
Secretary of the Air Force.

From: Wynne, Michael Mr OSD–ATL
To: Roche, James Dr. SAF/OS
Date: Wed Apr 16, 2003
Subj: Re: Tankers

JIM: Thanks for the input—Ralph was in to see me a few weeks ago, to touch base. I think I will keep this in that same vein; about if there is anything EADS can do over the near future to keep their long term prospects open. Cancelling would not be as soft.

Mike.

From: Roche, James Dr SAF/OS
To: Wynne, Michael Mr. OSD–ATL
Date: Wednesday, April 16, 2003
Subj: Re: Tankers

MIKE: One more thing that I forgot to pass to you on the phone: Don is rarely pissed at the French. Neither you nor I can attend the Paris Air Show, we are getting into a possible flap over inviting the Chief of the FAF to a gathering next September, and you are inviting them in for lunch? Hello? Within minutes of the invite, Crosby most likely used your call to butter this personal croissant in Paris, and EADS would then inform the Que d'Orsay in seconds. Be careful! Maybe you should consider postponing your lunch . . . Jim.

DR. JAMES G. ROCHE,
Secretary of the Air Force.

From: Wynne, Michael Mr OSD–ATL
To: Roche, James Dr SAF/OS; Sambur, Marvin Dr SAF/AQ
CC: Aldridge, Pete Hon. OSD–ATL
Date: Wed Apr 16, 2003
Subject: Re: Tankers

JIM: I have not told Ralph of the meeting's purpose, as I wanted your feedback. But where will the competition come from?

Mike.

From: Roche, James Dr. SAF/OS
To: Wynne, Michael, Mr. OSD–ATL; Sambur, Marvin Dr. SAF/AQ
CC: Aldridge, Pete Hon. OSD–ATL
Date: Wednesday, April 16, 2003
Subject: Re: Tankers

Mike, you must be out of your mind!!! Crosby has lots of baggage, as does Airbus. We won't be happy with your doing this!

JGR.

DR. JAMES G. ROCHE,
Secretary, US Air Force.

From: Wynne, Michael, Mr. OSD–ATL
To: Sambur, Marvin Dr. SAF/AQ; Roche, James Dr. SAF/OS
Date: Wednesday, April 16, 2003
Subject: FW: tankers

Jim, Marv; I've invited Ralph Crosby in for lunch. Ralph is the President EAD's US. I am going to ask him how much a proposal would cost. They came in a couple of weeks ago and offered to build the majority here in America. You are welcome to attend, though, it may be best to let me in my present position do the probing. I will share with you, as I have in the other case, any findings. I'd suggest that this be held quietly, but I did want you to be aware. I am not sure where this will lead, but the benefits of competition may be revealing.

Best,

Mike.

From: Wynne, Michael Mr. OSD–ATL
To: Sambur, Marvin Dr. SAF/AQ
Date: Wednesday, April 16, 2003
Subject: Tankers

Marv; Some advance work for FY05 budgeting is in order. I suggest that you begin to probe whether there's sufficient funding to start a multi-year late in FY04 and in earnest in FY05. Not that we are done yet, IDA may surface changes that make it acceptable, but some of the arguments that were tabled make the case for tanker re-cap compelling.

If I had some spare change hanging around, I'd give another supplier enough money to make a proposal for this as well. I'm not saying to buy anything other than a proposal. But, I think the leverage from that 'spare change' would be enormous. For Boeing, the risk of losing the US tanker Franchise, no matter what our final intent is would be too embarrassing. I know the opposition would be vocal as well, but with the low probability of success, I think paying to prepare is fair. If chosen we could deduct it from the final deal.

While these are idle thoughts for now, the discontent within the administration for what they perceive Boeing's response for assistance was is not good, and would support this contrary approach.

Best,

Mike.

From: James Roche
To: William H Swanson
Date: August 8, 2002
Subject: Re: hello?

Oh, really. Mine is probably at ''station 13'' while the gang goes on August vacation. When I see it in November, I hope it's all there—and no empty wine bottles in the doors! Be well.

Jim.

From: William H Swanson
To: James Roche
Date: August 08, 2002
Subject: Re: Hello?

JIM: Understand. Move explains why you and I had issues in our previous assignments.

Still no red rocket on west coast. It has sat in DC for 2½ weeks waiting on transportation. I almost called to borrow (pay for) one of your transporters. It is finally now on the road and I will see it next Friday. This has been torture. Yours will be here before I get to see mine!

Bill.

From: James Roche
To: William H Swanson
Date: August 08, 2002
Subject: Re: Hello?

Right. Privately between us: Go Boeing! The fools in Paris and Berlin never did their homework. And, Ralphie is the CEO and Chairman of a marketing firm, for that's all there is to EADS, North America. The AF has problems with EADS on a number of levels. The widespread feelings about Crosby in the Air Staff, Jumper especially, will only make their life more difficult. Smiles.

JGR.

DR. JAMES G. ROCHE,
Secretary of the Air Force.

From: William H Swanson
To: James Roche
Date: August 08, 2002
Subject: Re: Hello?

JIM: Sent out the action will try and have late afternoon or first thing Friday morning.

Did you see the notice on Ralph and EADS?

Bill.

From: James Roche
To: William H Swanson
Date: August 08, 2002
Subject: Hello?

Bill, BAE and ATFLIR? Hello?

Jim.

From: Jumper, John, Gen AF/CC
To: Roche, James Dr. SAF/OS
Date: Tuesday, February 25, 2003 8:58pm
Subj: Re: Offsets for tanker lease

Good, thanks.

John.

From: Roche, James Dr. SAF/OS
To: Jumper, John Gen AF/CC
Date: Tuesday, February 25, 2003 8:57pm
Subj: Re: Offsets for Tanker lease

Good idea. I'll be honored to join you.

Jim.

DR. JAMES ROCHE,
Secretary of the Air Force.

From: Jumper, John, Gen AF/CC
To: Roche, James Dr. SAF/OS
Date: Tue. Feb 25, 2003
Subj: Re: Offsets for tanker lease

Boss, there may be a trap in letting the corporate staff diddle us on the margins of what they will or won't allow. We should consider you and me taking this directly to Pete and Dov, around the corporate staff.

John.

From: Sambur, Marvin Dr. SAF/AQ
To: Roche, James Dr. SAF/OS; Jumper John Gen AF/CC
Date: Tuesday, February 25, 2003
Subj: Offsets for tanker lease

BOSS, CHIEF: We are getting tremendous pressure to show our offsets for the Tanker lease. As I explained to you in a previous email, the offset or affordability issue is not as big a deal as Dov makes it out to be. The Chief has seen the details and the full details will be briefed to you on Wednesday at 4pm. The issue is that Aldridge wants a briefings by Dr. Spruill (co chair of the leasing committee) at 8:30 am tomorrow and Zakheim wants a briefing at 3:30 pm. Since we have a good story to tell, I think it would only cause unnecessary irritation if we refuse to give them the details until you are fully briefed. Is it OK to allow BG Johns with Spruill to give the briefing to Aldridge and Zakheim before you see the full details. The Chief had no issues and as I explained to you the OSD hot points are in the 09 time frame and involve an unknown bomber and funding for LAIRCM.

Thanks!

Marv.

From: James Roche
To: Pete Aldridge
CC: Gen. John Jumper; Marvin Sambur; Bill Bodie
Date: Nov 19, 2002
Subject: 767 Lease

Pete, old Buddy, you have been our strongest supporter on the issue of the lease. I now hear that your staff is telling us that you are weakening. Please don't. Here is some food for thought:

(1) Regardless of OMB, the deal is a good one for the taxpayer.

(2) Every time we come forward with something good for the taxpayer, the bureaucrats (including yours) feel that they have to fight it (job security?)

(3) To delay for two years to do an AOA is simply silly. It just means two more years of wasted repair costs on the E models; a waste of taxpayers' money to some beltway bandit; more bureaucratic delays by PA&E; and an end which is predictable.

(4) Since neither ships, trucks, or tiny planes can serve as tankers, we will be looking at big planes. Guess what?

We're already there. We will waste money and have nothing to show for it.

(5) Hey, we can extend the life of the E's and re-engine them! We'll that doesn't pass Grant's lieutenant's test: it means we will be flying 80 year old planes in a few years!!!! Average age is now between 42 and 44 years. Re-engining won't solve the inherent catalytic corrosion problem. More waste of money.

(6) Gee, why didn't we for 50 or 60 or 70 year old Air Force Ones? How many of our bureaucrats fly in such old planes? I'm getting used to some in their late 40s, but I'm not so picky! But, why don't we make the Navy sail 60 year old destroyers? Or submarines? Because it's dumb.

(7) If we wait, there may not be a 767 line! Hey, can we covert used ones. Here we go again. We can waste money with half measurers that are penny wise and pound foolish. Why not do the same for ships? OK, so we'll be forced to buy French airplanes.

(8) To kill this idea in OSD is proof that there may be words like ''acquisition reform,'' but they are hollow. The bureaucrats want to keep doing things the same old way, adding little value but lots of costs.

I can only keep my sanity by remembering Andy's advice to me years ago: ''there are limits to the stupidity any one man can prevent.'' Off to Okinawa! Jim.

DR. JAMES G. ROCHE,
Secretary of the Air Force.

From: Bill Bodie
To: Jim Roche
Date: Nov 20, 2002
Subject: Re: 767 Lease

Good for you, boss. Aldridge may deny he's been weakening, but the smoke signals are thick. Aldridge interviewed with Anne Marie yesterday, and although he wouldn't comment on specifics of any deal and was keeping an open mind, he indicated that in general terms he would have concerns about leasing when/if buying was cheaper. That doesn't jibe with his previous support for the lease from a NPV/cash flow management perspective. In addition, the spores seem to be pushing a ''what's the rush?'' line: buying is cheaper (we ''exaggerate'' the purchase cost of a green 767), therefore better; such a large expenditure requires more ''rigorous analysis'' than the back-of-the-envelope assertions by the AF, hence an AOA; the AF hasn't POM'ed for the lease, so how serious can we be? There is no ''urgent'' need, because the AF is starting to retire the E's next year even without an immediate replacement, so why can't we be more deliberative? Boeing will still be there, making airplanes, so what's the rush? Anyway, Airbus could make planes with enough American content if need be. I rebutted all these arguments with Jaymie (as you did with Pete), but we might be in the 'power' phase with OSD on this issue. If anyone can talk sense to Aldridge, however, it's you.

From: James Roche
To: Bill Bodie
Date: Nov 20, 2003
Subj: Re: 767 lease
Importance: high

Right. I'm relaxed on this one. They have to take the bureaucratic position. Jim.

DR. JAMES G. ROCHE,
Secretary of the Air Force.

From: Roche, James Dr. SAF/OS
To: Druyun, Darleen, SAF/AQ
Date: Monday, December 17, 2001 7:24pm
Subj: Re: 767 Leasing

Darleen, thanks much. I'd like for us not to be embarrassed on the Third Floor. Also, we will have to see what the final language looks like. I'll be interested in the numbers, and whether our resident DeLoitte partner (Nelson) agrees. Jim.

DR. JAMES G. ROCHE,
SECAF.

From: Wynne, Michael Mr. OSD–ATL
To: Roche, James Dr. SAF/OS
Date: Wednesday, June 25, 2003
Subject: RE: OSD(C) AND 767 LEASE

Usually opposition is loudest away from the decision maker—I think progress towards the door will crisp up the arguments, and allow the release. Keep the team MOOSHHING forward.

Best,

Mike.

From: Roche, James Dr. SAF/OS
To: Wynne, Michael, MR. OSD–ATL
Date: Wednesday, June 25, 2003
Subject: FW: OSD(C) and 767 Lease

MIKE: And, here I thought Stan and the Boys were under control!

You have more work to do.

Jim.

JAMES G. ROCHE,
Secretary of the Air Force.

From: Lemkin, Bruce S, SES, SAF/FM
To: Roche, James Dr. SAF/OS; Sambur, Marvin Dr. SAF/AQ
CC: Montelongo, Michael, Civ, SAF/FM
Date: Wednesday, June 25, 2003
Subject: OSD(C) and 767 Lease

MR. SECRETARY AND MARV: At this morning's Dov Zakheim meeting with Service FMs, Dov stated that he will not agree to including an AF position in the Report to Congress that is different from the OSD position. He directed me to ''tell Jim and Marv'' that he intends to send SECDEF a memo stating this. Szemborski piped up that PA&E has ''formally non-concurred'' to SECDEF.

After the meeting, I got hold of the Leasing Panel co-chair, Wayne Schroeder, and told him that our position is that SECDEF has approved the lease-how can one or more of his staff ''non-concur?''—so, now, it is our obligation to work together to submit a Report to Congress that uncategorically supports the lease.

Marv—We in FM are standing by to continue to assist to break this free. Let me know how else we can help.

VR,
Bruce.

From: Bruce Lemkin [Principal Deputy Assistant Secretary AF, Financial Management]
To: James Roche; Marvin Sambur
CC: Michael Montelongo
Date: June 25, 2003
Subj: OSD(C) and 767 Lease

MR. SECRETARY AND MARV: At this morning's Dov Zakheim meeting with Service FMs, Dov stated that he will not agree to including and AF position in the Report to Congress that is different from the OSD position. He directed me to ''tell Jim and Marv'' that he intends to send SECDEF a memo stating this. Szemborski piped up that PA&E has ''formally non-concurred'' to SECDEF.

After the meeting, I got hold of the Leasing Panel co-chair,

Wayne Schroeder, and told him that our position is that SECDEF has approved the lease-how can one or more of his staff ''non-concur?''—so, now it is our obligation to work together to submit a report that uncategorically supports the lease.

Marv—We in FM are standing by to continue to assist to break this free. Let me know how else we can help.

VR,
Bruce.

From: Marvin Sambur
To: Bruce Lemkin; James Roche
CC: Michael Montelongo
Date: June 25, 2003
Subj: RE: OSD(C) and 767 Lease

BRUCE: We have made every compromise possible. I do not understand Szembroski's position. I spoke to his boss this morning and I thought they were rewriting the nonconcur. In any event, we are submitting the report this afternoon. I added a line the OMB wanted (lease decision was predominantly made due to schedule). However, I am not moving off the position that the fair market

purchase price is $138.4 (not $131M which requires that we give them the money 4 years ahead of delivery) and that the lease is a wash art purchasing from a financial point of view. I will not give your enemies the tools to bury us!

Marv.

From: Roche, James Dr SAF/OS
To: Sambur, Marvin DR SAF/AQ
Date: Tuesday, July 08, 2003 9:44pm
Subj: Re: Footnote

Marv, what about my just adding my language? Why not? It's my letter. Jim.

DR. JAMES G. ROCHE,
Secretary of the Air Force.

From: Sambur Marvin Dr SAF/AQ
To: Roche James Dr SAF/OS
Date: Tue Jul 08 2003
Subj: Re: Footnote

BOSS: Our introduction makes that point that the lease is the fastest way to get tankers given our funding constraints. What they are forcing us to say is that IF congress gave us permission to PURCHASE under the same MYP terms as the lease, then the lease is DUMB financially.

Robin wanted it in the text and Mike got her to accept it as a footnote. Wynne is not willing to go further. My point is that Mike has tossed the bomb back to us in a take it or leave it terms. He claims that we will still win and our enemies know about this already. I spoke to Dicks last week and he told me to hold firm and not to go along with Robin. I want to check again.

Marv.

From: Roche, James Dr. SAF/OS
To: Durnan, Jaymie CIV OSD
Date: Tuesday, July 08, 2003
CC: Bodie William C Civ SAF/OS
Subj: Lease

Jaymie, Mike Wynne has fallen for Cleveland's line that our letter must show the bogus calculation which is NPV negative by $1.9 billion.

Why bogus? If we had the budget, we wouldn't need to turn to a lease. But, we don't. Thus, to assume that it exists (wrong premise), and then to assume the Congress passed legislation which it didn't, and then to condemn ourselves in writing by stating the calculation based on a fantasy simply is crazy. It is a bureaucratic trick to make a fool out of Don as well as the Air Force. All this was ''resolved'' by Pete Aldridge before he left. To quote him: ''We need to go forward with DoD's position. If OMB wants to comment, let them.''

Point: we are running aground because PA&E and OMB want me to sign a suicide note. BUT I WILL NOT. This whole drill has gotten out of hand! Jim.

DR. JAMES G. ROCHE,
Secretary of the Air Force.

From: Roche, James Dr SAF/OS
To: Wynne, Michael Mr. OSD–ATL
Date: Wednesday, September 03, 2003
Subj: Re: Ken Kreig ltr

Keep the faith, Baby, we'll need it tomorrow. Please be prepared to tell the SASC that we did discuss whether or not to do an AOA, and that one isn't required. Further, Sen McCain thinks Schmitz is an authority on the subject! Jim.

DR. JAMES G ROCHE,
Secretary of the Air Force.

From: Wynne, Michael Mr. OSD–ATL
To: Roche, James Dr. SAF/OS
Date: Wed Sep 03, 2003
Subj: Re: Ken Kreig Ltr

James, You are nearing sainthood, inspite of your youth. I think your sidebar with Tony C. Made a difference.

Best Regards,

Mike.

From: Wynne, Michael, Mr. OSD–ATL
To: Roche, James Dr. SAF/OS
Date: Wednesday, July 09, 2003
Subj: RE: FW: Footnote

I can only repeat that you are actually winning. To change subjects, the F–22 DAB went reasonably well, and will lead to a second IPR and decision DAB in September. I complimented Rick Lewis, and Tom Owen, but told them not to let up. September will come quickly.

Best,

Mike.

From: Roche, James Dr. SAF/OS
To: Wynne, Michael Mr. OSD–ATL
Date: Wednesday, July 09, 2003
Subject: RE: FW: Footnote

Mike, thanks for your candor. I will only add to the footnote of the letter I sign that ''the funds to execute such an alternative could not be made available without harming combat capability.'' Then, no one can accuse Don of ''wasting'' $1.9B of taxpayer money. Stan Crock's article is another in a long series on varying issues where my friend missed the point. Jim.

DR. JAMES G. ROCHE,
Secretary of the Air Force.

From: Wynne, Michael, Mr. OSD–ATL
To: Roche, James Dr. SAF/OS
Date: Wednesday, July 09, 2003
Subj: RE: FW: Footnote

Jim—Good on Pete—he left before the fight—I believe that this is a fair display. This is a footnote to a lengthy text, and offers a bone to the critics recently in Business Week who say that you and we tortured the economic argument to get what we want. I believe that addressing this point in this fashion takes the teeth out of their criticism. This will not embarrass at all the Secretary, as I would not even have considered it otherwise. This followed one full week of negotiation to remove it from the text and get it to only footnote status.

My advice to you is to take the deal as written, sign it out of this Building—get the term waiver, and let the House and Senate proponents, do their magic. I think you have a major victory, and are letting a minor math point get in front of a major policy win.

Best,

Mike.

From: Roche, James Dr. SAF/OS
To: Wynne, Michael, Mr. OSD–ATL
Date: Tuesday, July 08, 2003
Subject: RE: FW: Footnote

Mike, it's not that easy for you. Pete resolved these. You don't want to be put in a position of embarrassing Don; nor do I. If I refuse to sign, you will have to explain it anyhow! We should present DoD's position and let OMB add the bogus point not us. Bogus because we DON'T HAVE THE $$$ NOW WITHOUT GIVING UP COMBAT CAPABILITY! This was Pete's argument. We turned to a lease because of this reality. The footnote to which you agreed? NEVER mentions this point! That's just not wise. Don't you agree? Jim.

DR. JAMES G. ROCHE,
Secretary of the Air Force.

From: Wynne, Michael, Mr. OSD–ATL
To: Roche, James, Dr. SAF/OS
Date: Wednesday, July 08, 2003
Subj: RE: FW: Footnote

JIM: I am out of this now—though I will front what you want. As a footnote, this could be any number, not one that either you and I must defend. At this juncture, it's up to you to sign or not. I hope you think it over and get it out of the building.

Best,

Mike.

From: Roche, James Dr. SAF/OS
To: Wynne, Michael Mr OSD–ATL
Date: Tuesday, July 08, 2003
CC: Sambur Marvin Dr. SAF/AQ
Subj: Re: FW: Footnote

Mike, I don't like it. Why? Because we don't agree with the calculation! As important, it fails to give an alternative, lease supportive case where the NPV is positive! If the addition to the footnote added: ''. . . Similarly, if blah blah, then the NPV would favor a lease by $$$.'' As this stands, it is embarrassing to you, me, and the Sec Def. Senator McCain and others who oppose the lease will leap to this number! Why is this so hard for you to see, Mike? Further, the footnote missed Pete Aldridge's point that this is a hypothetical since the Air Force doesn't have the BA to enter into such a multi year contract, even if the Congress bent its rules to do so without limited production!

Marv, what do you think? Please get together with Mike to come up with a more palatable and balanced version of the footnote.

Jim.

DR. JAMES G. ROCHE,
Secretary of the Air Force.

From: Wynne, Michael Mr OSD–ATL
To: Roche, James Dr. SAF/OS
Date: Tue Jul 08, 2003
Subject: FW: Footnote

JIM: I've gotten the 1.9B relegated to a footnote and I've made an agreement with OMB so that we can proceed. You can sign it in the morning if you agree if not I'm not sure what to do. Meeting with DSD went fine. Most are hoping that you refuse to sign. I told them not so fast.

Best,

Mike.

From: Spruill, Nancy Dr. OSD–ATL
To: Wynne, Michael Mr. OSD–ATL
Date: Tuesday, July 08, 2003
CC: Spruill, Nancy, Dr. OSD–ATL
Subject: Footnote.

MIKE: This is what I've copied for your convenience.

Thanks,

Nancy.

The Footnote is to the sentence that says: Applying the A–94 test, it was determined that the net present value of the multi-year lease option and a traditional purchase option results in a NPV favoring a purchase of $150 million, as shown in Table 1[1].

Footnote: [1] In evaluating the net present value of the lease and purchase options as required by OMB Circular A–94, the Air Force relied on the availability of multi-year lease authority granted by Congress in 2002 Defense Appropriations Act. Had the Congress chosen instead to provide multi-year procurement authority the NPV could favor purchase by up to $1.9 billion. While this information affords a measure of clarity in an equitable comparison of terms and NPV, it is provided with the understanding that multiyear procurement authority was not available and therefore not a viable option for the Administration's analytical consideration.

From: John Jumper AF/CC
To: William Bodie SAF/OS; James Roche SAF/OS
Date: June 22, 2002
Subj: RE: CNBC Interview—Tanker Recapitalization

Great themes, thanks. JJ.

From: William Bodie SAF/OS
To: James Roche SAF/OS; John Jumper AF/CC
Date: June 21, 2002
Subj: FW: CNBC Interview—Tanker Recapitalization

We've got Loren doing the Lord's work again. ''3rd Party'' support at its best.

From: T124C41
Sent: Friday, June 21, 2002 10:55 AM
To: carey
Cc: william.bodie
Subject: CNBC Interview—Tanker Recapitalization

To: Mac Carey
From: Loren Thompson
Date: June 21, 2002
Subj: CNBC Interview—Tanker Recapitalization

Last Monday I was interviewed by CNBC for an upcoming segment on the Air Force tanker leasing controversy. I talked to CNBC anchor Marsha McCallum yesterday, and she said the segment is due to air at 3:15 pm on Monday. Senator MCCAIN will also be on the segment.

CNBC will only use a small portion of what I said. For the record, though, here are the ten themes I told her, in some cases several times:

(1) Tankers are essential enablers of American military power, and will become more so as our network of overseas bases continues to shrink.

(2) Every bullet and bean America delivered to Afghanistan, not to mention every soldier and fighting system, got there on an airplane that had to be refueled in flight by a tanker.

(3) This month marks the 45th anniversary of the first delivery of a KC–135 tanker to the Air Force, reflecting the fact that 90% of the tanker fleet has grown quite aged.

(4) The fleet is so old that a third of airframes are in repair shops or waiting to go there on any given day.

(5) The planes must be replaced, and the Air Force has determined that the Boeing 767 is the best aircraft to use.

(6) Replacement of over 500 tankers may prove to be the biggest defense procurement program of this generation.

(7) But even if we begin buying planes at the rate of two dozen per year, it will take the Air Force 20 years to replace the fleet—by which time some of the KC–135s will be at twice their design lives.

(8) Flight hours is a useful indicator of airframe fatigue, but it tells you very little about the toll corrosion may be taking on the planes.

(9) Leasing is a common practice among commercial airlines to mitigate the cost impact of acquiring large aircraft.

(10) Senator MCCAIN—the only critic of leasing in Congress—will not succeed in blocking a 767 lease because tanker replacement is critical and he has offered no alternative to leasing.

Martha and I have actually had a number of conversations outside the taping, allowing me to repeat some core themes. She seems thoughtful and open-minded, with no axe to grind. Incidentally, I told her the lease was the exact opposite of a Boeing ''bailout''—it's a government attempt to get good terms from the company by taking advantage of a downturn in demand for commercial transports.

2004 Defense Planning Guidance directs a review of tanker replacement options, indicating the issue is now on OSD's radar screen.

From: Bodie, William C., Mr, SAF/OS
Sent: Friday, June 21, 2002 11:26 AM
To: Roche, James, Dr., SAF/OS
Subject : RE: CNBC Interview—Tanker Recapitalization

We'll track it to see if CNBC gives us a fair shot. Glad we're doing 737 stuff Monday.

From: James Roche
To: William Bodie
Date: June 21, 2002
Subj: RE: CNBC Interview—Tanker Recapitalization

Good work!
Jim.

JAMES G. ROCHE,
Secretary of the Air Force.

From: Bodie, William C., Mr, SAF/OS
Sent: Friday, June 21, 2002 11:08 AM
To: Roche, James, Dr., SAF/OS; Jumper, John, Gen, AF/CO
Subject: FW: CNBC Interview—Tanker Recapitalization

We've got Loren doing the Lord's work again. ''3rd Party'' support at its best.

From: T124C41
Sent: Friday, June 21, 2002 10:55 AM
To: carey
Cc: william.bodie
Subject: CNBC Interview—Tanker Recapitalization

TO: Mac Carey
FROM: Loren, Thompson
DATE: June 21, 2002
RE: CNBC Interview—Tanker Replacement

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(5) The planes must be replaced, and the Air Force has determined that the Boeing 767 is the best aircraft to use.

(6) Replacement of over 500 tankers may prove to be the biggest defense procurement program of this generation.

(7) But even if we begin buying planes at the rate of two dozen per year, it will take the Air Force 20 years to replace the fleet—by which time some of the KC–135s will be at twice their design lives.

(8) Flight hours is a useful indicator of airframe fatigue, but it tells you very little about the toll corrosion may be taking on the plane.

(9) Leasing is a common practice among commercial airlines to mitigate the cost of acquiring large aircraft.

(10) Senator McCain—the only critic of leasing in Congress—will not succeed in blocking a 767 lease because tanker replacement is critical and he has offered no alternative to leasing.

Martha and I have actually had a number of conversations outside the taping, allowing me to repeat some core themes. She seems thoughtful and open-minded, with no axe to grind. Incidentally, I told her the lease was the exact opposite of a Boeing ''bailout''—it's a government attempt to get good terms from the company by taking advantage of a downturn in demand for commercial transports.

2004 Defense Planning Guidance directs a review of tanker replacement options, indicating the issue is now on the OSD's screen.

From: Marvin Sambur SAF/AQ
To: Jim Albaugh
Date: June 17, 2003
Subj: FW: USAF Green Aircraft Pricing

JIM: I have been working with Bob to answer a question from MCCAIN concerning his claim that Continental received a better deal than the USAF. I asked Bob for a simple statement that, accounting for inflation and airworthiness directives, we received a better deal than anyone else. Given the assault that MCCAIN is mounting on this deal (see attached) and our claims that we received the best deal, we need such a statement. Thanks!

Marv.

From: Bob Gower
To: Marvin Sambur SAF/AQ
Date: June 16, 2003
Subj: RE: USAF Green Aircraft Pricing

We have the MCCAIN request. I am traveling to DC in the morning for Hill visits the next few days. I will take your response up the chain.

From: Marvin Sambur SAF/AQ
To: Bob Gower
CC: Arlene Marvin
Date: June 16, 2003
Subj: Re: USAF Green Aircraft Pricing

BOB: This is unacceptable. McCain will eat us for lunch. See attached.

From: Bob Gower
To: Sambur SAF/AQ
Date: 6/16/2003
Subj: USAF Green Aircraft Pricing

MARV: We looked at providing some type of certification for the ''green'' aircraft pricing and would prefer not to do this for two primary reasons.

First, we have hurt our commercial airline market enough through the concessions, profit cap, and most favored customer clause. To provide an additional measure of certainty would set a new standard for the Boeing company that we prefer not to set. All elements of this deal are very visible and this would not be good for our other markets. Our best customers have understood the Most Favored Customer clause because some of them have seen these in the past but these have been forward looking with no commitment to historical pricing.

Second, we believe Boeing providing additional commitments has little or no additional political benefit. I believe that if the USAF attempted to stand behind a Boeing statement that our enemies would unjustly attack Boeing's credibility.

Therefore, my proposed solution is for the USAF to stand behind the facts which I see as:

The USAF is confident we have received a most competitive price on the basic 767 aircraft. The USAF has ensured this through multiple means:

(1) We obtained confidential information directly from a major airline that validates we obtained a very competitive price from a historical position,

(2) We obtained a Most Favored Customer clause that protects the USAF on a going forward basis since it requires Boeing to refund the USAF should they ever sell a 767 for less than what the USAF paid, and

(3) The USAF has capped Boeing's earnings to ensure the maximum profits they could

make are in line with DoD profit guidelines, insuring the USAF would benefit in the future should cost come in lower than predicted. Should cost be higher, Boeing bares the risk.

With this firm, fixed price contract and Boeing responsible for all development costs, we believe this agreement is unprecedented in its protection for the taxpayer, and insure not only have we received the best pricing possible, but we will continue to obtain the best pricing from Boeing in the future.

Regards,

Bob.

From: Marvin Sambur SAF/AQ
To: Darleen Druyun SAF/AQ; James Roche SAF/OS
Date: October 10, 2002
Subj: RE: Tanker Leasing

Jamie Durnan stopped me this morning to tell me that OMB ''will fight us to the death on the lease.'' I asked why and he told me that they do not believe our numbers and their analysis shows that it is better to purchase. (At the leasing meeting the OMB number was about $50M favorable to purchase out of about $18B fly away cost.) I told him that we admit that the deal is probably a push but if we buy according to the same funding stream as leasing, we only get 6 tankers by 2009 versus 67 by leasing. The quicker delivery acts as an insurance policy against the unknown effects of aging and accelerating usage. He thought that was a compelling argument.

Marv.

From: Bill Essex SAF/AQQ
To: Marvin Sambur SAF/AQ
Date: August 03, 2002
Subj: FW: Potential OMB Problems with 767 Lease

SIR: Our take on the OMB letter to Sen. MCCAIN is below. Mr. Daniels went out of his way to slam 767 lease even though he does not really know much about it yet. Looks like an interesting fight shaping up.

VR,

Bill.

From: Marvin Sambur
To: James Roche
Date: October 21, 2002
Subj: 767 meeting with OMB

BOSS: We spent three hours with Robin this AM going over the issues they highlighted for discussion and additional data. These topics were: Requirements justification, price of the green a/c, why our proposal meets the requirements of an operating lease and a better understanding of the legal ramifications of a Special Purpose Entity that would hold title to the tanker a/c. She was quite upset when she learned from the introductions that Boeing was present to answer any questions. When we saw her ''angst'' we told her they would leave or we could have an executive session with government only participants. She told us the damage was done and did not take up the options we outlined to her. We invited Boeing in to respond to questions she and her staff had and frankly they were very helpful in filling in some details and adding credibility. This was not a negotiation meeting and Boeing was only to provide answers on the pricing. I expect she will express to you her anger over Boeings presence.

Robin and her staff asked for additional data which we are preparing to send over in the following read: What would the AF budget look like per FY to purchase the same number of aircraft being built and delivered under the lease? (The insurance argument of getting the lease tankers 5 years earlier with about the same net present value resonated with her. In addition, the point that Boeing will stop producing the 767 and if we delay, the price will rise considerable was also a strong argument to her.) However, they believe our price for the green a/c is too high and have asked for other large airline purchases, config and what the discount was from the list price. Apparently her staff made a bunch of phone calls and claim their number is lower than ours but she is the first to admit that she does not know the real validity behind them. We need to give them the maintenance costs of the 135s vs. The proposed 767 tankers. She will want a separate session on tanker termination liability issues. I believe we probably talked passed each other on this and I have directed my staff to prepare very clear charts on this to set the record straight. He also wants a copy of the draft contract T's and C's. In addition, she directed we rerun the numbers using a 6 years OMB discount rate in addition to the 15 year period. We have this and will give to them to OMB.

I expect she will call you. We firmly believe the contractors attendance at the meeting was very helpful but she will probably blast us for it. We will keep you posted on our progress.

From: Marvin Sambur
To: James Roche
Date: September 11, 2002
Subj: 767 Tanker justification

BOSS: I kicked off the effort to establish a ''need'' justification for the tankers. Hope to have a conceptual framework ready by the end of the week.

Spoke to Robin after the meeting to tell her that the economic justification is not a slam dunk for either position (purchase or lease.) It is more a push and a slight change in the interest rates can flip the analysis. At the end of the day, we have to prove that there is a TRUE need and that there are other advantages to leasing (earlier delivery, affordability, etc) that make it a good business deal. It is going to be a tough sell given the other factors such as liability and indemnification.

Marv.

From: Marvin Sambur
To: James Roche; Scott Custer
CC: Peter Teets; John Jumper; Robert Foglesong; Joseph Wehrle, William Bodie; John Corley; Janet Therlanos; Debra Henderson; Warren Henderson; Judy Fedder; David Rue; Robert Pavelko; Bob Edmonds; Skip Daly; Christopher Bowman; Gregory Christ; John Handy; Paul Essex; William Hodges; Michael Zettler; Michael Montelongo; Stephen Lorenz; Duncan McNabb; Gary Heckman; Kevin Chilton; Raymond Johns; Ronald Rand
Date: July 25, 2003
Subj: Re: SASC Tanker Lease Hearing

But remember, they can not play the game without the football and where the football goes determines the end result!

Marv.

From: James Roche
To: Marvin Sambur
CC: Peter Teets; John Jumper; Robert Foglesong; Joseph Wehrle, William Bodie; John Corley; Janet Therlanos; Debra Henderson; Warren Henderson; Judy Fedder; David Rue; Robert Pavelko; Bob Edmonds; Skip Daly; Christopher Bowman; Gregory Christ; John Handy; Paul Essex; William Hodges; Michael Zettler; Michael Montelongo; Stephen Lorenz; Duncan McNabb; Gary Heckman; Kevin Chilton; Raymond Johns; Ronald Rand
Date: July 25, 2003
Subj: RE: SASC Tanker Lease Hearing

Yes, but for whom? I always wondered what it would feel like to be the football! Jim.

DR. JAMES G. ROCHE,
Secretary of the Air Force.

From: Marvin Sambur
To: James Roche
CC: Peter Teets; John Jumper; Robert Foglesong; Joseph Wehrle, William Bodie; John Corley; Janet Therlanos; Debra Henderson; Warren Henderson; Judy Fedder; David Rue; Robert Pavelko; Bob Edmonds; Skip Daly; Christopher Bowman; Gregory Christ; John Handy; Paul Essex; William Hodges; Michael Zettler; Michael Montelongo; Stephen Lorenz; Duncan McNabb; Gary Heckman; Kevin Chilton; Raymond Johns; Ronald Rand
Date: July 25, 2003
Subj: RE: SASC Tanker Lease Hearing

And they are playing the Jets. This is a good omen.

From: James Roche
To: Scott Custer
CC: Peter Teets; John Jumper; Robert Foglesong; Joseph Wehrle, William Bodie; John Corley; Janet Therlanos; Debra Henderson; Warren Henderson; Judy Fedder; David Rue; Robert Pavelko; Bob Edmonds; Skip Daly; Christopher Bowman; Gregory Christ; John Handy; Paul Essex; William Hodges; Michael Zettler; Michael Montelongo; Stephen Lorenz; Duncan McNabb; Gary Heckman; Kevin Chilton; Raymond Johns; Ronald Rand
Date: July 25, 2003
Subj: Re: SASC Tanker Leasing Hearing

Goodie! The same day as the opening day of Redskins football! JGR.

DR. JAMES G. ROCHE,
Secretary of the Air Force.

From: Scott Custer
To: James Roche
CC: Peter Teets; John Jumper; Robert Foglesong; Joseph Wehrle, William Bodie; John Corley; Janet Therlanos; Debra Henderson; Warren Henderson; Judy Fedder; David Rue; Robert Pavelko; Bob Edmonds; Skip Daly; Christopher Bowman; Gregory Christ; John Handy; Paul Essex; William Hodges; Michael Zettler; Michael Montelongo; Stephen Lorenz; Duncan McNabb; Gary Heckman; Kevin Chilton; Raymond Johns; Ronald Rand
Date: July 25, 2003
Subj: SASC Tanker Lease Hearing

Sir, looks like 4 Sep for the SASC tanker hearing . . . with you as the AF witness.

V/R Scott.

From: Robert Pavelko
Date: July 24, 2003
Subj: SASC Tanker Lease Hearing

Just received a telephone call from Mr. Tom McKenzie, SASC [202–224–9347]. He wanted to give us a heads up the SASC will be calling a hearing on the AF Tanker Lease.

Projected date is 4 September in the morning. Witness invites: SECAF, Director of OMB, and Sec Wynne. His POC is Bill Greenwalt. 202–224–6778.

V/R,

Robert J. Pavelko.

From: Marvin Sambur
To: James Roche
Date: November 19, 2003
Subj: FW: Tankers

FYI.

From: Scott Custer
To: Marvin Sambur
Date: November 19, 2003
Subj: Tankers

SIR: Mr. Wynne is quoted as saying we would pay up front not purchase on delivery, that it will probably be 2 contracts, and that the price would likely need to be renegotiated . . . not helpful. I don't know how this got so messed up but I think we still need to proceed with the deal we want . . . and take it to the SASC for their views. And, we must do it quickly as the pending omnibus may be the only vehicle left to get any language changes we'll need to make it work.

V/R,

Scott.

From: Dov Zakheim
To: Marvin Sambur
Date: November 25, 2002
Subj: RE: KC–767 Lease Delay.

I have a simple question? Where is the USAF money to fund this lease?

From: Marvin Sambur
To: Pete Aldridge; Dov Zakheim
Date: November 22, 2003
Subj: KC–767 Lease Delay

PETE AND DOV: I understand the suggestion we delay the KC–767 lease two years has come up again at high levels within OSD (though this time without necessarily paying to re-engine KC–135Es) in order to do a format AoA. As a follow-up to my recent e-mail on this subject:

A formal AoA will cost money, delay the program two years, and still come up with the same answer we have today. There are only a few aircraft that can serve as tankers, they are already in production, and so analyzing their respective capabilities and costs won't take long—in fact, it's already been done and the results passed to OSD. What's left to study?

For the last 45 days, OSD has had enough data to support a decision analysis—all they really need is the A–11/A–94 model we provided to determine that the deal is a good one.

A complete contract is not required for OSD to analyze the lease; contracts are written to match the programs approved and justified through analysis; our A–11/A–94 model is the primary analytical tool upon which we are building our contract; if OSD analyzes the model (which we believe they have not done), they will be analyzing the proposed program.

If restarted negotiations in 2005 resulted in a real price increase of just 5%, we will have to drop one aircraft per year to live within our budget. This will add further cost and stretch-out the KC–135 recapitalization effort two more years in addition to the two-year late start.

A 5% price increase due to loss of negotiation leverage will add more than $700M to the cost of the first 100 KC–767s.

Bottom line: the penalty for delaying the lease we've negotiated today could be substantial even without the added burden of paying for maintaining KC–135Es. Please keep in mind that the low-cost deal we have today is the result of negotiating with a manufacturer suffering the impacts of an industry-wide downturn. That downturn is not expected to continue for another two years. As the facts show, our negotiating team got a better deal on these 767s than a major airline did with theirs with a 20-yr exclusive contract—we likely won't do as well when the industry recovers. How, then, would we explain this two-year delay to Congress?

Marv.

From: Michael Wynne
To: Marvin Sambur
Date: July 08, 2003
Subj: RE: Footnote

MARV: At long last, this is the best that I could get—relegating the non-available comparison to a footnote. I have been to the speakers office, and they don't care how it reads, just get it over to congress and let them get it done.

At this point, it is up to Jim to sign or not.

Best,

Mike.

From: Marvin Sambur
To: James Roche; Michael Wynne
Date: July 08, 2003
Subj: Re: Footnote

The primary reason for the lease is because it affords us the ability to recapitalize faster. By putting in the footnote, we allow our enemies to stall with the excuse that the AF should go to Congress and ask for a MYP. The OSD position is that the financials are a wash, so way cloud the issue and cause problems. Submit without the footnote and we will prevail. Submit with the footnote and we have a battle on the wrong issue that will cause big time delays.

Marv.

From: Mary Walker
To: James Roche
Date: August 21, 2003
Subj: Re: Revised OMB Circular A–11

BOSS: I had the same question. It would be nice to say we comply either way. Will see. Moreover in my opinion, now in preparation, I could speak to this. You may be asked.

Mary.

From: James Roche
TO: Daniel Ramos
CC: Marvin Sambur, William Hodges, Ty Hughes, Mary Walker, Janet Therianos, John Jumper
Date: Aug 21, 2003
Subj: Re: Revised OMB Circular A–11

Dan, thanks much. Good work. How does our lease fare under the new circular? If it fails, then OMB may be in for an attack from Sen McCain. What dumb time to change the rules!!!

JGR.

DR. JAMES G. ROCHE,
Secretary of the Air Force.

From: Daniel Ramos
To: James Roche
CC: Marvin Sambur, William Hodges, Ty Hughes, Mary Walker, Janet Therianos
Date: Aug 21, 2003
Subj: Revised OMB Circular A–11

SIR: Earlier this week Ms. Walker provided you with a copy of a revised version of OMB Circular A–11 issued on July 25, 2003. Among other things, the revised A–11 adds new guidelines for distinguishing between operating leases, capital lease the KC–767s requires that it be an operating lease based on the definition provided by OMB ''at the time of the lease.'' The statute does not state whether ''at the time of the lease'' means when the lease is signed or when it was first submitted to OMB for review, so it is possible that the revised A–11 could apply to the KC–767 transaction. We immediately engaged with OMB on this issue, and as of this afternoon OMB has verbally agreed to the following: OMB will issue a clarifying letter stating that the revised A–11 applies only to transactions approved by OMB after July 25, 2003. At our request, OMB will then issue a letter addressed to you stating that OMB approved the Air Force KC–767 transaction prior to July 25, 2003, and therefore the revised A–11 does not apply. OMB plans to issue the clarification early next week and the letter to the Air Force by the end of next week. If there is any change to this plan, we will let you know.

From: Marvin Sambur
To: James Roche
Date: November 21, 2003
Subj: FW:767 Update

FYI.

From: Ty Hughes
TO: Marvin Sambur
CC: Scott Custer, Mary Walker, Daniel Ramos, Ted Bowlds
Date: Nov 21, 2003
Subj: 767 Update

Dr. SAMBUR: OMB General Counsel called DoD GC this afternoon and asked for a legislative proposal to address the obligation of funds for the tanker. OMB also asked what the Air Force can with respect to obligation of funds if there is no new legislation.

DoD has prepared language that would allow obligation of funds upon delivery of the aircraft. The draft language would solve the problem. It should go over this evening. OMB is considering offering the language for inclusion in the Omnibus Appropriations Act.

Without legislation, the DoD fiscal lawyer is still of the view that the Air Force must obligate all of the funds for purchase when the aircraft are ordered. We have scheduled meeting for 0900 on Monday with the DoD lawyers to discuss this.

Ty Hughes.

From: Mary Walker
To: James Roche
CC: John Jumper, Peter Teets, William Bodie, Janet Therlanos
Date: Nov. 26, 2002
Subj: More Updates from GC

BOSS: Welcome back! (With the thought you are reading this after Thanksgiving . . .) Since I won't be here when you get in on Monday the 2nd (I'll be on my way to give a speech at the USAFE JAG conference . . .), I wanted you to have my long list of accumulated updates so you can be current with the issues we are working that are of known or suspected importance to you. Don Fox will be covering for me until I get back on Dec. 6th. This will fill you in.

767 Tanker Lease (legal issues):

While most of the lease terms have been agreed upon, a number of terms have been elevated to SAF. The most important ones include the following:

(1) A very significant issue just surfaced and may require us to obtain additional legislation. Boeing representatives told us the investors need assurance that the Air Force will not terminate the lease agreement while the aircraft are under the 3-year construction. We are concerned about the fiscal consequences of such an assurance since 40+ aircraft may be in various stages of construction at any one time. We are analyzing this issue under the limited statutory guidance for this program and past precedent, which is also limited because leasing of major systems has been so rare. FI we are unable to resolve this issue with the staff in DoD GC, we may need to seek another provision in law to provide adequate authority to meet our needs.

(2) Boeing wants a clause advising the government of the tax treatment it wants reflected in the transaction. We have told them that the tax treatment is a matter between Boeing and the IRS, not the Air Force.

Boeing is considering whether to seek a Revenue Ruling or informal advice form the IRS. If they decide to go that route, we may want to ask the IRS to expedite consideration of their request.

(3) The bond rating agency wants the government to agree not to initiate a bankruptcy petition against the lessor until one year and a day after the final lease payment. While we understand this is a standard provision in commercial aircraft lease, DOJ, not the Air Force, decides when to file documents (such as bankruptcy petitions). We will ask Boeing to discuss this matter with the bond rating agency to see if they can make an exception for a government lessee or lese tailor the clause in a way that would not bind DOJ. If not, we will work the issue with Justice.

(4) Boeing also wants indemnification under Public Law 85–804 for ''unusually hazardous risks.'' You approved such indemnification in the case of the 737 lease. However, Boeing's request is now broader and the company seeks indemnification for the lender and officers of the various entities involved. The Air Force has not provided such broad indemnification in the past. We are currently reviewing whether we have the legal authority to do this and then there is the policy issue of whether this is something we want to consider. We also are working on the definition of unusually hazardous risk in this case.

From: Michael Wynne
To: James Roche
Date: June 24, 2003
Subj: Meeting

JIM: Thanks for hosting on Tankers—flavor just right, but I may need to borrow that reverse flak jacket yet.

Best,

Mike.

From: Michael Wynne
To: James Roche
Date: July 17, 2003
Subj: Good Luck

JIM: I wanted to say again congrats to get to the next phase fight on Tankers, likely less than the fight so far. Good Luck as well on the nom and confirm process. I'll be somewhere behind you. President willing.

Best,

Mike.

From: Michael Wynne
TO: Nancy Spruill, Ronald Sega, William Porter
CC: Richard Wiersema; Raymond Jones; Robert Nemetz
Date: November 01, 2003
Subj: RE: Two Issues—Tankers and Ship Funding

I think I responded but if not—I thought we could support two R&D ships if in different yards, and so stretch R&D a little. Incremental for production would be a stretch. Tankers—aaaaarrrrgggghhh!!! enough said.

Best,

Mike.

From: Nancy Spruill
To: Michael Wynne; Ronald Sega; William Porter
CC: Richard Wiersema; Raymond Jones; Robert Nemetz
Date: November 1, 2003
Subj: RE: Two Issues—Tankers and Ship Funding

MIKE: This evening Deputy Secretary Wolfowitz, Dr. Sega, Marv Sambur, Dave Patterson, Dan Stanley and I met with Joel Kaplan and others from OMB/WH/VP's office.

The issue was a legislative strategy for the way ahead on the tanker lease, in light of the proposed Warner amendment/press articles/interactions with Congress/etc.

There was a lot of support to go with the amendment but AF argued that there were other players—HASC and appropriators—so we should let the process work its way out. Dr. Wolfowitz raised the issue of a compromise and asked for an additional 28 hours to get a Department position to Joel Kaplan.

Dave Patterson will have the lead and Ron Sega and I will work w/him.

They are aware of your recommendation about where to get offsets, if we went with 20/80.

From: James Roche
To: Paul Weaver
Sent: May 21, 2002
Subject: (No subject)

Thanks, Paul. You are correct re KC–767's. Let's wait until we have a deal. We just completed negotiations on the four 737's for Congressional travel. Re F–22's, the ANG is welcome to make the following points:

(1) The F–22 is needed, and will be a formidable weapon system.

(2) It will be important for the ANG to be part of this program.

(3) If the program is cut, the chance to put F–22's in the Guard effectively will evaporate.

Be well.

Jim.

From: Paul Weaver
To: James Roche
Sent: May 21, 2002
Subject: (No subject)

MR. SECRETARY: I just returned on Monday from the Adjutants General's conference in Boise. Great turnout and great support for our Air Force. Gen Kane and Killey briefed them on their meeting with you and all voiced overwhelming approval to help out in AF modernization where ever they can. Led by the TAG from Arizona, who's Phoenix unit flies the oldest KC–135E's, want to start working the Hill for support for the KC–767. They do not want Sen. MCCAIN to hurt the proposal. They want to get out the straight facts on the old E's. I advised them to hold off until a deal is finally cut between the AF and Boeing. I want to make sure that that is still your position. They will all respect your wishes and will move out when you give the signal to do so.

They also want to do whatever it takes to keep the F–22's in production and have the ANG as part of it.

Danny did a great job and I'm sure he will do well in the future as the Director.

God Bless,

Paul.

From: Burkhardt & Associates
To: James Roche
Sent: May 3, 2002
Subject: WSJ

Not very helpful article this morning. Here's the short outside the beltway reaction. (If you want the long version, give me a call)—

(1) Why the secrecy of your Wall street advisors? I think you got lousy legal advice on that memo. (If the article is accurate and you're using Wall Street advisors). You're the client. I can't envision a circumstance under which whoever is structuring this deal for you wants the fact that their doing so is kept quiet. It's red meat to Congress to tell them they can't know something.

(2) Claiming confidentiality is like claiming executive privilege. Even if it's correct in a narrow technical sense (and I'm not at all convinced it is) it only hurts you—larger public case. You can't defeat the claims that you're not disclosing something (by implication—something bad) (esp from someone as visible as MCCAIN) without real information. I'd distribute a one page memo saying the per plane cost of the lease will not be greater than x and have x be less than the last lease Boeing did for some commercial entity—or that x is y dollars less than the cost of a new tanker.

From: James Roche
To: Dr. Marvin Sambur
Sent: May 14, 2002
Subject: RE: Call from Boeing

I love Ya, Big Guy. Give it to the Blue Eyed Arabs of the North (the expression we used for Boeing).

Jim.

From: Dr. Marvin Sambur
To: James Roche
Sent: April 9, 2002
Subject: RE: Call from Boeing

BOSS: Gerry Daniels called to discuss the tankers. He started the conversation by reminding me that McCain was a minority view and if the AF brought the deal forward it would easily pass. I stated that the AF would not bring this forward unless it was a good deal. Apparently, he never took this message seriously as he was surprised at this response. I explained our business model and indicated that if Boeing could not fir into this model we would shake hands and disengage. I arranged to have him and his team share our model. I ended the conversation by telling him that the AF's reputation was at stake and we are committed to getting a good deal or else there would be no deal. Boeing must take some risks given the future value of this initial contract. We are pointed towards an end of May conclusion as to whether to disengage.

Marv.

From: William Bodie
To: James Roche
Sent: April 25, 2002
Subject: RE: US News

Don't worry, I was never ''good'' enough to be an altar boy. I liked girls too much.

From: James Roche
To: William Brodie
Sent: April 25, 2002
Subject: RE: US News

God love you, my Son. Oops. I sound like one of those dangerous clerics!!

Jim.

From: William Brodie
To: James Roche
Sent: April 25, 2002
Subject: RE: US News

Yes, Camelot is always a 'brief, shining moment.' Iorizzo is no King Arthur, or even a Lancelot. If we can get through this goddam fight about tankers, we'll have another Camelot in the AF.

From: James Roche
To: William Brodie
Sent: April 25, 2002
Subject: RE: US News

I hope I didn't spoil the opera for you. I think Wally is still talking. We left. It was very much of a Westinghouse affair.

Jim.

From: William Brodie
To: James Roche
Sent: April 25, 2002
Subject: RE: US News

Okay, I've gone to battle stations. Leroy knows and will call friendly staffers like Cortese to give them a heads up, and perhaps to do something. I saw Rudy DeLeon at the Kennedy Ctr and politely asked the Great White Arab Tribe of the North to unleash their falcons on out behalf for once. And, I talked to Loren, who is standing by to comment to this reporter about the national security imperatives of tanker modernization. Vago is also standing by. I will get with Sambur first thing to rehearse talking

points. Will get with you before we talk to the reporter.

Say hi to Wally.

From: James Roche
To: William Brodie
Sent: April 25, 2002
Subject: RE: US News

The call was from a very senior guy at the rag. I've talked to Marv and told him to hook me in sometime between 10:00 and 10:30 tomorrow. Thanks much.

Jim.

From: William Brodie
To: James Roche
Sent: April 25, 2002
Subject: RE: US News

I think your original guidance was right. Secaf takes first Q on when did we know, and you both take the second. We can do by phone tomorrow. We shouldn't get too excited, there is no expose. Just certain scare mongers.

From: James Roche
To: William Bodie
Sent: December 13, 2001
Subject Fw: 767 lease

Damn it! JGR.

From: Marvin Sambur
To: James Roche
Sent: December 13, 2001
Subject Fw: 767 lease

Yesterday, I was asked to prepare an enhanced point paper on the 767 lease for the Vice. The number that was given to me from AQ on this enhanced paper were different from those developed for the point paper prepared for you. I questioned these numbers and received fuzzy answers in return. I decided to do the calculation myself using an excel spreadsheet. I found to my dismay that the numbers were correct according to the OMB definitions but very misleading in a true financial sense. The deal was not good from a true financial basis and I briefed the Vice at 7:30PM of the misleading nature of the numbers and advised my people that we needed to get a better deal from Boeing to make this financially attractive.

Nelson Gibbs reached the same conclusions.

I need to make sure that in the future our financial calculations are both accurate and business based. I am sorry for not catching this sooner!

Marv.

From: James Roche
To: William Bodie
Sent: December 13, 2001
Subject: RE: Several items

Bill, thanks much. I like the ROE charts a lot. Well done. I want to brief the one with XI, and I've sent John a msg asking whether or not we should refer specifically to the C2ISR Center being double-hatted. Re 767, I am hearing of some weakness in our numbers, damn it. I'll forward Marv's msg to you. We may want to have Rand be ''more circumspect'' in a reply. Re Chip, he is wonderful, but would have the same problem with the PA&E spores that Barry has.

Jim.

From: William Bodie
To: James Roche
Sent: December 13, 2001
Subject: RE: Several items

BOSS: Hope the trip is going well, and we'll save some eggnog for you. Bill Davidson's gang is faxing you a couple of charts and ''ROE'' on headquarters reorg that we are set to announce along with the Army next week. Reason for the fax is to get your input prior to briefing Hill folks in time to make the announcement. The charts are fine for the Hill and they satisfy all Title 10 concerns. I worry that folks internally will get the impression that we're tinkering at the edges, not transforming. One battle at a time, I guess.

Oh, I'm polishing up a draft article for your signature on ''AF transformation'' that is set to appear in the next issue of Joint Force Quarterly (I got them to commit to putting the F22 on the cover). Will send you electrons and also have hard copy for you when you return.

Rand working on a response for Novak on 767—we still might want to think about a 5 minute conversation between you and Novak on it.

Had dinner with Chip last night. He wanted me to pass on his best to you, and is proud you're doing Bob Anthony's event. He seems to have made peace with the idea of doing strategic planning, NCTA, etc., ceding marketing to Carpenter. I would put in him charge of the DC Office if I were Sugar, or at least a major supporting role in govt. relations. Maybe he should fo PA&E!

Bill.

From: James Roche
To: William Bodie
Sent: March 30, 2002
Subject: RE: Tanker story

Fine story. EADS is quoted. And Loren's comment basically is fine.

Jim.

From: William Bodie
To: James Roche
Sent: March 30, 2002
Subject: RE: Tanker story

Vernon Loeb's piece is in the back of the sports section in today's WP. The ''statement'' he refers to is the RTQ which the LL guys made available to staffers on request. Not a bad story, no errors, but not as good as Vago's. Loren apologizes for saying you told him that all KC135s need to be replaced on a 1 for 1 basis. He didn't think it would be in the piece.

From: Custer Scott MajGen
To: James Roche
Sent: March 30, 2002
CC: Jumper John Gen AF/CC; Moseley Michael Gen AF/CV
Subject: NDAA

Sir, it looks like the Auth bill will go to the floor today. As suspected, the bill language may not be what the lawyers and acquisition folks think we need to sign the lease. However, the early conference report language looked to me like it contains all we need to proceed. We are just going to have to wait until later today to see how this turns out. My gut feel is that each document was written for precise reasons (to pacify certain factions) and that ultimately we will be able to execute the lease/buy as we want it done. It also looks like we are only going to be able to retire 12 vs 44 135E's in FY)$ . . . even after all of our attempts to engage the Hill on this I'm not surprised as this is really a BRAC optics issue. As we get more visibility into the NDAA, we will provide you with a summary of other major issues affecting the AF.

From: John Jumper
To: James Roche
Sent: April 9, 2002
Subject: RE: Tanker Article

Agree, I don't think there was malice, but the wording of his statement could be used as evidence against out efforts. As you said this morning, we just have to articulate the problem we are trying to fix.

John.

From: James Roche
To: John Jumper
Sent: April 9, 2002
Subject: RE: Tanker Article

John, even Dick would want us to begin to retire 43 plus year tankers which will be about 47 to 50 years by the time we actually replace them. At least, I think he would!

Jim.

From: John Jumper
To: James Roche
Sent: April 9, 2002
Subject: RE: Tanker Article

BOSS: you'll see this morning's EB has a statement from Dick Myers that says the tanker fleet we have can fully meet requirements now and out into the future, suggesting we don't have the problem with tankers we claim to have. We are bound to be asked this and I have our people working on a response.

John.

From: James Roche
To: Robin Cleveland
Sent: April 28, 2003
Subject: RE:

Ok, I'll speak with Paul on Wednesday (I'm off to speak yet again with my Little Darlings at the Academy). Let's see if we can put together a Gov't Team for Best and Final. Re IDA, I'd never go to them for investment banking advice! And Larry has been altogether too detached. When all is said and done, it's still a negotiation between the Monopsonist (the USG) and the Monopoly (add the French, and it's the Duopoly).

Jim.

From: William Bodie
To: James Roche
Sent: January 2, 2002
Subject: RE: Dear Bob

BOSS: here's a cut at a letter to Novak (remember, this is not for him to publish, but hopefully to shut him up). Still waiting for Rand to give details on name of Novak's person who called PA and when.

Bill.

From: Pete Aldridge
To: James Roche
Sent: May 16, 2003
Subject: RE: Boeing

I agree.

From: James Roche
To: Pete Aldridge
Sent: May 16, 2003
Subject: RE: Boeing

Thanks, Pete. I cannot bring myself to speak to That Person, so I'll only forward a copy of whatever Boeing sends us on Monday.

It's time DoD made a decision as to what is right for our Combat Air Forces.

Jim.

From: Pete Aldridge
To: James Roche
CC: Dr. Marvin Sambur
Sent: May 16, 2003
Subject: RE: Boeing

Great. According to Paul's schedule he will not be back until Tuesday. I will set it up for then.

From: James Roche
To: Pete Aldridge
Sent: May 16, 2003
Subject: RE: Boeing

Pete/Marv. Boeing will provide us a 15% max profit certification with audit on the green plane. Phil is fighting off attempts by his commercial guys to add economic clauses (with our help). We should have something on Monday morning. Pete, do you want to make the appointment with DepSecDef? We now have a fixed price deal with taxpayer

protection against overruns or windfall profits from the plane and/or the mods. Enough already.

Jim.

From: James Roche
To: Marvin Sambur
Sent: May 13, 2001
Subject: RE: 767 lease

Oh shit! PLS fix ASAP. How did Darleen miss this?

Jim.

From: Marvin Sambur
To: James Roche
Sent: May 13, 2003
Subject: RE: 767 lease

Yesterday, I was asked to prepare an enhanced point paper on the 767 lease for the Vice. The number that were given to me from AQ on this enhanced paper were different from those developed for the point paper prepared for you. I questioned these numbers and received fuzzy answers in return. I decided to do the calculation myself using an excel spreadsheet. I found to my dismay that the numbers were correct according to the OMB definitions but very misleading in a true financial sense. The deal was not good from a true financial basis and I briefed the Vice at 7:30PM of the misleading nature of the numbers and advised my people that we needed to get a better deal from Boeing to make this financially attractive.

Nelson Gibbs reached the same conclusions.

I need to make sure that in the future our financial calculations are both accurate and business based. I am sorry for not catching this sooner!

Marv.

From: Druyun, Darleen., SAF/AQ
Sent: Wednesday, October 09, 2002 8:17 AM
To: Roche, James, Dr., SAF/OS; Jumper, John, Gen, AF/CC; Sambur, Marvin, Dr., SAF/AQ; Foglesong, Robert, Gen, AF/CV; Wehrle, Joseph H. Jr., Lt Gen, AF/CVA; Plummer, Stephen B., LtGen, SAF/AQ; Gibbs, Nelson, Mr, SAF/IE
Subject: OSD BRIEF TO LEASING WORK GROUP

We were asked if we thought the Congress would give us; language on the termination liability coverage. We told them we did not know and would have wait for the FY 03 appropriations to be passed by the Congress. Privately I would tell you that the language we asked for is supposed to be in the bill per several telecons from the hill. This is still fairly ''close hold''. Once they digest this material they will reconvene a follow on meeting. Meanwhile we will continue to work this subject with OSD and try to win them over, including OMB. Col DeWillis from SAF/AQQ has an excellent working relationship with the OMB and continues to work closely with them. Will keep you posted.

To: Wynne, Michael, Mr, OSD–ATL
Cc: Sambur Marvin Dr SAF/AQ
Sent: Tuesday, Jul 08, 2003
Subject: Re: FW: Footnote

Mike I don't like it. Why? Because we don't agree with the calculation! As important, it fails to give an alternative, lease supportive case where the NPV is positive! If the addition to the footnote added: ''. . . Similarly, if blah blah, then the NPV would favor a lease by $$$.'' As this stands, it is embarrassing to you, me, and the SecDef. Sen McCain and others who oppose the lease will leap to this number! Why is this so hard for you to see, Mike? Further, the footnote misses Pete Aldridge's point that this is a hypothetical since the Air Force doesn't have the BA to enter into such a multiyear contact, even if the Congress bent its rules to do so without limited production!

Marv, what do you think? Pls get together with Mike to come up with a more palatable and balanced version of the footnote. Jim.

DR. JAMES R. ROCHE,
Secretary of The Air Force.

From: Wynne, Michael, Mr, OSD–ATL
To: Roche, James Dr SAF/OS
Sent: Tue Jul 08 17:04:31 2003
Subject: FW: Footnote

JIM, I've gotten the 1.9B relegated to a footnote and I've made an agreement with OMB so that we can proceed. You can sign it in the morning if you agree if not I'm not sure what to do. Meeting with DSD went fine. Most are hoping that you refuse to sign. I told them not so fast.

Best Mike.

From: Spruill, Nancy, Dr, OSD–ATL
Sent: Tuesday, July 08, 2003 4:19 PM
Cc: Spruill, Nancy, Dr, OSD–ATL
Subject: Footnote

MIKE. This is what I have copied for your convenience.

Thanks.

Nancy.

The footnote is to the sentence that says:

Applying the A–94 test, it was determined that the net present value of the multiyear lease option and a traditional purchase option results in a NPV favoring a purchase of $150 million, as shown in Table 1(1).

FOOTNOTE: [1] In evaluating the net present value of the lease and purchase options as required by OMB Circular A–94, the Air Force relied on the availability of mulityear lease authority granted by Congress in 2002 Defense Appropriations Act. Had the Congress chosen instead to provide mulityear procurement authority the NPV could favor purchase by up to $1.9 billion. While this information affords a measure of clarity in an equitable comparison of terms and NPV, it is provided with the understanding that multiyear procurement authority was not available and therefore not a viable option for the Administration's analytical consideration.

From: Sambur Marvin Dr SAF/AQ
Sent: Tuesday, July 08, 2003 9:58 PM
To: Roche James Dr SAF/AQ
Subject: Fw: Tanker Leasing Report to the Congress

BOSS. Just received this from Nancy. It is worth a shot speaking to Robin or are you like me in that you would rather take poison.

Marv.

From: Spruill, Nancy, Dr, OSD–ATL
To: Hodges William Maj Gen (S) SAF/AQQ
CC: Spruill, Nancy, Dr, OSD–ATL; Schroeder, Wayne, OUSDC
Sent: Tue Jul 08 21:49:50 2003
Subject: Tanker Leasing Report to the Congress
Marv/ Wayne H.

I believe Dr. Roche is not happy with the compromise. So I believe it is now between Dr. Roche and Ms. Cleveland. As far as I know. we're in limbo. I'm sure something will change tomorrow. But I'm optimist.

Thanks.

Nancy.

From: Hodges William Maj Gen (S) SAF/AQ
Sent: Tuesday, July 08, 2003 4:51 PM
To: Sambur Marvin Dr SAF/AQ
Cc: Spruill, Nancy, Dr , OSD–ATL; Buhrkuhl, Robert, Dr, OSD–ATL; Schroder, Wayne, OUSDC: Schoonover, Joanne, Col. OSD–ATL; Jones, Raymond, LTC, OSD–ATL; Nemetz, Robert, Mr, OSD–ATL; Custer Scott MajGen SAF/LL; Christ Gregory M Lt. Col SAF/LLW; Bunce Pete Col SAF/FML; Ryan Jim Lt. Col SAF/FML; Barefield James Lt. Col SAF/AQ; Beierle Mark T Lt. Col SAF/AQ; Corley John Lt. Gen SAF/AQ; Gray Stephen Col SAF/AQ; John Lt Col SAF/AQ Fisher (Email); Murphy Mark Lt. Col SAF/AQ; Canavan Michael F Maj AFPEO/AT; Ted Bowlds (Email); Allen Cheryl Lt. Col SAF/AQQM; Cloud Patricia Lt. Col SAF/AQ; Haenisch Allan Civ SAF/AQQM; Leister William Maj SAF/AQQM; Lively Nancy LtCol. SAF/AQQ; Rivard James T Col SAF/AQQM; Stipe Paul Col SAF/AQQ
Subject: FW: Waiver of Termination Liability

DR. SAMBUR: As you will see below, OMB will support the language OSD proposed if we support adding the OMB text as a footnote. I clipped it from previous emails so you can see it all together here. Mr. Wynne approved.

Request your approval. (We're ready to go final and send the package to SAF/LL for Dr. Roche's signature.)

From: Spurill, Nancy, Dr , OSD–ATL
Sent: Tuesday, July 08 , 2003 4:05 PM
To: Hodges William Maj Gen (S) SAF/AQQ; Sambur Marvin DR SAF/AQ
Cc: Leister William Maj SAF/AQQM; Buhrkuhl, Robert, Dr, OSD–ATL; Schroeder, Wayne, , OUSDC; Schoonover, Joanne, Col, OSD–ATL; Spurill, Nancy, Dr, OSD–ATL; Jones, Raymond LTC, OSD–ATL; Nemetz, Robert, Mr, OSD–ATL
Subject: FW: Waiver of Termination Liability

Marv/ Wayne

Over to you.

I'm sure Mr. Wynne is willing to talk w/ you.

I hope you come onboard.

If you do, I need a clean copy of the report, OMB has asked for one—for their internal use only.

Thanks.

Nancy.

From: Wynne, Michael, Mr, OSD–ATL
Sent: Tuesday, July 08, 2003 3:55 PM
To: Spurill, Nancy, Dr, OSD–ATL
Subject: Re: Waiver of Termination Liability

From: Robin-Cleveland
Sent: Tuesday, July 08, 2003 3:33 PM
To: Michael, Wynne
Subject: Re: Waiver of Termination Liability

Yes make it a footnote and we got a deal.

From: Sambur Marvin Dr SAF/AQ
Sent: Tuesday, August 26, 2003 7:59 AM
To: Szemborski, Stanley R., VADM, OSD–PA&E
Cc: Krieg, Ken, CIV, OSD–PA&E; Zakheim, Dov Hon, OSD–COMPT: Roche James Dr SAF/OS; Wynne Michael, Mr, OSD–ATL, McNabb Duncan Lt. Gen AF/XP
Subject: $2B Issue with PA&E

STAN: At my staff meeting this morning, my folks again (see email below) reported that PA&E was pushing our folks for sources for the $2B upfront payment for the lease. As I mentioned at our previous meeting on this subject, the AF was told by Mr. Aldridge that this payment would come from DOD ''reserves'' and Aldridge still reiterates that position. In an event it is too early to start the process. In addition, Mr Zakhiem stated at the earlier meeting that he has no ''reserves'' but will seek sources for the $2B from ALL the Services. We can call another

meeting (with Aldridge) to addresses the issue if that is not your understanding

Marv.

From: Stipe Paul Col SAF/AQ
Sent: Monday, August 11, 2003 3:54 PM
To: Sambur Marvin Dr SAF/AQ
Cc: Corley John Lt. Gen SAF/AQ; Gray Stephen Col SAF/AQ; Barfield James Lt. Col SAF/AQ; Fisher John Lt. Col SAF/AQ; Rivard James T Col SAF/AQQM; Hodges William Maj Gen SAF/AQQ; Marzo David Maj SAF/FMCE; Louden Philip LtCol with PA&E
Subject: Head's Up on Tanker 42B Issue with PA&E

SIR: Just to keep you in the loop, PA&E is still trying strong-arm tactics with our programmers concerning the $2B funding excursion mentioned in the 767 Congressional Report as an out year option for shaping the budget bow-wave. As you may recall Mr. Wynne told us that the AF should consider this new money. That aside, it is premature (in FY03) to be working a program budgetary change on a program that has not yet been approved. Further, decisions on FY08 actions can be addressed in 2006. Finally, as an operating lease, we would need some indication from Congress that they intend for us to buy these aircraft for a buy-down scenario to become a reality. The report did not commit us to the path, but rather, committed the Department of Defense to exploring options like these in the future if it becomes necessary, The $2B excursion was one such option. We expect AF/XP to bring this issue to your attention. We have already been working with their actions to provide background, and to indicate that this appears to be an initiative from PA&E, not from OSD as a whole, or from AT&L.

V/R,

PAUL M. STIPE, COL, USAF,
Deputy Director, Global Reach Programs.

From: Aldridge, Pete, Hon, OSD–ATL
Sent: Monday, November, 04, 2002 1:22 PM
To: Wynne, Michael, Mr, OSD–ATL: Lamartin, Glenn, Dr, OSD–ATL: Diane, Ms, OSD–ATL
Subject: Tankers and B–52's

Steve Cambone tells me that PA&E is coming out against the tanker lease. Their problem seems to be the infrastructure costs modifying and maintenance facilities to bed-down the 767, vice 135s. I do not recall that the KC–10s caused that much problem.

Also, I need a short paper on the B–52 re-engining study done by the DSB. Apparently, they are coming out in favor of doing this primarily because of the positive impact on the tanker fleet. I understand that the study is in a draft form now.

From: Aldridge, Pete, Hon, OSD–ATL
Sent: Tuesday, November 12, 2002 5:11 PM
To: Cambone, Stephen, CIV, OSD–PA&E; Szemborski, Stanley R., RADM, OSD–PA&E
Cc: Spurill, Nancy, Dr, OSD–ATL; Lamartin, Glenn, Dr, OSD–ATL
Subject: KC–135 Recap Issue Paper

Steve/Stan; I just reviewed the KC–135 Recap paper. It is a very good and convincing. Based on the analysis I would support Option 3—Convert the E's to R's, and defer new tanker procurement (or lease).

In a related issue, the DSB just completed a study on the re-engineering the B–52. Unlike past studies, which showed that this was not cost-effective, this new study took into account the impact on tankers. The result is a much more favorable analysis supporting such a plan. This would further increase tanker availability for other uses. I am to receive a paper and briefing and may have a more definite position soon.

From: Spurill, Nancy, Dr, OSD–ATL
Sent: Tuesday, November 12, 2002 9:22 PM
To: Aldridge, Pete, Hon, OSD–ATL; Link, Jon, Col, OSD–ATL; Wilson, Charles, CAPT, OSD–ATL; Lamartin, Glenn, Dr, OSD–ATL; Buhrkuhl, Robert, Dr, OSD–ATL; Aucoin, Cassandra, Ms, OSD–ATL
Subject: RE: Tanker Leasing

SIR: Re: tanker leasing, in addition to PA&E, CAIG, OMB, and Comptroller are trying to decide whether to support leasing or not but have not gotten all the information they need yet from AF. AF is suppose to give it to the leasing review panel working group this week.

Once we get the information from AF it will take several more weeks-the CAIG is the long pole in the tent.

If we go with the reengining of KC–135Es/converting them to Rs, as you suggest, the purchase vs. lease issue could be addressed much more deliberately in POM 05.

You can give us further guidance when we see you at 0800 Wednesday am.

V/R,

Nancy.

From: Glenn Lamartin OSD–ATL
To: Pete Aldridge OSD–ATL
CC: Nancy Spruill; Diane Wright; Jon Link; Charles Wilson
Date: November 12, 2002
Subj: B–52 Re-engining

We are preparing the paper you requested and the short briefing that will make the case. We just got a copy of the DSB task force's executive summary and will work with them to make sure that we get the details right.

Glenn.

From: Pete Aldridge
To: Michael Wynne, Glenn Lamartin, Diane Wright
Date: November 04, 2002
Subj: Tankers and B–52s

Steve Cambone tells me that PA&E is coming out against the tanker lease. Their problem seems to be the infrastructure cost of modifying hangers and maintenance facilities to bed-down the 767, vice 135s. I do not recall that the KC–10s caused that much problem.

Also, I need a short paper on the B–52 re-engining study done by the DSB. Apparently they are coming out in favor of doing this primarily because of the positive impact on the tanker fleet. I understand that the study is in a draft form now.

DRU SJODIN NATIONAL SEX OFFENDER PUBLIC DATABASE ACT OF 2004

Mr. HATCH. Mr. President, I rise today to commend my colleagues on passage of S. 2154, Dru's Law. After last year's abduction of Dru Sjodin in North Dakota, Senator DORGAN introduced this bill to address a problem with our sex offender registry. The problem is simple, yet great: There is no public national sex offender registry. Each State maintains its own registry of sex offenders, but there is no national database for the public to search.

I was pleased to support this legislation when it was referred to the Judiciary Committee and was happy to work with Senator DORGAN to improve the language of the final bill. Dru's law directs the Attorney General to make available to the public, via the Internet, a national registry of sex offenders. It also requires each State to provide timely notice to the State's attorney general of the impending release of a high-risk sex offender; and upon such notification, the State's attorney general is required to consider whether to institute a civil commitment proceeding. States must intensively monitor for at least 1 year any high-risk sex offender who has not been civilly committed and has been unconditionally released from incarceration.

I want to thank my colleague Senator DORGAN for his dedication to this legislation.

SENATE FAILS NATIVE AMERICAN ENTREPRENEURS

Mr. JOHNSON. Mr. President, I am pleased that Congress will soon complete it's work on the remaining fiscal year 2005 Appropriations measures. While this bill is not perfect, it represents an important and sincere effort to work in a bipartisan effort to fund the nations goals and priorities.

I am, nonetheless, sincerely disappointed that extensive authorization language regarding the Small Business Administration was inappropriately inserted into this important bill. The inclusion of this language is a deliberate and deceptive effort to circumvent the legislative process. It prevents honest and important debate about important issues that face this Nation, and ultimately it characterizes an enormous failure on behalf of the bill's authors.

A quality SBA reauthorization bill could stand on it's merits. The bill's authors would come to the floor and deliberate these matters openly. We would have an honest discussion about how to best serve the entrepreneurial interests of our country. We would pursue a full and complete review of these matters by all Members, and we would seek to enhance and improve the bill in every way we could.

Unfortunately, this bill is terribly lacking. So the sponsors have chosen to hide it in this Omnibus Appropriations bill and walk away from their responsibility to the entrepreneurs of America.

This is a shameful perversion of the legislative process. However, these matters will become law, not because Congress has debated and passed this bill on behalf of the American people, but because it was attached to a bill funding nearly every spending program that exists in the country.

The plight of the first-Americans and reservation communities is among the most glaring and disappointing omissions to this SBA reauthorization legislation. These communities remain among the most disadvantaged and disenfranchised in the nation. They face significant barriers to investment capital, technical assistance, and related entrepreneurial opportunities.

The concerns of Native Americans are not addressed in this legislation. Their opportunities will not be enhanced in this legislation. There will

be no debate or discussion about initiatives to bring prosperity to their communities. In fact, any reference to Native American and tribal concerns is utterly lacking.

This is a disturbing oversight, it is a tremendous failure, and I could not be more disheartened on behalf of those who continue work to overcome the serious challenges they face in bringing prosperity to their communities.

BILL CLINTON—A PLACE IN HISTORY

Mr. KENNEDY. Mr. President, many of us had the opportunity to be in Little Rock, AR, yesterday for the opening of former President Bill Clinton's Presidential Library. It was an extraordinary and very moving ceremony, and all of us who were there will always remember it.

That evening, to conclude such an extraordinary day, ABC News broadcast a special edition of its popular television program, ''Primetime Live,'' an hour-long interview of President Clinton by Peter Jennings about the President's new library, his years in office, and his plans for the future.

I believe all my colleagues will be interested in the interview, and I ask unanimous consent that a transcript may be printed in the RECORD.

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

PRIMETIME LIVE—A PLACE IN HISTORY, ABC NEWS, NOVEMBER 18, 2004

PETER JENNINGS: Tonight, America's 42nd president. His library, his legacy and his future. ''A Place in History.''

Hello, everyone. I'm Peter Jennings. And this is the very modern edge of Bill Clinton's Presidential Library, on the banks of the Arkansas River. We are here this week for a first tour of the library. And a conversation with Mr. Clinton about his presidency and about his future. The building is, well, appropriately dramatic, for a man whose presidency was dramatic and divisive, and full of accomplishment.

CHELSEA CLINTON, DAUGHTER: I hereby present to you and the American people, the keys to the William Jefferson Clinton Foundation Center and Library. Thank you.

PETER JENNINGS: President Clinton calls this place on the banks of the Arkansas River, a bridge to the 21st century. It is the largest and most expensive Presidential library. This week, Little Rock is crowded with people who are attracted by the Clinton magic.

LOCAL RESIDENT, FEMALE: He's a uniter. And I just love him.

LOCAL RESIDENT, MALE: He's a credit to Arkansas, as well as a credit to the nation.

PETER JENNINGS: With all the Democrats there, it has the slight feel of a political convention. The people there from Washington and Hollywood, and Arkansas, of course. In a Little Rock concert hall, one of the President's friends celebrates.

ARETHA FRANKLIN, SINGER: He seems to have the goodwill and interest of all the people.

PETER JENNINGS: His recent heart surgery notwithstanding, Mr. Clinton had several events to go to in the last few days. The swearing in of public service volunteers at Little Rock Central High School. And today, the dedication.

EMCEE, MALE: Ladies and gentlemen, the President of the United States, former Presidents William Jefferson Clinton, Jimmy Carter, and George Walker Herbert Bush.

FORMER PRESIDENT JIMMY CARTER: Bill Clinton brought insight, wisdom and determination to bear on the issues that he addressed.

FORMER PRESIDENT GEORGE H.W. BUSH: Through his indefatigable determination, not only did he lift himself and his family up, he also went on to touch the lives of millions of people around the world, as President of the United States, giving them hope.

PRESIDENT GEORGE W. BUSH: The William J. Clinton Presidential Library is a gift to the future by a man who always believed in the future. And today, we thank him for loving and serving America.

PETER JENNINGS: Bill Clinton has been planning his Presidential library ever since he was in the White House. At the beginning of September, for a few days before his heart surgery, well, he might have missed the opening.

Is it true that if the prospect of death is suddenly more apparent, that your attitude towards life changes?

FORMER PRESIDENT BILL CLINTON: I think it's changed mine. But not in the way it does some people. Apparently most people have a period of depression. Perhaps because it's the first time they've ever confronted their own mortality. But since my father died before I was born, and I've been living with death all my life, I have never viewed it with the morbid fear some people do. On the other hand, if you dodge a bullet like I did—and, you know, I was about to leave on a 21-day, 6-nation tour of Asia, to help my foundation and promote my book. I think I'd probably have had a heart attack. Might well have died. When that happens, you have to ask yourself, ''Well, you got a little extra time here. What are you going to do with it?'' And so, today, when I take these hourly walks that are part of my recovery, you know, when I walk past 40 trees, I can probably tell you what color 30 of them were. You know, I find birds that I used to miss. I'm more alive to just the pace of daily life than I used to be. And I'm very grateful for things that are easy to take for granted.

PETER JENNINGS: First of all, has it turned out how you wanted it to turn out?

FORMER PRESIDENT CLINTON: Yes. By and large, it has.

PETER JENNINGS: You clearly love it.

FORMER PRESIDENT CLINTON: I do. You know, I worked really hard on this. I literally approved every word.

PETER JENNINGS: Down the center of the library are eight dramatic panels, each one a time line for a year of his presidency. And on the back, interactive computer screens that allow visitors to call up videos of important moments, documents on policy, even the President's schedule, for every day of his eight years in office. On the outer walls, 18 separate alcoves. Each one devoted to a different theme that defined his presidency. There is a huge amount of interactivity.

FORMER PRESIDENT CLINTON: Huge. A lot of it. Thousands and thousands of things that people can pull up. But here, this is how we dealt with the major religious, racial, ethnic conflicts of our time. This is Northern Ireland.

PETER JENNINGS: Middle East.

FORMER PRESIDENT CLINTON: This is the Middle East and what happened there. There're some artifacts there.

PETER JENNINGS: Former Yugoslavia.

FORMER PRESIDENT CLINTON: These are the Balkans. Bosnia and Kosovo. And a letter to a person—I know how much you cared about this. That's a letter I got from—you remember her? The young girl that wrote the book.

PETER JENNINGS: I do. These are all leaders with whom you worked.

FORMER PRESIDENT CLINTON: That's right.

PETER JENNINGS: Who was the toughest to negotiate with?

FORMER PRESIDENT CLINTON: Oh, I don't know. All these guys were my friends, you know.

PETER JENNINGS: Well, what does that mean, they were your friends?

FORMER PRESIDENT CLINTON: Well, I mean, they were my friends. I liked them personally. And I felt that we were always working for the same ends, even when we disagreed.

PETER JENNINGS: What was it like? For example, Boris Yeltsin didn't speak English.

FORMER PRESIDENT CLINTON: No.

PETER JENNINGS: And did you simply become accustomed after a while to having that third voice, the interpreter between you?

FORMER PRESIDENT CLINTON: We had a wonderful interpreter, who was there most of the time. An American. And I got to know his Russian interpreter. And they became like a member of our relationship. It's funny. You just learn to deal with it. Yeltsin, I thought, had extraordinary strengths. Everybody knows he had some weaknesses. But he was completely committed to democracy. Completely against Communism. And completely committed to having positive relationships with the West.

PETER JENNINGS: Somebody told me the other day, sir—I was in Ramallah for Arafat's funeral. This is a slightly embarrassing question, perhaps. Somebody told me that when you and he and Barak were meeting in those final days, he'd asked you that if things didn't go well, that you not blame him publicly.

FORMER PRESIDENT CLINTON: At Camp David in June, he asked me that. And I said I won't, because we still have six months to go. Let me tell you what happened. The reason that I put in so much effort, and the reason I got so angry about this, because we were also at the same time trying to end North Korea's missile program, is that I personally asked Arafat again, six weeks before I left office. I said, now, you just tell me, I'm going to put a deal out here. It's going to be really hard for Israel. And if you accept it, then we can say that's the basis of a peace that we'll either finish by the time I leave, or right after. I said, do you intend to get a deal before I leave office? I said, 'cause otherwise, you gotta let me go to North Korea and Asia. 'Cause I only have six weeks left and I can't do both. It was the only time he ever cried in my presence. He said, you have to do it. He said, if we don't make peace now, after all the trouble that you've taken and all the things we've done together, it'll be another five years and countless deaths before we make peace. So, I took him at his word. I stayed. I got the deal. I think he intended to do it. But for whatever reason, he didn't.

PETER JENNINGS: Nelson Mandela.

FORMER PRESIDENT CLINTON: He's wonderful. And you know, his image is as the world's saint. The truth is, he's a saintly man but he's also a very tough and shrewd politician. And a very, very loyal friend. He is a ferociously loyal friend. And he was fabulous to me the whole time I was there. And he was a great President. But these are just people from around the world that I had good relationships with, that I think are fascinating and that I admired. Of course, Rabin and Hussein I just love. I loved Rabin as much as I ever loved another man. I had

an unusual relationship with him. And I never met anybody like him.

PETER JENNINGS: Can I ask you a couple questions about Iraq? You said at one point, I'm not precisely sure when, that Iraq will do pretty well when Saddam Hussein is gone. Want to revise that at all?

FORMER PRESIDENT CLINTON: Well, I think that even I underestimated the level of opposition, at least given the troop strength we had there. You know, my position on the Iraq war was different from almost everybody else's that I've heard talking. And I supported giving the President the authority to take action against Saddam Hussein, if he did not cooperate with the UN inspectors or if he was found to have had weapons of mass destruction he wouldn't give up. I did believe that the Administration made a mistake going to war when they did. And that's what alienated the world. And most Americans still haven't focused on this.

PETER JENNINGS: Iraq does not look good at the moment. Do you think the United States could lose there?

FORMER PRESIDENT CLINTON: Oh, I suppose we could. But I don't think we will. I don't think we will. I think that the President's re-election gives him an opportunity, first of all, to ask for and get more help from other countries. Senator Kerry made a suggestion, in the campaign, that I think he should consider. He should consider going to the Congress and asking for the authority and the budget to increase the size of the Army, even if we have to pay a little more to recruit them. And between getting more help and sending more troops, to try to shore up more places. I think, ironically, we'll be able to get our troops out quicker if, in the short run, we have more there.

PETER JENNINGS: Is there some code among ex-Presidents, about what you say about the current President, as an ex or former President? Are you constrained about what you can say?

FORMER PRESIDENT CLINTON: Well, I think there has been. But I think there are reasons for that. We've all made our own mistakes and then we've all been told that we were finished and full of mistakes when we weren't. So, I think we're just a little reluctant to do that. You know, my job is not the same thing as yours, for example. Your job is to question what Presidents do, and whether it will work. Former Presidents, our job, I think, is to try to make America and the world a better place.

PETER JENNINGS: Walking through this two-story hall, it is clear, as in all Presidential libraries, that this is the life and times of the President, presented as he most wants to be remembered. In his words and on his terms.

FORMER PRESIDENT CLINTON: This is about the new threats, 21st century threats. So, this is what we did on weapons of mass destruction, and the work we did around the world to try to secure the stocks of weapons of mass destruction. And this is what we did on nonproliferation, modernizing the military and getting new weapons there. And this is a section on terror.

PETER JENNINGS: Why did you put the ten most-wanted poster in here of Bin Laden? You've been taking flak on bin Laden.

FORMER PRESIDENT CLINTON: Yeah, but not from anybody who knows the facts. I mean, to be fair, most of it was highly political. If you look at the 9/11 Commission's report about what we did and how we prepared for, we had 9/11–style threats for the millennium. And the extent of preparations and the work we did. The number of terrorists we brought to justice. The 20 al Qaeda cells we broke up. If you look at all that and the fact that we apparently came closer to getting Bin Laden than anybody has since, even though they have a lot more options, military options that we had. I wish that I had gotten him.

PETER JENNINGS: There are stories around, as you know, that the Sudan offered him to you, not once, not twice, but three times. Any truth to that?

FORMER PRESIDENT CLINTON: That's not true. It's not true, and I've done everything I could to run that down. It is simply not true. They were always playing a double-game, the Sudanese. The guy running Sudan was in business with Bin Laden. And we did try to get him out of there because, at the time, Sudan was worse than Afghanistan as a harbor for terrorists. But they never offered him to us. At least I can't find it in any document, talking to any person. The first time I heard that, I went to an extraordinary amount of trouble to find out if it was true, and I urged the 9/11 Commission to try to find out if it was true. I just don't believe it's true.

PETER JENNINGS: This library has been a labor of love for President Clinton. He was involved in every detail. Hours before it opened, he was still telling the architect, James Polshek, and the designers, a little corrections he wanted made here and there.

Did you fuss a lot?

FORMER PRESIDENT CLINTON: A lot.

PETER JENNINGS: I mean, when it was over, did they think you'd been a pain in the neck?

FORMER PRESIDENT CLINTON: I think so. They now say I was a perfect client. But Polshek said I was the only guy he ever had who would go away for three or four months and come back, and if he changed one line on the drawing, I would know. And I said, well, you know, I care about this. I want it to work.

PETER JENNINGS: Why did you want this here, in this particular place, on this bank of the river?

FORMER PRESIDENT CLINTON: Well, first of all, I wanted it to come home to Arkansas because these people made me President. And I wanted it here. I wanted it to be in the heartland, in the middle of the country, where people don't have access to things like this, so they could learn about their government, how it works, what the decisions were. And I wanted it on this river because I love this river. It was a big part of my childhood. I first swam in this river, 40 years ago or more.

PETER JENNINGS: You're saying that your soul is still in Arkansas, even though you live in New York?

FORMER PRESIDENT CLINTON: Well, a lot of me is still here and always will be. And I will come home a lot. I'll be here a lot.

PETER JENNINGS: There is an apartment and an office for him on the top floor. This is the largest of all 12 Presidential libraries. And at $165 million, certainly the most expensive. Mr. Clinton has visited many of the other libraries. His architects have studied them all.

JAMES POLSHEK, CLINTON LIBRARY ARCHITECT: Each Presidential library takes on certain characteristics of the President. So that Johnson's is very imperial. Kennedy's is elegant. Reagan's is folksy. You know, and Bush gets the word hokey. Clinton's is very progressive, very forward-looking.

PETER JENNINGS: The President refers to the architecture here as like a bridge to the 21st century. Which was, you'll remember, his theme in office. Like other libraries, it has millions of documents available to historians and thousands of presidential gifts and other mementoes for us all to see. Every library seems to have some sports equipment. And invariably there are Presidential vehicles. Mr. Clinton has a Presidential limo right inside the front door. John F. Kennedy's library has his sailboat. George Bush's library has a fighter bomber, similar to the one he flew in World War II. The Reagan library has the Boeing 707 Mr. Reagan used as Air Force One. Presidents love it, of course, when people visit. President Johnson had a novel way of suggesting to football fans at the nearby University of Texas that they come on over.

MICHAEL BESCHLOSS, PRESIDENTIAL HISTORIAN: Johnson had ordained that an announcement be made at half time saying, anybody who wants to use the bathroom or get some cool water can get it at the Johnson Library across the street. Thousands of people flowed through the front doors. And by the end of 1971, the Johnson Library was just about the best-attended presidential library in the United States.

PETER JENNINGS: Presidents save a vast amount of material. Right down to the White House menus. Who knows what will turn out to be significant?

MICHAEL BESCHLOSS: Only last year in the Truman Library, someone came across what looks like sort of a junky desk diary. They found a number of pages in which Harry Truman had recorded in his own hand diary entries day by day in 1947. Had that thing been thrown out, we would have lost it.

PETER JENNINGS: The Clinton Library ultimately houses 630 tons of Mr. Clinton's past. Mr. Clinton is so enthusiastic about his library, we suspect he will be giving tours. President Truman, who spent six days a week sometimes at his library, often gave tours.

JAMES POLSHEK: That would surprise me if he didn't. You know, he loves to give tours. And he would give tours in the White House frequently to anybody who would come along.

PETER JENNINGS: As soon as the President arrived, we started off in his favorite room.

FORMER PRESIDENT CLINTON: This is an exact replica of the Oval Office, with replicas of the paintings I had there, the sculpture I had there. And these are actually books I had in the Oval Office.

PETER JENNINGS: I heard that yesterday you were in here fiddling with the desk.

FORMER PRESIDENT CLINTON: Yes. Well, I was trying to make sure these are all my things. These are Robert Berke's sculptures that he gave me of Harry Truman and FDR.

PETER JENNINGS: I got the feeling that at this pace our tour might have lasted for several weeks. Obvious question here is, how nostalgic are you?

FORMER PRESIDENT CLINTON: Oh, it makes me happy being in here. That's a globe that Hillary and Chelsea gave me. That pot was given to me by King Hussein.

PETER JENNINGS: That staff?

FORMER PRESIDENT CLINTON: It's a Moroccan Berber stick, given to me by Hillary.

PETER JENNINGS: It was time to move on.

FORMER PRESIDENT CLINTON: Here are some of the interesting things . . .

PETER JENNINGS: That people gave you?

FORMER PRESIDENT CLINTON: Yes. This is Lance Armstrong's bike. He gave me one of his speed bikes, as you see, and a jersey and a helmet after he won the Tour de France.

This guy makes cowboy boots for all the Presidents.

PETER JENNINGS: Are some of the presents that a President gets really tacky?

FORMER PRESIDENT CLINTON: Yes. Some are. We got a few of them up here that

are of some question. There's kind of a little cartoon-like thing. There's a great picture of Hillary and me as James and Dolly Madison.

PETER JENNINGS: Not very flattering, sir.

FORMER PRESIDENT CLINTON: No. As I said, I didn't look very good in those tights. There's my dog, Buddy. These are some of my saxophones. I had saxophones that I was given from Germany, from France, from China, from Japan. You see, here's some of the compelling art here we got.

PETER JENNINGS: As we said, Presidents hold on to everything.

This Presidential library is a revealing testament, both to your style and your character. What are some of the misconceptions you're trying to clarify?

FORMER PRESIDENT CLINTON: Well, the biggest one I think, is kind of much bigger than me. And that is, I think politics. There's more and more of an attempt to turn every political race into an identity race. You know, do you identify with this candidate or that? Does he share your values? Is he on your team or on the other team? What I wanted to show people here is that leaders make choices. And those choices, if implemented as policies, have consequences, positive or negative. They're people, and they also make mistakes, and I made my fair share of them. But I also believe that no one could fairly come into this library and read this stuff and look at these exhibits and hear these other people talk about the work they did and the feelings they had, people around the world and people here at home, without believing that this matters a lot. That these choices matter. People are affected in ways that are quite profound by the decisions that our leaders make.

PETER JENNINGS: Now in the entire library, this is—I'm not sure I'm using the right word. But this is the most militant alcove.

FORMER PRESIDENT CLINTON: You think it is?

PETER JENNINGS: I do. I do. This is about your struggle with the Republicans and others. Why don't you just tell us why you did this?

FORMER PRESIDENT CLINTON: What I'm trying to show here is this whole, long litany of things, where the ideological fights, in my opinion, went too far. Spending $70 million on Whitewater, which was a land deal I lost money on, that no one disputed. One of the great political con jobs in the history of the American Republic that they could get that much money spent. And then, we go to the impeachment. We had 800 Constitutional scholars who said there was no basis for impeachment. Gingrich, privately, acknowledged they shouldn't impeach me. They did it because they wanted to put a black mark on me in history.

PETER JENNINGS: Do you think they did put a black mark on your presidency that is indelible?

FORMER PRESIDENT CLINTON: No. I mean, it's there. But I think the more time goes on, the more people will see it for exactly what it was. Doesn't mean I didn't make a terrible personal mistake. But I certainly paid for that. But what they did was legally and constitutionally wrong, and it was done for political reasons. The overwhelming majority of Republican and Democratic legal and Constitutional scholars agree. And I think in history, it will all come out just fine. I've always believed that. I think things come out in the wash. But, you know, people are always being written and rewritten in history.

PETER JENNINGS: You love history, sir. Rate yourself as a President.

FORMER PRESIDENT CLINTON: I'm not going to do that. Anything I say is wrong. It's a lose/lose deal. My wife's in public service. I'm still trying to do things as a former President. And I have no business being the judge of my own presidency right now.

PETER JENNINGS: But at the end of the President's term, historians did feel free to judge. Fifty-eight historians, as I think you may know, did this for C-SPAN. And they were all across the political spectrum. And they came out, in general terms, that you were 21st. And on public persuasion and economic management, they gave you a fifth. Pretty good.

FORMER PRESIDENT CLINTON: Pretty good.

PETER JENNINGS: They gave you a 41st on moral authority.

FORMER PRESIDENT CLINTON: They're wrong about that.

PETER JENNINGS: After Nixon.

FORMER PRESIDENT CLINTON: They're wrong about that. You know why they're wrong about that? They're wrong about it.

PETER JENNINGS: Why, sir?

FORMER PRESIDENT CLINTON: Because we had $100 million spent against us on all these inspections. One person in my Administration was convicted of doing something that violated his job responsibilities while we were in the White House. Twenty-nine in the Reagan/Bush years. I'll bet those historians didn't even know that. They have no idea what I was subject to and what a lot of people supported. No other President ever had to endure someone like Ken Starr indicting innocent people because they wouldn't lie, in a systematic way. No one ever had to try to save people from ethnic cleansing in the Balkans and the people in Haiti from a military dictator who was murdering them. And all of the other problems I dealt with, while every day, an entire apparatus was devoted to destroying him. And still, not any example of where I ever disgraced this country, publicly. I made a terrible personal mistake. But I paid for it. Many times over. And in spite of it all, you don't have any example where I ever lied to the American people about my job, where I ever let the American people down. And I had more support from the world, and world leaders and people around the world, when I quit than when I started. And I will go to my grave being at peace about it. And I don't really care what they think.

PETER JENNINGS: Oh, yes, you do, sir. Excuse me, Mr. President, I can feel it across the room. You feel it very deeply.

FORMER PRESIDENT CLINTON: No, I care. You don't want to go here, Peter. You don't want to go here. Not after what you people did and the way you, your network, what you did with Kenneth Starr. The way your people repeated every, little sleazy thing he leaked. No one has any idea what that's like. That's where I failed. You want to know where I failed? I really let it hurt me. I thought I lived in a country where people believed in the Constitution, the rule of law, freedom of speech. You never had to live in a time when people you knew and cared about were being indicted, carted off to jail, bankrupted, ruined, because they were Democrats and because they would not lie. So, I think we showed a lot of moral fiber to stand up to that, to stand up to these constant investigations, to this constant bodyguard of lies, this avalanche that was thrown at all of us. And, yes, I failed once. And I sure paid for it. And I'm sorry. I'm sorry for the American people. And I'm sorry for the embarrassment. But they ought to think about how the rest of the world reacted to it. When I got a standing ovation at the United Nations from the whole world, the American networks were showing my grand jury testimony. Those were decisions you made, not me. I personally believe that the standing ovation I got from the whole world at the United Nations, which was unprecedented for an American President, showed not only support for me, but opposition to the madness that had taken hold of American politics.

PETER JENNINGS: I think somewhere you say that it was Nelson Mandela who taught you about forgiveness?

FORMER PRESIDENT CLINTON: Yes. He was unbelievable. When I was going through all this, he was really mad. You know, he came to the White House and defended me, and said the Congress should leave me alone. And he gave a blistering defense in the White House, the day before Gingrich gave him the Congressional gold medal.

NELSON MANDELA, FORMER PRESIDENT OF SOUTH AFRICA: We have often said that our morality does not allow us to desert our friends.

FORMER PRESIDENT CLINTON: I said, how did you ever let go of your hatred? I said, didn't you hate those people, even when they let you go? He said, ''Briefly, I did. But when I was walking out of my compound for the last time, I said to myself, they've had you 27 years. If you hate them when you get through that door, they will still have you.'' He said, ''I wanted to be free. And so I let it go.'' And then he looked at me, and he grabbed my arm and he said, ''So should you.''

PETER JENNINGS: This Presidential library is a reminder of how much is behind you. Make you feel old a bit?

FORMER PRESIDENT CLINTON: Oh, a little bit. But like I said, I'm very optimistic. I'm always thinking about the future. And I've got, you know, this huge agenda with my foundation. I like the life I had but I don't dwell on it. You know, some days I feel like being President is something that just finished yesterday, and it's all just real and alive to me. Some days it seems like 100 years ago. I wanted to give this gift to America, of this library, and tell the story about how we moved into the 21st century, and how it changed the way we lived and related to the rest of the world. But now, I want to focus the rest of my life on what I'm going to do tomorrow and on the work of my foundation and whether we can save a couple million people from dying from AIDS. Whether we can bring economic opportunity to people who aren't part of this global economy. I believe in global trade. But half the people are left out of this system. And that's why there's so much anti-globalization. I believe in racial and religious reconciliation. There's still a lot of people who haven't done it. So, I've got a lot of work to do here.

PETER JENNINGS: You're 58 years old, and you had two terms. And like a world-class athlete, you're suddenly yanked off the mound. Somebody compared it to pulling Sandy Koufax out of a baseball game.

FORMER PRESIDENT CLINTON: Yeah. I'm sorry he quit when he did too.

PETER JENNINGS: Doesn't it feel like that at times?

FORMER PRESIDENT CLINTON: It did. But, you know, sometimes it's a blessing. Sometimes it's a blessing to go out on top. You know, I had a, I don't know, 62, 63 percent approval rating. The country was in great shape. There have been many times since then that I wish I had been able to help the American people and the world with problems that come across the President's desk.

PETER JENNINGS: John Quincy Adams said there was nothing so pathetic in life as an ex-President. That's no longer true, I gather.

FORMER PRESIDENT CLINTON: No. And it certainly wasn't true of him. What he meant was, you didn't want to sit around and pontificate about the way things used to

be and pine away about not being President. And he didn't spend the rest of his life whining about the fact that he didn't get re-elected. He just went to work. Jimmy Carter did the same thing. He said, okay, what did I care about as President where I can still have an impact? What are the needs of the world? What can I do that won't be done if I don't do it? And he went out there and did it. And, you know, I admire that. I mean, that's what we're all supposed to do. When you've been President, you have received the greatest gift, if you love public service, that anyone could ever get. So, I just feel like you owe it the rest of your life to try to give it back.

PETER JENNINGS: What do you want to do, most of all?

FORMER PRESIDENT CLINTON: Just what I'm doing. I want to be a servant. I'm going to obviously, over time, broaden the sphere of my foundation work. We are working with five African countries, virtually the whole Caribbean, India, China. Money shouldn't determine who lives and who dies from AIDS. That's what I'd like to do now because I think there are more lives on the line. And I believe we can do more to have people feel better about America and about the West, by helping keep people alive.

PETER JENNINGS: Why did you choose AIDS?

FORMER PRESIDENT CLINTON: It's the most maddening of all problems. That's why. One in four people will die of AIDS, TB, malaria and infection. AIDS is 100 percent preventable. There's medicine that prevents mother to child transmission for pregnant women. There's medicine that for most healthy people, can turn it from a death sentence into chronic illness. And yet, there's 6.2 million people who desperately need the medicine. Over 40 million people infected. It's madness. So, this is something where I just figure the system's broken. And this is something a former President ought to do. Just go in there and try to put it together. And that's what I'm doing.

PETER JENNINGS: Bill Clinton is hugely popular in other parts of the world. Often regarded by countries as an honorary citizen and treated like a rock star. He has that particular touch with people in all walks of life. We also talked for a minute or two, about potential new leadership at home.

PETER JENNINGS: If Senator Clinton runs for the presidency, will you be her chief political adviser?

FORMER PRESIDENT CLINTON: Oh, I don't know. First, I don't know if she's going to run. I think she wants to run for re-election. I have no idea if she's gonna run for president.

PETER JENNINGS: Really?

FORMER PRESIDENT CLINTON: If she did, I would do whatever she asks me to do. You know, I think of all the people I've ever known in public life, she has the best combination of mind and heart, of management skills and compassion. I think she's very tough-minded. She has strengths I don't have. And I think she's learned a lot from me over the years about the things that I was good at that she needed to get better at. But, you know, she's got a mind of her own and she's going to make up her own mind in due course. I have no idea what she's going to do.

PETER JENNINGS: This has been a very tiring time for the President. After we saw him, everyone wanted to know how was his recovery going.

FORMER PRESIDENT CLINTON: As far as I know I'm doing well. I'm walking an hour a day. Up hills, vigorously. I still get tired easily. I haven't recovered my stamina. But everybody who's done this says I will.

PETER JENNINGS: No interview with President Clinton is complete without a little bit of trivia. You were, after all, the pop culture President. So, I'd be grateful if you'd give me maybe one-liners on the following subjects. The last movie you saw.

FORMER PRESIDENT CLINTON: ''Ray.'' It's unbelievable. I knew Ray Charles and I talked to him a couple weeks before he died. I liked him very much. And I love music, as you know. It's a fabulous movie.

PETER JENNINGS: Your favorite singer now.

FORMER PRESIDENT CLINTON: I like Tony Bennett. I like Bono. I like Barbara Streisand. I like Judy Collins. I like Sheryl Crow. I love Aretha Franklin.

PETER JENNINGS: The Presidential perk you most miss.

FORMER PRESIDENT CLINTON: Working in the Oval Office. It's the best work space on earth.

PETER JENNINGS: Your favorite food now.

FORMER PRESIDENT CLINTON: Turkey or vegetarian chili.

PETER JENNINGS: And the one you most miss?

FORMER PRESIDENT CLINTON: Steak.

PETER JENNINGS: The country you'd like to live in, if it were not here.

FORMER PRESIDENT CLINTON: Probably Ireland.

PETER JENNINGS: You want to be a mystery writer at some point in your life, I gather?

FORMER PRESIDENT CLINTON: I'd like to write one book that was kind of frivolous. A Dylan mystery.

PETER JENNINGS: So, write the first line of the mystery novel.

FORMER PRESIDENT CLINTON: The President's aide was found dead on a street in Southeast Washington from unnatural causes.

PETER JENNINGS: And the very last one. A living person, not already encountered, who you'd most like to meet?

FORMER PRESIDENT CLINTON: Someone I have never met? I would like to meet the new President of Kenya. Because he abolished school fees for poor children and a million extra children showed up at school. I think that that's something that's likely to affect more lives positively than almost anything any other political leader will do this year.

PETER JENNINGS: Thank you, sir.

FORMER PRESIDENT CLINTON: Thanks.

THE 108TH CONGRESS AND MISSED OPPORTUNITIES TO SUPPORT WORKING FAMILIES

Mr. FEINGOLD. Mr. President, as the 108th Congress draws to a close, it is time to reflect on a number of opportunities to support working families that this Congress missed.

American workers are the backbone of our economy. They have built this country, brick by brick and industry by industry. Too many of them have seen their factories closed and their jobs shipped overseas due to bad tax policy and dismal trade agreements. As the Senate meets today, families around our country are struggling to make ends meet in a sluggish economy. This Congress has missed opportunity after opportunity to support these families.

As consumer and health care prices continue to rise and families must make difficult decisions about what to buy and what to go without, the 108th Congress will adjourn without even considering an increase in the Federal minimum wage. Congress last voted to increase the minimum wage 8 years ago, to the current level of $5.15. The Congressional Research Service notes that the Federal minimum wage would have had to have been raised to $8.49 in February of this year to equal the purchasing power that it had in February of 1968. Increases in the minimum wage have not kept up with inflation or with rising consumer prices, and workers earning minimum wage are struggling to make ends meet, often working two or more jobs. And many of these jobs do not provide basic benefits such as health insurance and paid sick leave. To that end, I am proud to be a cosponsor of legislation introduced by the Senator from Massachusetts (Mr. KENNEDY) that would require certain employers to provide paid sick leave benefits, and I look forward to continuing to support this and other legislation to support working families when the 109th Congress convenes next year.

This Congress did little to help workers who are scraping by and who, too often, have to choose between their jobs and their families. And for those laid-off workers who have been unable to find family-supporting employment in these tough economic times, this Congress has done even less.

For the second year in a row, Members of Congress will go home for the holidays without acting on legislation to extend the Temporary Extended Unemployment Compensation Program. Many unemployed workers who are actively seeking employment have simply been unable to find jobs, and are relying on unemployment benefits and related programs to support themselves and their families. I regret that, despite the support of a bipartisan majority in the Senate for extending these important benefits, a minority of members have used Senate budget rules to block passage of this important extension. And I am stunned that, despite bipartisan support for extending these important benefits in both the Senate and the House, Congress will adjourn for the year without sending an extension to the President.

In addition, this Congress has built upon the regrettable record of the 107th Congress with respect to undermining basic worker protections. Members of the House and of the Senate have gone on record a total of six times in opposition to the Bush administration's overtime rule. This rule, which will rob millions of hard-working Americans of the overtime pay that they deserve, went into effect on August 23, despite bipartisan opposition in Congress. And for the third time, the administration has saved this ill-conceived rule by issuing a veto threat against legislation containing a provision to block that rule. I commend the Senator from Iowa (Mr. HARKIN) for his leadership on this issue, and I will continue to support efforts to roll back the harmful provisions of this rule.

This Congress also missed a number of opportunities to ensure that good-paying jobs stay in this country. The bill that was recently enacted in response to a World Trade Organization ruling against the foreign sales corporation and extraterritorial income provisions in our tax code presented Congress with an opportunity to restructure our tax code in a way that supports domestic manufacturers and their employees. Sadly, while the measure did provide some help to domestic manufacturers, the bill that was signed into law missed this opportunity in many respects. Congress should act at the next opportunity to close down the tax provisions in this law that actually provide incentives for corporations to move facilities overseas.

I was also disappointed that the final Omnibus bill that the Senate is expected to take up soon did not include provisions approved by the Senate responding to the disturbing trend of the outsourcing of American jobs. These provisions would have prohibited Federal funding from being used to support the outsourcing of goods and services contracts that are entered into by the Federal Government, or by the States if those contracts are being supported by Federal dollars. With this bill, Congress could have supported American workers by ensuring that taxpayer money is not used to encourage companies to relocate American jobs. Because of the deletion of this outsourcing provision, we missed an opportunity for the Federal Government to set a strong example of buying its goods and services from American companies that use American workers.

All told, the 108th Congress provided little support, and too much harm, to working families, and the examples that I have cited are just the tip of the iceberg of missed opportunities in this area. Congress can and should do more to ensure that workers and their families have a decent standard of living, including access to affordable health care, child care, and housing. We should also do more to strengthen job training and education, including expanding access to higher education.

I fervently hope that the 109th Congress will reject the antiworker tone of the past two Congresses and will make every effort to support the working men and women and their families who we have been elected to represent. I intend to continue to work hard to ensure that their voices are heard here in the Senate.

NORTHERN CALIFORNIA COASTAL WILD HERITAGE ACT

Mrs. BOXER. Mr. President, I am pleased that the Northern California Coastal Wild Heritage Act has been included in the Senate amendment to H.R. 620. I, along with my colleague from California, Senator FEINSTEIN, are the sponsors of the Senate companion measure, S. 738. I would like to thank Senator DOMENICI, the Chairman of the Committee on Energy and Natural Resources, and Senator BINGAMAN, the Ranking Democratic Member, for working with us to achieve passage of this very important legislation. I would like to enter into a colloquy with Senators FEINSTEIN, DOMENICI and BINGAMAN to clarify our intent behind some of the wilderness management provisions in the bill.

Mrs. FEINSTEIN. The first issue I would like to address concerns horsepacking into wilderness. I want to make sure horsepackers can keep using these wilderness areas. I recognize that the wilderness areas created by this act are currently enjoyed by hikers, people on horseback, hunters and anglers. In addition, many visitors are serviced by commercial outfitters using horses as pack animals. I believe horsepacking is an important use of wilderness, and I know it is a use that was well established in wilderness prior to the passage of the Wilderness Act in 1964. Unlike some other units of the National Wilderness Preservation System, the areas designated by this act are not heavily used by horses at this time. While fully recognizing the responsibilities of the land managers to monitor visitor use and respond appropriately to any resource damage that may result from overuse, I believe that current levels of horsepacking use in these areas are consistent with wilderness designation. Do my colleagues agree?

Mrs. BOXER. I fully concur, and I thank my colleague for raising this issue. I would like to ask the chairman and ranking Democratic member whether they share our view that the designation of these areas as wilderness does not preclude their continued use by horsepackers, subject to the agency's management discretion to protect area resources.

Mr. DOMENICI. I agree with the Senator from California.

Mr. BINGAMAN. I likewise agree.

Mr. DOMENICI. We are all in agreement on this issue.

Mrs. FEINSTEIN. In working through the bill, the Forest Service stressed a need to develop a plan to restore the late successional reserve LSR forest of the Sanhedrin wilderness area. We agreed that wilderness designation could be fully compatible with such restoration treatments.

I agree with the Forest Service observation that this area has been altered by human influences, including the suppression of natural burning. As the Forest Service develops its plan in accordance with this act and with the goal of LSR restoration, I believe the old growth characteristics of the LSR are a primary value of the wilderness. I also believe that the Forest Service can achieve its goal of LSR restoration in accordance with this act and the Forest Service manual direction on wilderness. The relevant portion of the manual, FSM 2323.35a states:

Manipulation of Wildlife Habitat. The objective of all projects must be to perpetuate the wilderness resource; projects must be necessary to sustain a primary value of a given wilderness or to perpetuate a federally listed threatened or endangered species. To qualify for approval by the Chief, habitat manipulation projects must satisfy the following criteria:

The condition needing change is a result of abnormal human influence.

The project can be accomplished with assurance that there will be no serious or lasting damage to wilderness values.

There is reasonable assurances that the project will accomplish the desired objectives.

Do my colleagues share my views that treatments to promote old growth in the Sanhedrin LSR are fully consistent with this act?

Mr. DOMENICI. I agree with the senior Senator from California.

Mrs. BOXER. I agree as well.

Mr. BINGAMAN. I, too, share this understanding of the bill.

Mrs. FEINSTEIN. Some people have voiced concerns about hunting and fishing in wilderness areas. I want to make perfectly clear that nothing in this bill alters the fact that the State of California retains jurisdiction of wildlife management in these wilderness areas which includes the issuance of hunting and fishing licenses.

Mrs. BOXER. I fully concur.

Mr. BINGAMAN. I likewise agree.

Mr. DOMENICI. We all seem to be in agreement on this issue as well.

Mrs. FEINSTEIN. I would like to raise one other issue. Since the enactment of the King Range Act in 1970, property owners Linda Smith Franklin and Mary Smith Etter have been granted access to their land by the Bureau of Land Management via the Smith-Etter Road. This legislation has designated the Smith-Etter Road as providing access to private property owners and their invitees. It is my understanding that nothing in this act should in any way alter the access currently granted to Franklin and Etter under existing policies. I believe that Franklin and Etter should continue to receive the access that they currently enjoy.

On the subject of fire suppression in this same area, I note that this act provides the land management agencies with the necessary flexibility to conduct fire suppression activities to protect human life and property. For example, in the King Range Honeydew fire in 2003, which resulted in 14,000 acres of fire damage in the King Range Conservation Area, the Bureau of Land Management authorized a fire truck and a 3-member crew to be stationed at the bottom of Telegraph Ridge, within a four mile range of the Franklin property in order to allow easy, quick access to the Franklin property in the event that fire suppression activities were warranted. As a result, firefighters were able to fend off the fire and prevent damage to the Franklin property. It is my understanding that nothing in this Act would prevent BLM from continuing this practice when so warranted by fire danger.

Do my colleagues share my understanding of these access and fire suppression issues in the King Range?

Mrs. BOXER. I do, and I thank my colleague from California for her work on this issue.

Mr. DOMENICI. I likewise share this understanding of how the bill should be implemented.

Mr. BINGAMAN. I agree as well.

Mrs. FEINSTEIN. I thank my colleagues.

GILA RIVER WATER SETTLEMENT

Mr. KYL. Mr. President, with Congress having passed S 437, I make a commitment to the San Carlos Apache Tribe to work next year to help attain and have enacted a fair Gila River water settlement for the tribe.

The Gila River runs through the tribe's reservation. San Carlos Reservoir is located within their reservation. The tribe deserves a fair settlement of its water rights claims to that river and I want my colleagues and others to know that I am absolutely committed to achieving that.

I had hoped to have been able to bring to the Senate legislation that would include a Gila River water settlement for this tribe. Unfortunately, we were unable to do that. The tribe is working toward a settlement with a number of groups that use the Gila River. I hope that the tribe, the United States, and the local non-Indian water users will be able to settle the tribe's water rights claims in the coming year. In connection with that effort, I want to send a strong message to the settlement negotiators: I expect everyone to negotiate in good-faith toward a fair settlement.

I encourage all parties, including the San Carlos Apaches, to engage earnestly and vigorously to complete a Gila River water settlement as soon as possible. I will then work with both the Senators from New Mexico and my Senate colleagues to see that such an agreement is ratified through legislation next year.

INTELLIGENCE REFORM

Mr. LAUTENBERG. Mr. President, earlier today, we were led to believe that we had an agreement with House conferees to pass a bill that will reform our intelligence community and make America safer from the threat of terrorism. Now we find out that House Republicans have killed the bill.

This morning, I was one of 11 Senate conferees—6 Republicans, 5 Democrats—who signed the conference report to the Intelligence Reform bill.

Remember: the conference report is to a bill the Senate passed 96–2. The bill the Senate passed, in turn, was based on the recommendations of a unanimous 9/11 Commission—5 Republicans, 5 Democrats.

Now, we find out that House Republican conferees have rejected the conference report. They have snatched defeat from the jaws of victory.

From what I gather, the problem is not with House Intelligence Committee Chairman HOEKSTRA, who has been leading the conference committee.

What these House Republican conferees have done is a slap in the face of the Senate, the bipartisan 9/11 Commission, and the 9/11 families who have worked so hard to make something positive happen in the wake of a horrific national tragedy.

New Jersey lost 700 of its citizens on 9/11; I have to wonder if these House Republican conferees would be behaving differently if they went through what we in New Jersey went through.

I have been in the U.S. Senate for 20 years now. I have been involved in my share of conference committees. In all those years, I don't believe I have ever seen a little cabal of Members act more unreasonably. These House Republican conferees have killed a bill that 16 of 21 conferees have voted for. Talk about obstructionism.

The fact of the matter is that the conference report we were poised to adopt today is a far cry from the 9/11 Commission recommendations and the bill the Senate passed so overwhelmingly. But there is enough in the conference report to merit going forward. It creates a National Director of Intelligence with real budget authority; it creates a National Counter-Terrorism Center; it bolsters border and transportation security. And it has some provisions to safeguard our civil liberties.

It is time for truth-telling here. House Republicans and the Bush administration have been opposed to this bill from the start. And now they have gotten their way.

I think it is incumbent for the President and for the House Republican conferees who have killed this bill to sit down in person with the 9/11 families, look them in the eye, and tell them that the status quo—that doing nothing—is better than passing a bill so many people worked so long and hard to get.

We are told that we won't adjourn sine die today; that we will come back on December 6 to give the conferees more time to reach an agreement.

The House Republican conferees are absolutely intransigent. It is hard for me to believe that we will be any more successful in the next few weeks than we have been in the past several weeks. I hope I am wrong, but given the President's complete lack of leadership on this matter, it is hard for me to be optimistic.

I have to say I think what has happened is totally contrary to the principles of our democracy, as we turn the power of the people over to a couple of bullies who refused to accept a virtually unanimous vote of the U.S. Senate, the recommendations of the 9/11 Commission, and the will of the largest share of the American people as expressed by their elected representatives.

TAX ISSUES OUTSIDE THE FINANCE COMMITTEE

Mr. GRASSLEY. Mr. President, as I listen to the debate tonight about Section 222, which invades the privacy rights of taxpayers, I would like to point out an important lesson in all of this.

The lesson is that tax measures should be left to the tax writing committees. Only the Finance Committee and the Ways and Means Committee have the jurisdiction and the technical expertise to write our Nation's tax laws. And tax laws are technical. As Section 222 in this bill shows, one had better know what they are doing when they write a tax provision. They had better understand the history of the measure and all of its ramifications. In the Finance Committee, we use great care in drafting our tax provisions, and we do it in an open manner. All members can see what we are doing and have a chance to understand why we are doing it, and to comment on it. But frequently the Finance Committee has to go through a rite of scrubbing appropriations bills to remove poorly conceived and poorly drafted tax provisions that try to sneak in at the dark of night. It is not just appropriations bill where this occurs. It happens on many other bills as well. Often, these provisions have been rejected by the Finance Committees as bad policy, only to turn up in an unseen attack on our committee's jurisdiction. As the bill shows tonight, it is not necessarily Members that do this. It is sometimes staff who add an idea. This allows staff to bypass the scrutiny of the entire Finance Committee; 21 senior Members of the Senate are deprived of their right to pass judgment on a tax measure. Let me give some examples of what we have had to fend off lately. Last week, we had to defeat an appropriations proposal that would have cut off funding for Federal agencies that help the IRS obtain information about Americans investing in foreign countries.

That measure would have undercut U.S. tax law enforcement and damaged our initiatives to combat tax shelters. It would have damaged our international competitiveness and undermined our Nation's efforts to combat money-laundering and terrorist financing.

I am confident that the proponents of this measure never knew about its broader ramifications. But that is what happens when tax proposals evade the scrutiny of the Finance Committee.

Here is another example. Recently, the Armed Services Committee sought to create a charity for assisting servicemen and their families. On its face, this is certainly a good cause that we can all support.Unfortunately, the statutory language drafted by the Armed Services Committee had very serious flaws and was unworkable under the Tax Code. It was only after significant time and energy by the Finance Committee, exerted after the fact, that we fixed something that shouldn't have been broken in the first place. If Members will learn to work with the Finance Committee, instead of bypassing it, we can usually achieve the results they seek.

Here is an example. The House Appropriations Committee tried to expand the definition of census areas for determining eligibility for a certain tax program. This provision was not agreed to by the Senate Appropriators. The provision was later passed in the JOBS bill. This highlights that we try in good faith to work with Members who will work with the committee. So let me send a very clear message. The controversy around this appropriations bill should serve as a warning to all who would bypass the jurisdiction and expertise of the congressional tax writing committees. We work to defeat stealth tax measures not just to protect our committee's jurisdiction, but to protect the American people from bad ideas.

In the Senate it is the Finance Committee, and only the Finance Committee, that has the experience, expertise, and seasoned resources to process tax laws for our Nation.

Members and staff should remember today's events the next time they are approached to insert a ''harmless'' tax measure into an unrelated bill.

ADDITIONAL STATEMENTS

REED IRVINE

• Mr. SESSIONS. Mr. President, I rise to commemorate the life of a noted conservative journalist, media critic, and a leading authority on media bias, Reed Irvine. Reed Irvine passed on November 16, 2004, and is known as the man who founded the organization Accuracy in Media. He leaves a legacy of fighting a left-leaning media and was a long-time critic of the big three networks at a time when only three network nightly news shows dominated the distribution of information to the public.

Reed Irvine was born in Salt Lake City, UT, the son of William J. and Edna May Irvine. He graduated from the University of Utah at the age of 19 in 1942, having been elected to Phi Beta Kappa. He enlisted in the Navy and was selected to take a crash program in the Japanese language, emerging as an interpreter-translator with a commission in the U.S. Marine Corps. He participated in the campaign of Saipan, Tinian, Okinawa as an intelligence officer with the 2nd Marine Division, and served in the occupation of Japan from 1945 to 1948.

After the war, Mr. Irvine was an economist, Fulbright scholar and former Federal Reserve official. He joined the Federal Reserve Board in 1951 as an economist in the Far East Section of the Division of International Finance. Mr. Irvine wrote extensively about the free market and advocated sound monetary and fiscal policy.

He founded Accuracy in Media in 1969 and its sister organization, Accuracy in Academia, in 1985. Mr. Irvine pioneered the concept of a citizens' media watchdog organization that criticized the errors and omissions of the mainstream press, buying ads to publicize serious errors and buying stock in media companies to enable Accuracy in Media representatives to attend their annual meetings to discuss its complaints with the chairman. Irvine was tenacious in his quest for the full truth in media.

Mr. Irvine is survived by his wife of 56 years, Kay Araki Irvine, his son and three grandchildren. Reed Irvine will be remembered as being at the forefront of the conservative movement's attack on media bias and has left us four books that study the bias of the media.

In 1969, when Reed Irvine began his crusade, most Americans trusted the mainstream media. Americans received the biased news coverage and believed it. Today, the liberal bias in media, Hollywood, and academia is widely accepted as a fact of life.

Some day, I hope that the mainstream media will lose its leftwing bias. I hope for the day when academia will focus all its attention on scholarship and leave the liberal indoctrination for the pundits. But, I do not expect those days to come very soon. However, thanks in large part to the life's work of Reed Irvine and the movement he helped launch, Americans have now accepted media bias as a fact of life. The American Society of Newspapers published a study in 1999 that showed 78 percent of Americans believe there is a bias in the media.

I believe this understanding by the American public promotes a more informed democracy. People watch the news with a critical eye. Students question their professors. Americans are seeking out talk radio, alternative media. The Internet is flourishing.

Thanks to dedicated watchdogs such as Reed Irvine, the American people now see through the bias in the media. Dan Rather's ludicrous reporting on President Bush's National Guard service was debunked in no time on the Internet and talk radio. A liberal bias that was once lamented by conservatives and ignored by the public has now become a running joke among conservatives and an accepted fact in the minds of Americans. People, who once powerlessly accepted the news however they could get it, are now voting with their remote controls.

When President Bush delivered his acceptance speech at the Republican National Convention this year, 7.3 million people saw it on Fox. Meanwhile, 5.9 million watched on NBC, 5.1 million on ABC, 5 million on CBS, 2.7 million on CNN and 1.7 million on MSNBC, according to Nielsen Media Research. Fox also beat the broadcast networks throughout the rest of the Republican Convention coverage—this, despite the fact that ABC, CBS, and NBC are available in about 110 million homes, while Fox is carried in about 85 million. Reed Irvine's message has been received, and the people are fighting back.

News is now reported in countless ways, 24 hours a day, and the American people are deciding for themselves what it all means. For this new coverage we can thank the Fox News channel, and the countless talk show hosts, magazines, Internet sites, and organizations. However, I think the most important gift that has been given to our country is the critical eye of the American public. A voting public that watches the news with a critical eye is one that cannot be easily manipulated. A college student who asks his professor tough questions will end up better educated and ready for the world.

For this wonderful gift, we owe a special thanks to Reed Irvine.•

TRIBUTE TO DR. SAM BILLISON

• Mr. BINGAMAN. Mr. President, today I wish to mark the passing of Dr. Sam Billison, a recipient of a Congressional Silver Medal, who died earlier this week. He was a great American.

In 2001, the President of the United States awarded Congressional Gold and Silver Medals to Sam and his fellow Navajo Code Talkers. Of all the honors Congress can bestow, these Medals are often considered the most distinguished, expressing the gratitude of the Congress and the entire nation.

With this award, the Code Talkers joined the ranks of an exclusive group of people—Robert Kennedy, Harry Truman, General H. Norman Schwarzkopf, Nelson Mandela, General Colin Powell, and President Reagan, to name a few.

As with many other recipients, Sam and his fellow WWII Code Talkers were recognized for valor, for their contributions to the national good, for their defense of freedom and democracy. However, unlike the others, they set several precedents, not the least of which that they were the first Native American Indians to receive Congressional Gold Medals.

This is especially poignant when one realizes the cultural context in which Sam and his fellow Navajo were raised. Subjected to alienation in their own homeland, discouraged from speaking their own language, this group of Native Americans rose above adversity, voluntarily came forward to develop the most significant and successful military code of the time saving countless American lives, and then honored their oath of secrecy by stepping back into the obscurity from which they came.

Many of these marines have finally come forward to be appropriately recognized and honored, but many took their secret to the grave. I am happy that in the twilight of Sam's life, he was able to see Congress finally mark that place in history so long overdue the Navajo Code Talkers.

We, as a nation, are but a product of those who have come before us—their accomplishments, their contributions, and their sacrifice in the struggle for freedom and democracy. We must never forget that our society is made possible only through the sacrifice and hard work of thousands of American men and women.

Sam Billison, Navajo Code Talker, was one of an elite group of veterans, and yet he was more. He was a teacher, a school principal and a superintendent, helping educate thousands of young people, and setting an example for all to follow. In all sense of the word, he was a true American hero. He shall be dearly missed.●

TRIBUTE TO SENIOR AIRMAN NICHOLAS P. SEMONELLE, THE UNITED STATES AIR FORCE AIRMAN OF THE YEAR

● Mr. SESSIONS. Mr. President, I rise today to recognize the United States Air Force Airman of the Year for 2004, Senior Airman Nicholas P. Semonelle from Enterprise, Alabama.

Senior Airman Semonelle's recognition stems from his unique act of courage and bravery. On January 18, 2003, Senior Airman Semonelle was faced with a dangerous situation. Senior Airman Semonelle observed smoke from a nearby house that had caught fire and immediately called 911. Upon learning from a 14-year-old babysitter that three children were trapped inside, Semonelle immediately broke through a window and entered the burning structure to try to find the children. Despite the smoke and heat, Senior Airman Semonelle searched room to room locating a 7-year-old boy and evacuating him from the building. Without hesitation and regard for his own personal safety, he again risked his life to go back inside the home, now ablaze and filled with smoke, to locate and carry out a second child, a 3-year-old girl. Senior Airman Semonelle began a third rescue attempt of an 18-month-old baby girl still trapped in the now engulfed structure. Despite repeated attempts, the little girl could not be found. Emergency rescue personnel arrived to find the structure engulfed in flames, and were unable to locate the third child who did not survive. Senior Airman Semonelle, his brother-in-law who had helped with the rescues, and the two lucky children eventually collapsed on the ground in front of the house, exhausted and coughing from smoke inhalation.

Senior Airman Semonelle's quick action to enter the burning home and rescue those inside resulted in saving the lives of two children. His disregard for his own personal safety to save others is an act of bravery that warrants our gratitude. I commend this 1996 Elba High School graduate for his service to our country and for his bravery. He continues to distinguish himself, serving our country overseas in his assignment to the United States Air Force 435th Logistics Readiness Squadron at Ramstein Air Base, Germany. He is truly deserving of the recognition that the United States Air Force and the United Services Organization have bestowed on him as Airman of the Year.●

TRIBUTE TO PAT RAYMOND

● Mr. BENNETT. Mr. President, Pat Raymond prefers to be the person behind the person. She prefers to work behind the scenes, and as I can attest, late at nights, weekends, and holidays. For 30 years she has served the Senate faithfully, professionally, tirelessly, and as a stalwart advocate. But today I would like to put Pat front and center and thank her for her service to me and to the Senate.

For the past 2 years, Pat has worked as the clerk of the agriculture appropriations subcommittee that I chair. I have benefited from her institutional knowledge, her counsel, and her judgment. Because of consecutive reductions in the budget of the United States Department of Agriculture the last 2 years have been very challenging, but Pat has been up to the task. In 2003, even though the allocation to the subcommittee was nearly $1 billion below the prior years enacted level, we produced a bill that the Senate approved with only one dissenting vote. Pat has developed strong working relationships not only with the staff of Senator KOHL, the subcommittee ranking member, but also with the staffs of Representatives BONILLA and KAPTUR, the House agriculture appropriations chairman and ranking member. These relationships have enabled the agriculture appropriations subcommittees of both chambers to work together and overcome the challenges posed by being required to do more with less.

After 30 years of service Pat will retire at the end of this Congress. I thank her for her dedication, for her hard work, and for a job well done. More than that, I wish her well, as she travels to Florida for a well deserved rest. But I know that ''rest'' won't last long—Pat is too young, too vigorous, and has too much to contribute not to get involved in something important right from the start.●

IN HONOR OF SUPERVISOR REX BLOOMFIELD

● Mrs. BOXER. Mr. President, it is my honor to speak in recognition of Supervisor Rex Bloomfield, a strong advocate for the preservation of open space, improvement of county services, and balanced planning for the future of Placer County.

Rex Bloomfield has dedicated the last 12 years as Supervisor to improving his community and Placer County. His many accomplishments are testament to his strong leadership and devotion to public service. By creating the Placer Legacy Program he has helped to preserve thousands of acres of open space and agricultural lands in Placer County. Committed to the fight for clean air, he initiated the Sacramento Ozone Summit and worked hard to adopt regional policies to reduce smog, for which he received the American Lung Association's regional award for outstanding leadership. Supervisor Bloomfield established Placer County's first redevelopment area to help fund community projects, such as the Squaw Valley Community Park. Throughout his three terms in office he has made many improvements to his district. Four parks were built, miles of new trails for recreation were constructed, a new library was built with two others expanded, fire safe councils and fire fuels reduction programs were created, Sheriff substations in outlying areas were added, emergency personnel were provided more safety equipment and medical supplies, and a computerized emergency telephone system to warn residents of pending danger was established.

Rex Bloomfield has not only committed himself to the betterment of Placer County as supervisor, but also as a teacher and involved member of the community. His teaching career has spanned 31 years. He is currently teaching fifth grade at Alta Vista School in Auburn. He has been a board member with the Sierra Economic Development District, Sierra Planning Organization, Foothill Airport Land Use Commission, Placer County Air Pollution Control District, Placer County Flood Control and Water Conservation District, Colfax Veterans Memorial Hall Board, and Foresthill Veterans Memorial Hall Board.

I commend Rex for dedicating his life to his family and his community. His accomplishments have touched the lives of many, and his impact on his community and Placer County will be long remembered. I extend my sincere best wishes for his continued health, happiness, and good work. Rex Bloomfield is a distinguished member of the community, and it is with great pleasure that I recognize him today.●

TAXATION OF FEDERAL EMERGENCY MANAGEMENT ADMINISTRATION MITIGATION GRANTS

● Mr. NELSON of Florida. Mr. President, in these final days of the 108th Congress, I would like to call attention to an issue of great consequence to the people of Florida and to other States that recently have been victimized by natural disasters.

This year, four hurricanes wrought a path of damage and destruction across Florida and other areas. The U.S. Congress was quick to provide Federal relief for victims of the storms, and we are grateful for this. Yet a June Internal Revenue Service ruling determines that this assistance ought to be taxed.

This means that if a homeowner accepts a $25,000 Federal grant to elevate their flood prone home, the grant would be included in their taxable income. This unexpected tax liability could be financially devastating to a retiree living on a fixed income after already having faced the costs of hurricane cleanup. It also creates a strong disincentive for homeowners to participate in Federal mitigation programs,

increasing the risk of damage and expense in future disasters. The IRS policy runs counter to good public policy and common sense.

Senator KIT BOND and Representative MARK FOLEY have introduced S. 2886 and H.R. 5206, respectively, identical bills that would fix this problem by exempting mitigation grants from being included as taxable income. These bills have drawn support from both sides of the aisle and a large number of the Florida Congressional delegation. I am disappointed that we will not have an opportunity to pass these bills before Congress adjourns. If we fail to act early on in the 109th Congress, come April, some homeowners could be in for a rude awakening in the form of a higher tax bill from the IRS.

To help ease the minds of Floridians and other Americans living in disaster prone areas of the country, I joined Senator LANDRIEU in sending a letter to Finance Committee Chairman GRASSLEY and Ranking Member BAUCUS asking them to direct the Treasury and the IRS to delay implementing this policy until Congress has the opportunity to act.

I will continue to work with my colleagues in the Senate to find a solution to this problem.●

WOOL TRUST FUND

● Mr. BAUCUS. Mr. President, today I make note of a technical error in the drafting of the Wool Trust Fund, which was included in H.R.1047, the ''Miscellaneous Trade and Technical Corrections Act of 2004.'' Section 4002, entitled ''Extension and Modification of Duty Suspension on Wool Products, Wool Research Fund, Wool Duty Refunds,'' extends the current Wool Trust Fund through December 31, 2007. The purpose of this provision is to extend the current program, as well as to provide grants to textile mills, for an additional 2 years beyond the current date of expiration, which is December 31, 2005. This fact is reflected in the conference report of H.R. 1047, in which the conferees observe that the House recedes to the Senate proposal ''so that all programs are extended by two years beyond the current date of expiration of the current programs.'' In other words, all provisions—including all programs and all tariff reductions—are to be in effect through 2007.

Unfortunately, a drafting error occurs in section 4002(a)(5), entitled ''Fabrics of Combed Wool,'' and mistakenly terminates the extension of duty reductions, for the goods identified in that subsection, at the end of 2006, rather than 2007. This error is clearly and patently inconsistent with the expressed intention of the conferees to extend the program through 2007.

I urge the Members of the 109th Congress to correct this technical error, in order to allow the program to operate as clearly and expressly intended by the 108th Congress.●

MESAGES FROM THE HOUSE

At 12:32 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests to concurrence of the Senate:

H.R. 5370. An act to designate the facility of the United States Postal Service located at 4985 Moorehead Avenue in Boulder, Colorado, as the ''Donald G. Brotzman Post Office Building''.

The message also announced that the House has passed the following bill, without amendment:

S. 2618. An act to amend title XIX of the Social Security Act to extend medicare cost-sharing for the medicare part B premium for qualifying individuals through September 2005.

The message further announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 8. Concurrent resolution expressing the sense of Congress that there should be established a ''National Visiting Nurse Association Week.''

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 1113. An act to authorize an exchange of land at Fort Frederica National Monument, and for other purposes.

H.R. 1417. An act to amend title 17, United States Code, to replace copyright arbitration royalty panels with a Copyright Royalty Judge, and for other purposes.

H.R. 1446. An act to support the efforts of the California Missions Foundation to restore and repair the Spanish colonial and mission-era missions in the State of California and to preserve the artworks and artifacts of these missions, and for other purposes.

H.R. 1964. An act to assist the States Connecticut, New Jersey, New York, and Pennsylvania in conserving priority lands and natural resources in the Highlands region, and for other purposes.

H.R. 3936. An act to amend title 38, United States Code, to increase the authorization of appropriations for grants to benefit homeless veterans, to improve programs for management and administration of veterans' facilities and health care programs, and for other purposes.

H.R. 4516. An act to require the Secretary of Energy to carry out a program of research and development to advance high-end computing.

H.R. 4593. An act to establish wilderness areas, promote conservation, improve public land, and provide for the high quality development in Lincoln County, Nevada, and for other purposes.

The enrolled bills were signed subsequently by the President pro tempore (Mr. STEVENS).

At 3:07 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agreed to the amendment of the Senate to the act (H.R. 1630) to revise the boundary of the Petrified Forest National Park in the State of Arizona, and for other purposes.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate.

H.R. 5382. An act to promote the development of the emerging commercial human space flight industry, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 528. Concurrent resolution directing the Clerk of the House of Representatives to make technical corrections in the enrollment of the bill H.R. 4818.

At 4:22 p.m., a message from the House of Representative, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4818) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes, having met, have agreed, that the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment.

The message further announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 114. Joint resolution making further continuing appropriations for the fiscal year 2005, and for other purposes.

At 5:08 p.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. 3818. An act to amend the Foreign Assistance Act of 1961 to improve the results and accountability of microenterprise development assistance programs, and for other purposes.

H.R. 5419. An act to amend the National Telecommunications and Information Administration Organization Act to facilitate the reallocation of spectrum from governmental to commercial users; to improve, enhance, and promote the Nation's homeland security, public safety, and citizen activated emergency response capabilities through the use of enhanced 911 services, to further upgrade Public Safety Answering Point capabilities and related functions in receiving E–911 calls, and to support in the construction and operation of a ubiquitous and reliable citizen activated system; and to provide that funds received as universal service contributions under section 254 of the Communications Act of 1934 and the universal service support programs established pursuant thereto are not subject to certain provisions of title 31, United States Code, commonly known as the Antideficiency Act, for a period of time.

The message also announced that the House has passed the following bill, without amendment:

S. 2192. An act to amend title 35, United States Code, to promote cooperative research involving universities, the public sector, and private enterprises.

S. 2873. An act to extend the authority of the United States District Court for the

Southern District of Iowa to hold court in Rock Island, Illinois.

S. 3014. An act to reauthorize the Harmful Algal Bloom and Hypoxia Research and Control Act of 1998, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 529. Concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

The message also announced that House agree to the amendment of the Senate to the bill (H.R. 2655) to amend and extend the Irish Peace Process Cultural and Training Program Act of 1998.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The message further announced that the Speaker has signed the following enrolled bills and joint resolutions:

H.R. 1047. An act to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, to make other technical amendments to the trade laws, and for other purposes.

H.R. 1630. An act to revise the boundary of the Petrified Forest National Park in the State of Arizona, and for other purposes.

H.R. 2912. An act to reaffirm the inherent sovereign rights of the Osage Tribe to determine its membership and form of government.

H.J. Res. 110. Joint resolution recognizing the 60th anniversary of the Battle of the Bulge during World War II.

H.J. Res. 111. Joint resolution appointing the day for convening of first session of the One Hundred Ninth Congress.

The enrolled bills and joint resolutions were signed subsequently by the President pro tempore (Mr. STEVENS).

At 10:42 p.m., a message from the House of Representatives, delivered by one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 114. Joint resolution making further continuing appropriations for the fiscal year 2005, and for other purposes.

The enrolled joint resolution was signed subsequently by the President pro tempore (Mr. STEVENS).

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–10055. A communication from the Chief, Regulations Management, Veterans' Benefits Administration, transmitting, pursuant to law, the report of a rule entitled ''Increase in Rates Payable Under the Survivors' and Dependents' Educational Assistance Program'' RIN2900–AL64( ) received on November 5, 2004; to the Committee on Veterans' Affairs.

EC–10056. A communication from the Secretary of Education, transmitting, pursuant to law, a report entitled ''Trends in Educational Equity of Girls and Women: 2004''; to the Committee on Health, Education, Labor, and Pensions.

EC–10057. A communication from the Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled ''Benefits Payable in Terminated Single Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits'' received on November 16, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–10058. A communication from the Chairman, Railroad Retirement Board, transmitting, pursuant to law, the Board's Performance and Accountability Report for Fiscal Year 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–10059. A communication from the Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled ''Antiperspirant Drug Products for Over-the-Counter Human Use; Final Monograph; Partial Stay; Reopening of the Administrative Record'' received on November 16, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–10060. A communication from the Executive Director, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the Corporation's Performance and Accountability Report for Fiscal Year 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–10061. A communication from the Attorney General, Department of Justice, transmitting, pursuant to law, the Department's Performance and Accountability Report for Fiscal Year 2004; to the Committee on the Judiciary.

EC–10062. A communication from the Chairman, Federal Election Commission, transmitting, pursuant to law, the report of a rule entitled ''Political Committee Status, Definition of Contribution, and Allocation for Separate Segregated Funds and Nonconnected Committees'' received on November 18, 2004; to the Committee on Rules and Administration.

EC–10063. A communication from the Chief, Regulations Management, Veterans' Benefits Administration, transmitting, pursuant to law, the report of a rule entitled ''Increase in Rates Payable Under the Montgomery GI Bill—Selected Reserve'' (RIN2900–AL80) received on November 5, 2004; to the Committee on Veterans' Affairs.

EC–10064. A communication from the Chief, Regulations Management, Veterans' Benefits Administration, transmitting, pursuant to law, the report of a rule entitled ''Standards for Collection, Compromise, Suspension, or Termination of Collection Effort, and Referral of Civil Claims for Money, Property; Regional Office Committees on Waivers and Compromises; Salary Offset Provisions; Delegations of Authority'' (RIN2900–AK10) received on November 5, 2004; to the Committee on Veterans' Affairs.

EC–10065. A communication from the Chief, Regulations Management, Veterans' Benefits Administration, transmitting, pursuant to law, the report of a rule entitled ''Waivers'' (RIN2900–AK29) received on November 5, 2004; to the Committee on Veterans' Affairs.

EC–10066. A communication from the Chief, Regulations Management, Veterans' Benefits Administration, transmitting, pursuant to law, the report of a rule entitled ''Veterans' Education: Increased Allowances for the Educational Assistance Test Program'' (RIN2900–AL81) received on November 5, 2004; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Ms. COLLINS, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 2635. A bill to establish an intergovernmental grant program to identify and develop homeland security information, equipment, capabilities, technologies, and services to further the homeland security needs of the United States and to address the homeland security needs of Federal, State, and local governments (Rept. No. 108–420).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. HATCH (for himself and Mr. LEAHY):

S. 3021. A bill to provide for the protection of intellectual property rights, and for other purposes; considered and passed.

By Mr. MCCAIN:

S. 3022. A bill to enhance the Federal investment in research and development and the development of innovative technologies, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DODD:

S. 3023. A bill to improve funeral home, cemetery, and crematory inspection systems, to establish consumer protections relating to funeral service contracts, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DODD:

S. 3024. A bill to establish the National Center for Transportation Solutions, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CORNYN:

S. 3025. A bill to strengthen efforts to combat slavery and trafficking in persons, within the United States and around the world; to the Committee on Foreign Relations.

By Mr. FRIST (for himself and Mr. ENSIGN):

S. 3026. A bill to support the Boy Scouts of America and the Girl Scouts of the United States of America; to the Committee on the Judiciary.

By Mr. DEWINE (for himself, Mr. SARBANES, Ms. MIKULSKI, Mr. SMITH, Mrs. CLINTON, Mr. ALLEN, Mr. CORZINE, Mr. HAGEL, and Mr. DURBIN):

S. 3027. A bill to amend the Foreign Assistance Act of 1961 to improve the results and accountability of microenterprise development assistance programs, and for other purposes; considered and passed.

By Mr. HATCH (for himself and Mr. BIDEN):

S. 3028. A bill to amend the Controlled Substances Import and Export Act to provide authority for the Attorney General to authorize the export of controlled substances from the United States to another country for subsequent export from that country to a second country, if certain conditions and safeguards are satisfied; considered and passed.

By Mr. STEVENS:

S.J. Res. 42. A joint resolution to make a correction in the Conference Report to accompany H.R. 4818; considered and passed.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. LAUTENBERG:

S. Res. 479. A resolution establishing a special committee administered by the Committee on Governmental Affairs to conduct an investigation involving Halliburton Company and war profiteering, and other related matters; to the Committee on Rules and Administration.

By Mr. FRIST (for himself and Mr. REID):

S. Res. 480. A resolution extending the authority for the Senate National Security Working Group; considered and agreed to.

By Mr. SANTORUM:

S. Res. 481. A resolution expressing the gratitude and appreciation of the Senate for the acts of heroism and military achievement of Major Richard D. Winters (Ret.) during World War II , and commending him for leadership and valor in leading the men of Easy Company; considered and agreed to.

By Mr. KENNEDY (for himself, Mr. REED, Mr. KERRY, Mr. DODD, Mr. JEFFORDS, Mr. SUNUNU, and Mr. CHAFEE):

S. Res. 482. A resolution congratulating the Boston Red Sox on winning the 2004 World Series; considered and agreed to.

ADDITIONAL COSPONSORS

S. 2789

At the request of Mr. BROWNBACK, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 2789, a bill to reauthorize the grant program of the Department of Justice for reentry of offenders into the community, to establish a task force on Federal programs and activities relating to the reentry of offenders into the community, and for other purposes.

S. 2889

At the request of Mr. ALEXANDER, the names of the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Florida (Mr. GRAHAM), the Senator from Idaho (Mr. CRAIG), the Senator from Nevada (Mr. REID), the Senator from Oklahoma (Mr. INHOFE), the Senator from Washington (Ms. CANTWELL), the Senator from Delaware (Mr. CARPER), the Senator from Kansas (Mr. BROWNBACK) and the Senator from Virginia (Mr. WARNER) were added as cosponsors of S. 2889, a bill to require the Secretary of the Treasury to mint coins celebrating the recovery and restoration of the American bald eagle, the national symbol of the United States, to America's lands, waterways, and skies and the great importance of the designation of the American bald eagle as an endangered species under the Endangered Species Act of 1973, and for other purposes.

S. 2956

At the request of Mr. BOND, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 2956, a bill to amend title 10, United States Code, to direct the Secretary of Defense to carry out a program to provide a support system for members of the Armed Forces who incur severe disabilities.

S. 3011

At the request of Mr. DAYTON, the names of the Senator from Alabama (Mr. SESSIONS), the Senator from Virginia (Mr. WARNER) and the Senator from Minnesota (Mr. COLEMAN) were added as cosponsors of S. 3011, a bill to amend title XVIII of the Social Security Act to provide payments to Medicare ambulance suppliers of the full cost or furnishing such services, to provide payments to rural ambulance providers, and suppliers to account for the cost of serving areas with low population density, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DODD:

S. 3023. A bill to improve funeral home, cemetery, and crematory inspection systems, to establish consumer protections relating to funeral service contracts, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. DODD. Mr. President, I rise today to introduce the Federal Death Care Inspection and Disclosure Act of 2004, a bill which I believe will go a long way in restoring the trust that Americans place in the funeral and death care industries.

None of us like to think about death and dying. It is a painful and uncomfortable subject, and most Americans, understandably, choose not to confront matters related to the death of a loved one until the death actually occurs. And when a loved one does pass on, we turn to our friends and family to grieve. Certainly, the last thing anyone wants to do at such a painful time is to spend hours or days negotiating or shopping for a funeral, casket, or other goods and services. Instead, we leave most of these arrangements in the hands of funeral service providers, turning to them to ensure that our loved ones are cared for and treated with respect and dignity after their passing.

We place a great deal of trust in funeral service providers. A funeral, after all, represents one of the largest purchases many consumers will ever make, just behind a home, college education, and a car. However, unlike these transactions, the purchase of funeral services is most often done under intense emotional duress, with very little time to spare, and without the benefit of the type of consumer information generally available when making such a large purchase. As a result, we trust funeral service providers to give us fair prices, to represent goods and services accurately, and to not take advantage of us during our moments of greatest grief and vulnerability.

For the most part, this trust is well deserved. I have no doubt, that the majority of individuals working in the funeral industry are good men and women who practice their profession with the honor and gravity it demands. However, recent revelations of abuses in the industry have shown us that not all members of the death care industry are honest and upstanding. We all remember hearing recently of the discovery of over 200 bodies strewn in the woods near a crematorium in Noble, GA. There is also evidence of desecration of graves and remains at cemeteries in Florida, California, Hawaii, and my own State of Connecticut. These incidents, as well as developments in the funeral industry as a whole, compel us to reexamine the regulatory structure we currently have in place for this industry.

Currently, the death care industry is regulated by a patchwork of state and local laws. These regulations may have been sufficient years ago, but the character of the industry has changed substantially since many of these laws were passed. The industry has become surprisingly large and diverse. The death care industry generates annual revenues of over $15 billion and employs over 104,000 Americans. The 1990's saw the rise of multi-state ''consolidators'' who purchased local funeral homes across the country. Even for small local firms, the business has become increasingly complex. As more and more Americans travel and live in places far from where they were born, the industry has become one that frequently does business across state and county lines.

There have also been changes in Americans' cultural expectations of funeral services. For example, the percentage of cremations has risen from 5 percent in the 1970's to 25 percent today. However, only 12 States have substantive laws which cover cremation. In fact, in the case in Georgia I mentioned earlier, the crematorium in question was statutorily exempt from inspection, allowing the abuses to continue undiscovered.

The only significant federal regulation of the industry exists in the Federal Trade Commission's Funeral Rule, promulgated nearly 20 years ago. Again, this rule has not kept up with the nature of the industry. Perhaps most importantly, the rule does not cover numerous sectors of the industry such as cemeteries, crematories, and casket makers. It also does not effectively regulate prepaid funeral contracts, which have become an increasingly popular option in recent years.

In 2002, I chaired a hearing of the Subcommittee on Children and Families in which we examined developments in the industry and how they have impacted American families. Since that hearing, I have worked with both consumer and industry groups to craft legislation to protect Americans from potential abuse by funeral service providers. The Federal Death Care Inspection and Disclosure Act of 2004 would provide Federal funding to allow States to hire and train inspectors and give consumers the right to legal action against those who violate regulatory standards. In order to be eligible for funding, states would have to adhere to standards which are outlined in the legislation. The act would also codify and strengthen the existing FTC regulations governing licensing and

registration, record-keeping, inspection, resolution of consumer complaints, and enforcement of state laws in the industry. It would clarify regulations to prevent deceptive trade practices in the industry and ensure that consumers can make informed decisions as they make funeral arrangements. Finally, the FTC rules would be expanded to cover all segments of the death care industry.

I am aware that as we are in the closing days of this Congress, we will not have the opportunity to pass this legislation this year. However, I would like to take this opportunity to raise this issue with my colleagues today, and I hope that we will be able to move on this issue when we reconvene for the 109th Congress. It is my firm belief that this bill will help both consumers and industry. Consumers will have the peace of mind knowing that they are being treated fairly during their time of grief and distress, while the industry will benefit from regaining the high level of consumer confidence and trust that it has traditionally enjoyed.

I urge my colleagues to join me by supporting this legislation.

By Mr. DODD:

S. 3024. A bill to establish the National Center for Transportation Solutions, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. DODD. Mr. President, I rise to introduce the Center for Transportation Solutions Act of 2004.

I am deeply troubled that the Federal Government is not doing enough to address important national and regional transportation issues from a systemic perspective. There is too little research being devoted to profound questions that have a long-term impact on the future viability of our nation's transportation network. Such questions may include: How well is our transportation system responding to the global economy? How can transportation meet the needs of greater environmental sustainability? How can people become more involved in transportation planning in their communities? What transportation technologies will be important in the future? Are there more effective ways to finance improvements to our transportation infrastructure? What will be the demand for various modes of transportation in the future? How well do the various modes of transportation interact? Is there a better way to reduce transportation accidents and enhance safety?

In fact, the Federal Government does not adequately invest in finding answers to these and other important questions. The United States Department of Transportation spends approximately 1.5 percent of its budget on research. This amount is insufficient when compared to the 2.8 percent spent by the Department of Agriculture, 4.8 percent by the Department of Health and Human Services, 8.1 percent by the Environmental Protection Agency, and 14.9 percent spent by the Department of Defense.

Much of that 1.5 percent spent by the Department of Transportation is focused on short-term, highly applied research activities, such as the performance of varieties of asphalt in different climates. Too few resources, however, are devoted to research in finding solutions to our most intractable long-term transportation problems.

The consequences of this lack of foresight are significant. As Dennis Christiansen, Deputy Director of the Texas Transportation Institute, testified before the House Subcommittee on Highway, Transit, and Pipelines last year: ''In the private sector, failure to innovate may mean one goes out of business. In the public sector, failure to innovate may simply mean that we do things less efficiently and at a higher cost.'' In addition, the American Public Transportation Association commented at the same hearing that ''without research and training, innovation withers and American jobs are lost offshore.''

The lack of adequate investments in long-term transportation research, however, is not the only concern. The Nation's transportation research and technology programs are highly decentralized as well. There are state and federal transportation agencies, universities, contractors, and material suppliers all participating in transportation research activities. While this decentralization has its benefits in that the same broad array of institutions that are conducting the research are involved in its implementation, it also has its drawbacks. It poses challenges to effective priority-setting, and can lead to unnecessary duplication, results that are not transferable, and significant research gaps.

The legislation that I am introducing will address these important issues by establishing a Center for Transportation Solutions as an independent agency in the executive branch of the government. Its purpose will be to develop and encourage the execution of a long-term national policy for the promotion of research and development related to multimodal transportation.

The Center is modeled after the National Science Foundation. It will be under the leadership of a Director appointed by the President and a Board composed of sixteen individuals with expertise in transportation research and policy. Like the National Science Foundation, the Center will be organized into a series of research divisions on such issues as safety, the environment, infrastructure, intermodal connections, and transportation economics and financial policy. Regional Centers for Transportation Solutions will also be established to investigate these important issues from a regional perspective.

The new Center will not supplant existing transportation research activities but supplement them. It will award competitive, merit-based grants to academic, public, and private research institutions to support long-term strategic transportation objectives. According to the Transportation Research Board, ''competition for funds and merit review of proposals are the best ways of ensuring the maximum return on investment of research funding and addressing strategic national transportation system goals.'' Sadly, much of the funding that is designated for transportation research today is earmarked for specific projects or research institutions without open competition.

Finally, the Center will facilitate the interchange of transportation research data among interested parties, work closely with the United States Department of Transportation in setting research priorities, and coordinate its scientific research programs with public and private research groups.

This legislation is a work in progress. In the coming months, I intend to further refine it for reintroduction in the 109th Congress. Nevertheless, the bill embodies an important goal namely, the need for increased resources and strategic planning devoted to tackling the nation's long-term transportation needs.

I realize that the 108th Congress is nearing completion. I am also aware that the Senate and the House of Representatives will likely revisit the reauthorization of surface transportation programs soon after the 109th Congress convenes in 2005. That legislation would be the perfect opportunity for Congress to look farther into the future—even beyond the traditional six-year scope of the surface transportation bill—and begin to make the investments necessary for solving our nation's most difficult transportation problems. After all, if we can devote resources to finding a cure for cancer and other life-threatening illnesses, shouldn't we do the same and find a cure for traffic congestion?

By Mr. FRIST (for himself and Mr. ENSIGN)

S. 3026. A bill to support the boy Scouts of America and the Girl Scouts of the United States of America; to the Committee on the Judiciary.

Mr. FRIST. 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. 3026

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

SECTION 1. SUPPORT OUR SCOUTS.

(a) DEFINITION.—In this section the term ''Federal agency'' means each department, agency, instrumentality, or other entity of the United States Government.

(b) IN GENERAL.—No Federal law (including any rule, regulation, directive, instruction, or order) shall be construed to limit any Federal agency from providing any form of support to the Boy Scouts of America or the Girls Scouts of the United States of America

(or any organization chartered by the Boy Scouts of America or the Girl Scouts of the United States of America), including—

(1) holding meetings, jamborees, camporees, or other scouting activities on Federal property if such organization has received permission from the appropriate Federal official responsible for such property; or

(2) hosting or sponsoring any official event of such organization.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 479—ESTABLISHING A SPECIAL COMMITTEE ADMINISTERED BY THE COMMITTEE ON GOVERNMENTAL AFFAIRS TO CONDUCT AN INVESTIGATION INVOLVING HALLIBURTON COMPANY AND WAR PROFITEERING, AND OTHER RELATED MATTERS

Mr. LAUTENBERG submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 479

Resolved,

SECTION 1. ESTABLISHMENT OF SPECIAL COMMITTEE.

(a) ESTABLISHMENT.—There is established a special committee administered by the Committee on Governmental Affairs to be known as the ''Special Committee to Investigate Halliburton, War Profiteering, and Related Matters'' (referred to in this resolution as the ''special committee'').

(b) PURPOSES.—The purposes of the special committee are—

(1) to conduct an investigation and public hearings into, and study of, whether any contracts awarded to Halliburton, its subsidiaries or affiliates (referred to in this resolution as ''Halliburton'') were improperly coordinated by the Vice President's office, or any other office or component of the executive branch;

(2) to conduct an investigation and public hearings into, and study of, the propriety of the no-bid Restore Iraqi Oil (''RIO'') Contract awarded to Halliburton by the Department of Defense;

(3) to conduct an investigation and public hearings into, and study of, whether Halliburton overcharged the government for meals, gasoline, and other goods and services, in connection with either—

(A) any contract that was not competitively bid; or

(B) any other contract;

(4) to conduct an investigation and public hearings into, and study of, whether Halliburton deliberately or negligently wasted taxpayer funds in order to inflate the value of any ''cost-plus'' contract;

(5) to conduct an investigation and public hearings into, and study of, whether Halliburton or any of its employees either—

(A) accepted kickbacks or other improper considerations in return for awarding subcontracts; or

(B) engaged in any other improper behavior in awarding subcontracts;

(6) to conduct an investigation and public hearings into, and study of, whether Halliburton or its employees violated United States sanctions laws by conducting prohibited activities with respect to Iran, Syria, Libya, North Korea, Cuba, or Iraq;

(7) to conduct an investigation and public hearings into, and study of, whether Halliburton violated United States or international laws or standards in its treatment of its subcontractors, foreign and United States employees in Iraq;

(8) to conduct an investigation and public hearings into, and study of, whether Halliburton appropriately documented its expenses in Iraq;

(9) to conduct an investigation and public hearings into, and study of, the ultimate uses of United States Government funds that Halliburton spent in Iraq;

(10) to conduct an investigation and public hearings into, and study of, payments by the Department of Defense to Halliburton, including—

(A) whether the Department of Defense erred in not withholding 15 percent from its payments of Halliburton's invoices, as required under Federal Acquisition Regulations; and

(B) whether improper influence was used in determining payments to Halliburton;

(11) to conduct an investigation and public hearings into, and study of, whether the Department of Defense improperly allowed Halliburton access to confidential records or discussions in connection with Halliburton's contract negotiations with the Department of Defense;

(12) to conduct an investigation and public hearings into, and study of, Halliburton's financial relationship with the Government of Nigeria or officials of the Government of Nigeria, including—

(A) whether Halliburton paid bribes in connection with business in Nigeria; and

(B) if Halliburton did pay such bribes, whether those bribes were used by their recipients to fund illicit activities;

(13) to make such findings of fact as are warranted and appropriate;

(14) to make such recommendations, including recommendations for legislative, administrative, or other actions, as the special committee may determine to be necessary or desirable; and

(15) to fulfill the constitutional oversight and informational functions of Congress with respect to the matters described in this subsection.

SEC. 2. MEMBERSHIP AND ORGANIZATION OF THE SPECIAL COMMITTEE.

(a) MEMBERSHIP.—

(1) IN GENERAL.—The special committee shall consist of—

(A) the members of the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs;

(B) the chairman and ranking member of the Committee on the Judiciary, or their designees from the Committee on the Judiciary;

(C) the chairman and ranking member of the Committee on Armed Services.

(2) SENATE RULE XXV.—For the purpose of paragraph 4 of rule XXV of the Standing Rules of the Senate, service of a Senator as the chairman or other member of the special committee shall not be taken into account.

(b) ORGANIZATION OF SPECIAL COMMITTEE.—

(1) CHAIRMAN.—The chairman of the Committee on Armed Services shall serve as the chairman of the special committee (referred to in this resolution as the ''chairman'').

(2) RANKING MEMBER.—The ranking member of the Committee on Armed Services shall serve as the ranking member of the special committee (referred to in this resolution as the ''ranking member'').

(3) QUORUM.—A majority of the members of the special committee shall constitute a quorum for the purpose of reporting a matter or recommendation to the Senate. A majority of the members of the special committee, or ⅓ of the members of the special committee if at least one member of the minority party is present, shall constitute a quorum for the conduct of other business. One member of the special committee shall constitute a quorum for the purpose of taking testimony.

(c) RULES AND PROCEDURES.—

(1) IN GENERAL.—Except as otherwise specifically provided in this resolution, the special committee's investigation, study, and hearings shall be governed by the Standing Rules of the Senate and the Rules of Procedure of the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs.

(2) ADDITIONAL RULES.—The special committee may adopt additional rules or procedures not inconsistent with this resolution or the Standing Rules of the Senate if the chairman and ranking member agree that such additional rules or procedures are necessary to enable the special committee to conduct the investigation, study, and hearings authorized by this resolution. Any such additional rules and procedures shall become effective upon publication in the Congressional Record.

SEC. 3. STAFF OF THE SPECIAL COMMITTEE.

(a) APPOINTMENTS.—To assist the special committee in the investigation, study, and hearings authorized by this resolution, the chairman and the ranking member each may appoint special committee staff, including consultants.

(b) ASSISTANCE FROM THE SENATE LEGAL COUNSEL.—To assist the special committee in the investigation, study, and hearings authorized by this resolution, the Senate Legal Counsel and the Deputy Senate Legal Counsel shall work with and under the jurisdiction and authority of the special committee.

(c) ASSISTANCE FROM THE COMPTROLLER GENERAL.—The Comptroller General of the United States is requested to provide from the Government Accountability Office whatever personnel or other appropriate assistance as may be required by the special committee, or by the chairman or the ranking member.

SEC. 4. PUBLIC ACTIVITIES OF THE SPECIAL COMMITTEE.

(a) IN GENERAL.—Consistent with the rights of persons subject to investigation and inquiry, the special committee shall make every effort to fulfill the right of the public and Congress to know the essential facts and implications of the activities of officials of the United States Government and other persons and entities with respect to the matters under investigation and study, as described in section 1.

(b) DUTIES.—In furtherance of the right of the public and Congress to know, the special committee—

(1) shall hold, as the chairman (in consultation with the ranking member) considers appropriate and in accordance with paragraph 5(b) of rule XXVI of the Standing Rules of the Senate, hearings on specific subjects;

(2) may make interim reports to the Senate as it considers appropriate; and

(3) shall make a final comprehensive public report to the Senate which contains—

(A) a description of all relevant factual determinations; and

(B) recommendations for legislation, if necessary.

SEC. 5. POWERS OF THE SPECIAL COMMITTEE.

(a) IN GENERAL.—The special committee shall do everything necessary and appropriate under the laws and the Constitution of the United States to conduct the investigation, study, and hearings authorized by section 1.

(b) EXERCISE OF AUTHORITY.—The special committee may exercise all of the powers and responsibilities of a committee under rule XXVI of the Standing Rules of the Senate and section 705 of the Ethics in Government Act of 1978, including the following:

(1) SUBPOENA POWERS.—To issue subpoenas or orders for the attendance of witnesses or for the production of documentary or physical evidence before the special committee. A subpoena or order may be authorized by the special committee or by the chairman with the agreement of the ranking member, and may be issued by the chairman or any other member of the special committee designated by the chairman, and may be served by any person designated by the chairman or the authorized member anywhere within or outside of the borders of the United States to the full extent permitted by law. The chairman, or any other member of the special committee, is authorized to administer oaths to any witnesses appearing before the special committee. If a return on a subpoena or order for the production of documentary or physical evidence is incomplete or accompanied by an objection, the chairman (in consultation with the ranking member) may convene a meeting or hearing to determine the adequacy of the return and to rule on the objection. At a meeting or hearing on such a return, one member of the special committee shall constitute a quorum. The special committee shall not initiate procedures leading to civil or criminal enforcement of a subpoena unless the person or entity to whom the subpoena is directed refuses to produce the required documentary or physical evidence after having been ordered and directed to do so.

(2) COMPENSATION AUTHORITY.—To employ and fix the compensation of such clerical, investigatory, legal, technical, and other assistants as the special committee, or the chairman or the ranking member, considers necessary or appropriate.

(3) MEETINGS.—To sit and act at any time or place during sessions, recesses, and adjournment periods of the Senate.

(4) HEARINGS.—To hold hearings, take testimony under oath, and receive documentary or physical evidence relating to the matters and questions it is authorized to investigate or study. Unless the chairman and the ranking member otherwise agree, the questioning of a witness or a panel of witnesses at a hearing shall be limited to one initial 30-minute turn each for the chairman and the ranking member, or their designees, including majority and minority staff, and thereafter to 10-minute turns by each member of the special committee if 5 or more members are present, and to 15-minute turns by each member of the special committee if fewer than 5 members are present. A member may be permitted further questions of the witness or panel of witnesses, either by using time that another member then present at the hearing has yielded for that purpose during the yielding member's turn, or by using time allotted after all members have been given an opportunity to question the witness or panel of witnesses. At all times, unless the chairman and the ranking member otherwise agree, the questioning shall alternate back and forth between members of the majority party and members of the minority party. In their discretion, the chairman and the ranking member, respectively, may designate majority or minority staff to question a witness or a panel of witnesses at a hearing during time yielded by a member of the chairman's or the ranking member's party then present at the hearing for his or her turn.

(5) TESTIMONY OF WITNESSES.—To require by subpoena or order the attendance, as a witness before the special committee or at a deposition, of any person who may have knowledge or information concerning any of the matters that the special committee is authorized to investigate and study.

(6) IMMUNITY.—To grant a witness immunity under sections 6002 and 6005 of title 18, United States Code, provided that the independent counsel has not informed the special committee in writing that immunizing the witness would interfere with the ability of the independent counsel successfully to prosecute criminal violations. Not later than 10 days before the special committee seeks a Federal court order for a grant of immunity by the special committee, the Senate Legal Counsel shall cause to be delivered to the independent counsel a written request asking the independent counsel promptly to inform the special committee in writing if, in the judgment of the independent counsel, the grant of immunity would interfere with the ability of the independent counsel successfully to prosecute criminal violations. The Senate Legal Counsel's written request of the independent counsel required by this paragraph shall be in addition to all notice requirements set forth in sections 6002 and 6005 of title 18, United States Code.

(7) DEPOSITIONS.—To take depositions and other testimony under oath anywhere within the United States, to issue orders that require witnesses to answer written interrogatories under oath, and to make application for the issuance of letters rogatory. All depositions shall be conducted jointly by majority and minority staff of the special committee. A witness at a deposition shall be examined upon oath administered by a member of the special committee or an individual authorized by local law to administer oaths, and a complete transcription or electronic recording of the deposition shall be made. Questions shall be propounded first by majority staff of the special committee and then by minority staff of the special committee. Any subsequent round of questioning shall proceed in the same order. Objections by the witness as to the form of questions shall be noted for the record. If a witness objects to a question and refuses to answer on the basis of relevance or privilege, the special committee staff may proceed with the deposition, or may, at that time or at a subsequent time, seek a ruling on the objection from the chairman. If the chairman overrules the objection, the chairman may order and direct the witness to answer the question, but the special committee shall not initiate procedures leading to civil or criminal enforcement unless the witness refuses to answer after having been ordered and directed to answer.

(8) DELEGATIONS TO STAFF.—To issue commissions and to notice depositions for staff members to examine witnesses and to receive evidence under oath administered by an individual authorized by local law to administer oaths. The special committee, or the chairman with the concurrence of the ranking member, may delegate to designated staff members of the special committee the power to issue deposition notices authorized pursuant to this paragraph.

(9) INFORMATION FROM OTHER SOURCES.—To require by subpoena or order—

(A) any department, agency, entity, officer, or employee of the United States Government;

(B) any person or entity purporting to act under color or authority of State or local law; or

(C) any private person, firm, corporation, partnership, or other organization;

to produce for consideration by the special committee or for use as evidence in the investigation, study, or hearings of the special committee, any book, check, canceled check, correspondence, communication, document, financial record, paper, physical evidence, photograph, record, recording, tape, or any other material relating to any of the matters or questions that the special committee is authorized to investigate and study which any such person or entity may possess or control.

(10) RECOMMENDATIONS TO THE SENATE.—To make to the Senate any recommendations, by report or resolution, including recommendations for criminal or civil enforcement, which the special committee may consider appropriate with respect to—

(A) the willful failure or refusal of any person to appear before it, or at a deposition, or to answer interrogatories, in compliance with a subpoena or order;

(B) the willful failure or refusal of any person to answer questions or give testimony during the appearance of that person as a witness before the special committee, or at a deposition, or in response to interrogatories; or

(C) the willful failure or refusal of—

(i) any officer or employee of the United States Government;

(ii) any person or entity purporting to act under color or authority of State or local law; or

(iii) any private person, partnership, firm, corporation, or organization;

to produce before the special committee, or at a deposition, or at any time or place designated by the committee, any book, check, canceled check, correspondence, communication, document, financial record, paper, physical evidence, photograph, record, recording, tape, or any other material in compliance with any subpoena or order.

(11) CONSULTANTS.—To procure the temporary or intermittent services of individual consultants, or organizations thereof.

(12) OTHER GOVERNMENT PERSONNEL.—To use, on a reimbursable basis and with the prior consent of the Government department or agency concerned, the services of the personnel of such department or agency.

(13) OTHER CONGRESSIONAL STAFF.—To use, with the prior consent of any member of the Senate or the chairman or the ranking member of any other Senate committee or the chairman or ranking member of any subcommittee of any committee of the Senate, the facilities or services of the appropriate members of the staff of such member of the Senate or other Senate committee or subcommittee, whenever the special committee or the chairman or the ranking member considers that such action is necessary or appropriate to enable the special committee to conduct the investigation, study, and hearings authorized by this resolution.

(14) ACCESS TO INFORMATION AND EVIDENCE.—To permit any members of the special committee, staff director, counsel, or other staff members or consultants designated by the chairman or the ranking member, access to any data, evidence, information, report, analysis, document, or paper—

(A) that relates to any of the matters or questions that the special committee is authorized to investigate or study under this resolution;

(B) that is in the custody or under the control of any department, agency, entity, officer, or employee of the United States Government, including those which have the power under the laws of the United States to investigate any alleged criminal activities or to prosecute persons charged with crimes against the United States without regard to the jurisdiction or authority of any other Senate committee or subcommittee; and

(C) that will assist the special committee to prepare for or conduct the investigation, study, and hearings authorized by this resolution.

(15) REPORTS OF VIOLATIONS OF LAW.—To report possible violations of any law to appropriate Federal, State, or local authorities.

(16) EXPENDITURES.—To expend, to the extent that the special committee determines necessary and appropriate, any money made

available to the special committee by the Senate to carry out this resolution.

(17) TAX RETURN INFORMATION.—To inspect and receive, in accordance with the procedures set forth in sections 6103(f)(3) and 6104(a)(2) of the Internal Revenue Code of 1986, any tax return or tax return information, held by the Secretary of the Treasury, if access to the particular tax-related information sought is necessary to the ability of the special committee to carry out section 1(b)(3)(B).

SEC. 6. PROTECTION OF CONFIDENTIAL INFORMATION.

(a) NONDISCLOSURE.—No member of the special committee or the staff of the special committee shall disclose, in whole or in part or by way of summary, to any person other than another member of the special committee or other staff of the special committee, for any purpose or in connection with any proceeding, judicial or otherwise, any testimony taken, including the names of witnesses testifying, or material presented, in depositions or at closed hearings, or any confidential materials or information, unless authorized by the special committee or the chairman in concurrence with the ranking member.

(b) STAFF NONDISCLOSURE AGREEMENT.—All members of the staff of the special committee with access to confidential information within the control of the special committee shall, as a condition of employment, agree in writing to abide by the conditions of this section and any nondisclosure agreement promulgated by the special committee that is consistent with this section.

(c) SANCTIONS.—

(1) MEMBER SANCTIONS.—The case of any Senator who violates the security procedures of the special committee may be referred to the Select Committee on Ethics of the Senate for investigation and the imposition of sanctions in accordance with the rules of the Senate.

(2) STAFF SANCTIONS.—Any member of the staff of the special committee who violates the security procedures of the special committee shall immediately be subject to removal from office or employment with the special committee or such other sanction as may be provided in any rule issued by the special committee consistent with section 2(c).

(d) STAFF DEFINED.—For purposes of this section, the term ''staff of the special committee'' includes—

(1) all employees of the special committee;

(2) all staff designated by the members of the special committee to work on special committee business;

(3) all Senate staff assigned to special committee business pursuant to section 5(b)(13);

(4) all officers and employees of the Office of Senate Legal Counsel who are requested to work on special committee business; and

(5) all detailees and consultants to the special committee.

SEC. 7. RELATION TO OTHER INVESTIGATIONS.

(a) PURPOSES.—The purposes of this section are—

(1) to expedite the thorough conduct of the investigation, study, and hearings authorized by this resolution;

(2) to promote efficiency among all the various investigations underway in all branches of the United States Government; and

(3) to engender a high degree of confidence on the part of the public regarding the conduct of such investigation, study, and hearings.

(b) SPECIAL COMMITTEE ACTIONS.—To carry out the purposes stated in subsection (a), the special committee is encouraged—

(1) to obtain relevant information concerning the status of the investigation of the independent counsel, to assist in establishing a hearing schedule for the special committee; and

(2) to coordinate, to the extent practicable, the activities of the special committee with the investigation of the independent counsel.

SEC. 8. SALARIES AND EXPENSES.

A sum equal to not more than $1,000,000 for the period beginning on the date of adoption of this resolution and ending on February 28, 2006, shall be made available from the contingent fund of the Senate out of the Account for Expenses for Inquiries and Investigations for payment of salaries and other expenses of the special committee under this resolution, which shall include not more than $750,000 for the procurement of the services of individual consultants or organizations thereof, in accordance with section 5(b)(11). Payment of expenses shall be disbursed upon vouchers approved by the chairman, except that vouchers shall not be required for the disbursement of salaries paid at an annual rate.

SEC. 9. REPORTS; TERMINATION.

(a) COMPLETION OF DUTIES.—

(1) IN GENERAL.—The special committee shall make every reasonable effort to complete, not later than February 1, 2006, the investigation, study, and hearings authorized by section 1.

(2) EVALUATION OF PROGRESS.—The special committee shall evaluate the progress and status of the investigation, study, and hearings authorized by section 1 and, not later than January 15, 2006, make recommendations with respect to the authorization of additional funds for a period following February 28, 2006. If the special committee requests the authorization of additional funds for a period following February 28, 2006, the majority leader and the minority leader shall meet and determine the appropriate timetable and procedures for the Senate to vote on any such request.

(b) FINAL REPORT.—

(1) SUBMISSION.—The special committee shall promptly submit a final public report to the Senate of the results of the investigation, study, and hearings conducted by the special committee pursuant to this resolution, together with its findings and any recommendations.

(2) CONFIDENTIAL INFORMATION.—The final report of the special committee may be accompanied by such confidential annexes as are necessary to protect confidential information.

(3) CONCLUSION OF BUSINESS.—After submission of its final report, the special committee shall promptly conclude its business and close out its affairs.

(c) RECORDS.—Upon the conclusion of the special committee's business and the closing out of its affairs, all records, files, documents, and other materials in the possession, custody, or control of the special committee shall remain under the control of the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs.

SEC. 10. COMMITTEE JURISDICTION AND RULE XXV.

The jurisdiction of the special committee is granted pursuant to this resolution, notwithstanding the provisions of paragraph 1 of rule XXV of the Standing Rules of the Senate relating to the jurisdiction of the standing committees of the Senate.

SENATE RESOLUTION 480—EXTENDING THE AUTHORITY FOR THE SENATE NATIONAL SECURITY WORKING GROUP

Mr. FRIST (for himself and Mr. REID) submitted the following resolution; which was submitted and read:

S. RES. 480

Resolved, That Senate Resolution 105 of the One Hundred First Congress, 1st session (agreed to on April 13, 1989), as amended by Senate Resolution 149 of the One Hundred Third Congress, 1st session (agreed to on October 5, 1993), as further amended by Senate Resolution 75 of the One Hundred Sixth Congress, 1st session (agreed to on March 25, 1999), as further amended by Senate Resolution 383 of the One Hundred Sixth Congress, 2d session (agreed to on October 27, 2000), and as further amended by Senate Resolution 355 of the One Hundred Seventh Congress, 2d session (agreed to on November 13, 2002), is further amended—

(1) in section (1)(a)(3)—

(A) by striking subparagraph (B);

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting after subparagraph (A) the following new subparagraphs:

''(B) The Working Group may also study any issues related to national security that the Majority Leader and Minority Leader jointly determine appropriate.

''(C) In addition, the Working Group is encouraged to consult with parliamentarians and legislators of foreign nations and to participate in international forums and institutions regarding the matters described in subparagraphs (A) and (B).'';

(2) by striking each section designated as section 4; and

(3) by adding at the end the following new section:

''SEC. 4. The provisions of this resolution shall remain in effect until December 31, 2006.''.

SENATE RESOLUTION 481—EXPRESSING THE GRATITUDE AND APPRECIATION OF THE SENATE FOR THE ACTS OF HEROISM AND MILITARY ACHIEVEMENT OF MAJOR RICHARD D. WINTERS (RET.) DURING WORLD WAR II, AND COMMENDING HIM FOR LEADERSHIP AND VALOR IN LEADING THE MEN OF EASY COMPANY

Mr. SANTORUM submitted the following resolution: which was submitted and read:

S. RES. 481

Whereas historians have written that World War II began on September 1, 1939, when Nazi Germany, without a declaration of war, invaded Poland; and following Poland's surrender, the Nazis quickly moved to invade and occupy Denmark, Norway, Luxembourg, the Netherlands, and Belgium;

Whereas following the Japanese sneak attack on the United States at Pearl Harbor, Hawaii on December 7, 1941, the United States declared war on Japan and entered the conflict on the side of freedom and democracy;

Whereas when the fate of the free world was in jeopardy as a direct result of Adolf Hitler and the Nazi regime's desire for world conquest, the ''greatest generation ever'' took up the task of ridding the world of Nazi and Fascist regimes;

Whereas in 1944 the military forces of the United States, the United Kingdom, and Canada landed at 5 beaches (Utah Beach, Omaha Beach, Gold Beach, Juno Beach, and Sword Beach) in Normandy, France with the goal of liberating Europe from the Nazi forces;

Whereas according to military historians, in preparation for the amphibious invasion at Normandy, Allied planes pounded the Nazi defenders and dropped thousands of paratroopers behind German lines the night before the seaborne landings;

Whereas Major Richard D. Winters (Ret.), a native of Lancaster, Pennsylvania and a graduate of Franklin & Marshall College, served the United States honorably and with great distinction as 1st Lieutenant, Company E, 2nd Battalion, 506th Parachute Infantry Regiment, 101st Airborne Division;

Whereas landing at the town of Ste. Mere-Eglise on June 6, 1944, Lieutenant Winters took command of ''Easy Company'' following the death of the company commander in the airborne drop, and received orders to destroy a four-gun battery of German 105mm howitzers at a French farmhouse named ''Brecourt Manor'', 3 kilometers from Ste. Marie-du-Mont;

Whereas Lieutenant Winters, with only 12 men, proceeded to assault this enemy battery which was directing heavy fire against the 4th Infantry Division as they landed on Utah Beach;

Whereas against great odds, and through extraordinary bravery, Lieutenant Winters and his men were able to overcome a platoon of 50 elite German soldiers guarding the battery;

Whereas Lieutenant Winters personally led the attack and repeatedly exposed himself directly to enemy fire while performing his military duties;

Whereas this gallant action by Lieutenant Winters and his men, 4 of whom gave their lives, and 2 of whom were wounded, saved countless lives among the soldiers of the 4th Infantry Division; and

Whereas Lieutenant Richard D. Winters received the Distinguished Service Cross in recognition of his outstanding military service and achievement during the Normandy campaign: Now, therefore, be it

Resolved, That the Senate—

(1) salutes the accomplishments of Lieutenant Richard D. Winters and the men of ''Easy Company'' for their actions to ensure control over Utah Beach at Normandy;

(2) commends the heroism and bravery shown by Lieutenant Richard D. Winters in the face of death and severe hardship to accomplish his mission and save the lives of Allied Forces landing at Utah Beach;

(3) acknowledges the historical achievements of Lieutenant Richard D. Winters and the men of ''Easy Company'' in assuring the success of the Allied Normandy campaign, begun on June 6, 1944; and

(4) expresses its gratitude for the selfless service of Lieutenant Richard D. Winters, the men of ''Easy Company,'' and all veterans who served in World War II in restoring freedom to the world and for defeating the elements of evil and oppression.

SENATE RESOLUTION 482—CONGRATULATING THE BOSTON RED SOX ON WINNING THE 2004 WORLD SERIES

Mr. KENNEDY (for himself, Mr. REED, Mr. KERRY, Mr. DODD, Mr. JEFFORDS, Mr. SUNUNU, and Mr. CHAFEE) submitted the following resolution; which was submitted and read:

S. RES. 482

Whereas on October 27, 2004, the Boston Red Sox won their first World Series title in 86 years in a four-game sweep of the St. Louis Cardinals;

Whereas the Red Sox won their sixth world title in the 104-year history of the storied franchise;

Whereas the 2004 Red Sox World Champion team epitomized sportsmanship, selfless play, team spirit, determination, and heart in the course of winning 98 games in the regular season and clinching the American League Wild Card playoff berth;

Whereas the 2004 Red Sox World Champion team honored the careers of all former Red Sox legends, including Joe Cronin, Bobby Doerr, Carlton Fisk, Jimmie Foxx, Carl Yastrzemski, Cy Young, Johnny Pesky, Dom DiMaggio, Jim Rice, and Ted Williams;

Whereas the 2004 postseason produced new Red Sox legends, including Derek Lowe, Pedro Martinez, Curt Schilling, Tim Wakefield, Jason Varitek, Keith Foulke, Manny Ramirez, David Ortiz, Johnny Damon, Trot Nixon, Orlando Cabrera, Kevin Millar, Mike Timlin, Alan Embree, Mark Bellhorn, Bill Mueller, and Dave Roberts;

Whereas Red Sox Manager Terry Francona brought fresh leadership to the clubhouse this year, and brought together a self-proclaimed ''band of idiots'' and made them into one of the greatest Red Sox teams of all time;

Whereas Red Sox owners John Henry and Tom Werner and Red Sox President and Chief Executive Officer Larry Lucchino never wavered from their goal of bringing a World Series Championship to Boston;

Whereas Red Sox General Manager Theo Epstein assembled a team with strong pitching, a crushing offense, and most important, the heart and soul of a champion;

Whereas the Red Sox never trailed in any of the 36 innings of the World Series;

Whereas the Red Sox set a new major league record by winning eight consecutive games in the postseason;

Whereas Derek Lowe, Pedro Martinez, and Curt Schilling delivered gutsy pitching performances in the postseason worthy of their status as some of the best pitchers in Red Sox history;

Whereas the Red Sox starting pitching in Games 2, 3, and 4 of the World Series had a combined earned run average of 0.00;

Whereas Manny Ramirez won the 2004 World Series Most Valuable Player award in the World Series after batting .350 in the postseason with two home runs and 11 runs batted in;

Whereas the Red Sox staged the greatest comeback in baseball history in the American League Championship Series against their rivals, the New York Yankees, by winning four consecutive games after losing the first three games of the series;

Whereas the Red Sox prevailed in four consecutive American League Championship Series games, while producing some of the most memorable moments in sports history, including Dave Roberts stealing second base in the bottom of the ninth inning of Game 4, David Ortiz securing a walk-off home run in the 12th inning of Game 4, David Ortiz singling in the winning run in the bottom of the 14th inning in Game 5, and Johnny Damon making a grand slam in Game 7;

Whereas the entire Red Sox organization has a strong commitment to charitable causes in New England, demonstrated by the team's 51-year support of the Dana-Farber Cancer Institute's Jimmy Fund in the fight against childhood cancers;

Whereas fans of the Red Sox do not live only in Boston or New England, but all across the country and the world, and a grateful ''Red Sox Nation'' thanks the team for bringing a World Championship home to Boston;

Whereas the 2004 Boston Red Sox and their loyal fans believed; and

Whereas this IS next year: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates—

(A) the Boston Red Sox for winning the 2004 Major League Baseball World Series and for their incredible performance during the 2004 Major League Baseball season; and

(B) the eight Major League Baseball teams that played in the postseason;

(2) recognizes the achievements of the Boston Red Sox players, manager, coaches, and support staff whose hard work, dedication, and spirit made this all possible;

(3) commends—

(A) the St. Louis Cardinals for a valiant performance during the 2004 season and the World Series; and

(B) the fans and management of the St. Louis Cardinals for allowing the Red Sox fans from Boston and around the Nation to celebrate their first title in 86 years at their home field; and

(4) directs the Enrolling Clerk of the Senate to transmit an enrolled copy of this resolution to—

(A) the 2004 Boston Red Sox team;

(B) Red Sox Manager Terry Francona;

(C) Red Sox General Manager Theo Epstein;

(D) Red Sox President and Chief Executive Officer Larry Lucchino;

(E) Red Sox Principal Owner John Henry; and

(F) Red Sox Chairman Tom Werner.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4074. Mr. MCCAIN proposed an amendment to the bill S. 3021, to provide for the protection of intellectual property rights, and for other purposes.

SA 4075. Mr. MCCAIN (for Ms. COLLINS) proposed an amendment to the bill S. 2657, to amend part III of title 5, United States Code, to provide for the establishment of programs under which supplemental dental and vision benefits are made available to Federal employees, retirees, and their dependents, to expand the contracting authority of the Office of Personnel Management, and for other purposes.

SA 4076. Mr. STEVENS proposed an amendment to the concurrent resolution H. Con. Res. 528, Official Title Not Available.

SA 4077. Mr. FRIST (for Ms. COLLINS (for herself and Mr. BINGAMAN)) proposed an amendment to the bill S. 2635, to establish an intergovernmental grant program to identify and develop homeland security information, equipment, capabilities, technologies, and services to further the homeland security needs of the United States and to address the homeland security needs of Federal, State, and local governments.

SA 4078. Mr. FRIST (for Mr. INOUYE) proposed an amendment to the bill S. 2488, to establish a program within the National Oceanic and Atmospheric Administration and the United States Coast Guard to help identify, assess, reduce, and prevent marine debris and its adverse impacts on the marine environment and navigation safety, in coordination with non-Federal entities, and for other purposes.

SA 4079. Mr. FRIST proposed an amendment to the concurrent resolution H. Con. Res. 529, Official Title Not Available.

TEXT OF AMENDMENTS

SA 4074. Mr. MCCAIN proposed an amendment to the bill S. 3021, to provide for the protection of intellectual property rights, and for other purposes; as follows:

TITLE II—PROFESSIONAL BOXING SAFETY

SEC. 201. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the ''Professional Boxing Amendments Act of 2004''.

(b) TABLE OF CONTENTS.—The table of contents for this title is as follows:

SEC. 202. AMENDMENT OF PROFESSIONAL BOXING SAFETY ACT OF 1996.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Professional Boxing Safety Act of 1996 (15 U.S.C. 6301 et seq.).

SEC. 203. DEFINITIONS.

(a) IN GENERAL.—Section 2 (15 U.S.C. 6301) is amended to read as follows:

''SEC. 2. DEFINITIONS.

''In this Act:

''(1) COMMISSION.—The term 'Commission' means the United States Boxing Commission.

''(2) BOUT AGREEMENT.—The term 'bout agreement' means a contract between a promoter and a boxer that requires the boxer to participate in a professional boxing match for a particular date.

''(3) BOXER.—The term 'boxer' means an individual who fights in a professional boxing match.

''(4) BOXING COMMISSION.—The term 'boxing commission' means an entity authorized under State or tribal law to regulate professional boxing matches.

''(5) BOXER REGISTRY.—The term 'boxer registry' means any entity certified by the Commission for the purposes of maintaining records and identification of boxers.

''(6) BOXING SERVICE PROVIDER.—The term 'boxing service provider' means a promoter, manager, sanctioning body, licensee, or matchmaker.

''(7) CONTRACT PROVISION.—The term 'contract provision' means any legal obligation between a boxer and a boxing service provider.

''(8) INDIAN LANDS; INDIAN TRIBE.—The terms 'Indian lands' and 'Indian tribe' have the meanings given those terms by paragraphs (4) and (5), respectively, of section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703).

''(9) LICENSEE.—The term 'licensee' means an individual who serves as a trainer, corner man, second, or cut man for a boxer.

''(10) MANAGER.—The term 'manager' means a person other than a promoter who, under contract, agreement, or other arrangement with a boxer, undertakes to control or administer, directly or indirectly, a boxing-related matter on behalf of that boxer, including a person who is a booking agent for a boxer.

''(11) MATCHMAKER.—The term 'matchmaker' means a person that proposes, selects, and arranges for boxers to participate in a professional boxing match.

''(12) PHYSICIAN.—The term 'physician' means a doctor of medicine legally authorized to practice medicine by the State in which the physician performs such function or action and who has training and experience in dealing with sports injuries, particularly head trauma.

''(13) PROFESSIONAL BOXING MATCH.—The term 'professional boxing match' means a boxing contest held in the United States between individuals for financial compensation. The term 'professional boxing match' does not include a boxing contest that is regulated by a duly recognized amateur sports organization, as approved by the Commission.

''(14) PROMOTER.—The term 'promoter'—

''(A) means the person primarily responsible for organizing, promoting, and producing a professional boxing match; but

''(B) does not include a hotel, casino, resort, or other commercial establishment hosting or sponsoring a professional boxing match unless—

''(i) the hotel, casino, resort, or other commercial establishment is primarily responsible for organizing, promoting, and producing the match; and

''(ii) there is no other person primarily responsible for organizing, promoting, and producing the match.

''(15) PROMOTIONAL AGREEMENT.—The term 'promotional agreement' means a contract, for the acquisition of rights relating to a boxer's participation in a professional boxing match or series of boxing matches (including the right to sell, distribute, exhibit, or license the match or matches), with—

''(A) the boxer who is to participate in the match or matches; or

''(B) the nominee of a boxer who is to participate in the match or matches, or the nominee is an entity that is owned, controlled or held in trust for the boxer unless that nominee or entity is a licensed promoter who is conveying a portion of the rights previously acquired.

''(16) STATE.—The term 'State' means each of the 50 States, Puerto Rico, the District of Columbia, and any territory or possession of the United States, including the Virgin Islands.

''(17) SANCTIONING ORGANIZATION.—The term 'sanctioning organization' means an organization, other than a boxing commission, that sanctions professional boxing matches, ranks professional boxers, or charges a sanctioning fee for professional boxing matches in the United States—

''(A) between boxers who are residents of different States; or

''(B) that are advertised, otherwise promoted, or broadcast (including closed circuit television) in interstate commerce.

''(18) SUSPENSION.—The term 'suspension' includes within its meaning the temporary revocation of a boxing license.

''(19) TRIBAL ORGANIZATION.—The term 'tribal organization' has the same meaning as in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l)).''.

(b) CONFORMING AMENDMENT.—Section 21 (15 U.S.C. 6312) is amended to read as follows:

''SEC. 21. PROFESSIONAL BOXING MATCHES CONDUCTED ON INDIAN LANDS.

''(a) IN GENERAL.—Notwithstanding any other provision of law, a tribal organization may establish a boxing commission to regulate professional boxing matches held on Indian land under the jurisdiction of that tribal organization.

''(b) STANDARDS AND LICENSING.—A tribal organization that establishes a boxing commission shall, by tribal ordinance or resolution, establish and provide for the implementation of health and safety standards, licensing requirements, and other requirements relating to the conduct of professional boxing matches that are at least as restrictive as—

''(1) the otherwise applicable requirements of the State in which the Indian land on which the professional boxing match is held is located; or

''(2) the guidelines established by the United States Boxing Commission.

''(c) APPLICATION OF ACT TO BOXING MATCHES ON TRIBAL LANDS.—The provisions of this Act apply to professional boxing matches held on tribal lands to the same extent and in the same way as they apply to professional boxing matches held in any State.''.

SEC. 204. PURPOSES.

Section 3(2) (15 U.S.C. 6302(2)) is amended by striking ''State''.

SEC. 205. UNITED STATES BOXING COMMISSION APPROVAL, OR ABC OR COMMISSION SANCTION, REQUIRED FOR MATCHES.

(a) IN GENERAL.—Section 4 (15 U.S.C. 6303) is amended to read as follows:

''SEC. 4. APPROVAL OR SANCTION REQUIREMENT.

''(a) IN GENERAL.—No person may arrange, promote, organize, produce, or fight in a professional boxing match within the United States unless the match—

''(1) is approved by the Commission; and

''(2) is held in a State, or on tribal land of a tribal organization, that regulates professional boxing matches in accordance with standards and criteria established by the Commission.

''(b) APPROVAL PRESUMED.—

''(1) IN GENERAL.—For purposes of subsection (a), the Commission shall be presumed to have approved any match other than—

''(A) a match with respect to which the Commission has been informed of an alleged violation of this Act and with respect to which it has notified the supervising boxing commission that it does not approve;

''(B) a match advertised to the public as a championship match;

''(C) a match scheduled for 10 rounds or more; or

''(D) a match in which 1 of the boxers has—

''(i) suffered 10 consecutive defeats in professional boxing matches; or

''(ii) has been knocked out 5 consecutive times in professional boxing matches.

''(2) DELEGATION OF APPROVAL AUTHORITY.—Notwithstanding paragraph (1), the Commission shall be presumed to have approved a match described in subparagraph (B), (C), or (D) of paragraph (1) if—

''(A) the Commission has delegated in writing its approval authority with respect to that match to a boxing commission; and

''(B) the boxing commission has approved the match.

''(3) KNOCKED-OUT DEFINED.—Except as may be otherwise provided by the Commission by rule, in paragraph (1)(D)(ii), the term 'knocked out' means knocked down and unable to continue after a count of 10 by the referee or stopped from continuing because of a technical knockout.''.

(b) CONFORMING AMENDMENT.—Section 19 (15 U.S.C. 6310) is repealed.

SEC. 206. SAFETY STANDARDS.

Section 5 (15 U.S.C. 6304) is amended—

(1) by striking ''requirements or an alternative requirement in effect under regulations of a boxing commission that provides equivalent protection of the health and safety of boxers:'' and inserting ''requirements:'';

(2) by adding at the end of paragraph (1) ''The examination shall include testing for

infectious diseases in accordance with standards established by the Commission.'';

(3) by striking paragraph (2) and inserting the following:

''(2) An ambulance continuously present on site.'';

(4) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and inserting after paragraph (2) the following:

''(3) Emergency medical personnel with appropriate resuscitation equipment continuously present on site.''; and

(5) by striking ''match.'' in paragraph (5), as redesignated, and inserting ''match in an amount prescribed by the Commission.''.

SEC. 207. REGISTRATION.

Section 6 (15 U.S.C. 6305) is amended—

(1) by inserting ''or Indian tribe'' after ''State'' the second place it appears in subsection (a)(2);

(2) by striking the first sentence of subsection (c) and inserting ''A boxing commission shall, in accordance with requirements established by the Commission, make a health and safety disclosure to a boxer when issuing an identification card to that boxer.'';

(3) by striking ''should'' in the second sentence of subsection (c) and inserting ''shall, at a minimum,''; and

(4) by adding at the end the following:

''(d) COPY OF REGISTRATION AND IDENTIFICATION CARDS TO BE SENT TO COMMISSION.—A boxing commission shall furnish a copy of each registration received under subsection (a), and each identification card issued under subsection (b), to the Commission.''.

SEC. 208. REVIEW.

Section 7 (15 U.S.C. 6306) is amended—

(1) by striking ''that, except as provided in subsection (b), no'' in subsection (a)(2) and inserting ''that no'';

(2) by striking paragraphs (3) and (4) of subsection (a) and inserting the following:

''(3) Procedures to review a summary suspension when a hearing before the boxing commission is requested by a boxer, licensee, manager, matchmaker, promoter, or other boxing service provider which provides an opportunity for that person to present evidence.'';

(3) by striking subsection (b); and

(4) by striking ''(a) PROCEDURES.—''.

SEC. 209. REPORTING.

Section 8 (15 U.S.C. 6307) is amended—

(1) by striking ''48 business hours'' and inserting ''2 business days'';

(2) by striking ''bxoing'' and inserting ''boxing''; and

(3) by striking ''each boxer registry.'' and inserting ''the Commission.''.

SEC. 210. CONTRACT REQUIREMENTS.

Section 9 (15 U.S.C. 6307a) is amended to read as follows:

''SEC. 9. CONTRACT REQUIREMENTS.

''(a) IN GENERAL.—The Commission, in consultation with the Association of Boxing Commissions, shall develop guidelines for minimum contractual provisions that shall be included in each bout agreement, boxer-manager contract, and promotional agreement. Each boxing commission shall ensure that these minimal contractual provisions are present in any such agreement or contract submitted to it.

''(b) FILING AND APPROVAL REQUIREMENTS.—

''(1) COMMISSION.—A manager or promoter shall submit a copy of each boxer-manager contract and each promotional agreement between that manager or promoter and a boxer to the Commission, and, if requested, to the boxing commission with jurisdiction over the bout.

''(2) BOXING COMMISSION.—A boxing commission may not approve a professional boxing match unless a copy of the bout agreement related to that match has been filed with it and approved by it.

''(c) BOND OR OTHER SURETY.—A boxing commission may not approve a professional boxing match unless the promoter of that match has posted a surety bond, cashier's check, letter of credit, cash, or other security with the boxing commission in an amount acceptable to the boxing commission.''.

SEC. 211. COERCIVE CONTRACTS.

Section 10 (15 U.S.C. 6307b) is amended—

(1) by striking paragraph (3) of subsection (a);

(2) by inserting ''OR ELIMINATION'' after ''MANDATORY'' in the heading of subsection (b); and

(3) by inserting ''or elimination'' after ''mandatory'' in subsection (b).

SEC. 212. SANCTIONING ORGANIZATIONS.

(a) IN GENERAL.—Section 11 (15 U.S.C. 6307c) is amended to read as follows:

''SEC. 11. SANCTIONING ORGANIZATIONS.

''(a) OBJECTIVE CRITERIA.—Within 1 year after the date of enactment of the Professional Boxing Amendments Act of 2004, the Commission shall develop guidelines for objective and consistent written criteria for the rating of professional boxers based on the athletic merits and professional record of the boxers. Within 90 days after the Commission's promulgation of the guidelines, each sanctioning organization shall adopt the guidelines and follow them.

''(b) NOTIFICATION OF CHANGE IN RATING.—A sanctioning organization shall, with respect to a change in the rating of a boxer previously rated by such organization in the top 10 boxers—

''(1) post a copy, within 7 days after the change, on its Internet website or home page, if any, including an explanation of the change, for a period of not less than 30 days;

''(2) provide a copy of the rating change and a thorough explanation in writing under penalty of perjury to the boxer and the Commission;

''(3) provide the boxer an opportunity to appeal the ratings change to the sanctioning organization; and

''(4) apply the objective criteria for ratings required under subsection (a) in considering any such appeal.

''(c) CHALLENGE OF RATING.—If, after disposing with an appeal under subsection (b)(3), a sanctioning organization receives a petition from a boxer challenging that organization's rating of the boxer, it shall (except to the extent otherwise required by the Commission), within 7 days after receiving the petition—

''(1) provide to the boxer a written explanation under penalty of perjury of the organization's rating criteria, its rating of the boxer, and the rationale or basis for its rating (including a response to any specific questions submitted by the boxer); and

''(2) submit a copy of its explanation to the Association of Boxing Commissions and the Commission for their review.''.

(b) CONFORMING AMENDMENTS.—Section 18(e) (15 U.S.C. 6309(e)) is amended—

(1) by striking ''FEDERAL TRADE COMMISSION,'' in the subsection heading and inserting ''UNITED STATES BOXING COMMISSION''; and

(2) by striking ''Federal Trade Commission,'' in paragraph (1) and inserting ''United States Boxing Commission,''.

SEC. 213. REQUIRED DISCLOSURES BY SANCTIONING ORGANIZATIONS.

Section 12 (15 U.S.C. 6307d) is amended—

(1) by striking the matter preceding paragraph (1) and inserting ''Within 7 days after a professional boxing match of 10 rounds or more, the sanctioning organization, if any, for that match shall provide to the Commission, and, if requested, to the boxing commission in the State or on Indian land responsible for regulating the match, a written statement of—'';

(2) by striking ''will assess'' in paragraph (1) and inserting ''has assessed, or will assess,''; and

(3) by striking ''will receive'' in paragraph (2) and inserting ''has received, or will receive,''.

SEC. 214. REQUIRED DISCLOSURES BY PROMOTERS AND BROADCASTERS.

Section 13 (15 U.S.C. 6307e) is amended—

(1) by striking ''promoters.'' in the section caption and inserting ''promoters and broadcasters.'';

(2) by striking so much of subsection (a) as precedes paragraph (1) and inserting the following:

''(a) DISCLOSURES TO BOXING COMMISSIONS AND THE COMMISSION.—Within 7 days after a professional boxing match of 10 rounds or more, the promoter of any boxer participating in that match shall provide to the Commission, and, if requested, to the boxing commission in the State or on Indian land responsible for regulating the match—'';

(3) by striking ''writing,'' in subsection (a)(1) and inserting ''writing, other than a bout agreement previously provided to the commission,'';

(4) by striking ''all fees, charges, and expenses that will be'' in subsection (a)(3)(A) and inserting ''a written statement of all fees, charges, and expenses that have been, or will be,'';

(5) by inserting ''a written statement of'' before ''all'' in subsection (a)(3)(B);

(6) by inserting ''a statement of'' before ''any'' in subsection (a)(3)(C);

(7) by striking the matter in subsection (b) following ''BOXER.—'' and preceding paragraph (1) and inserting ''Within 7 days after a professional boxing match of 10 rounds or more, the promoter of the match shall provide to each boxer participating in the bout or match with whom the promoter has a bout or promotional agreement a statement of—'';

(8) by striking ''match;'' in subsection (b)(1) and inserting ''match, and that the promoter has paid, or agreed to pay, to any other person in connection with the match;''; and

(9) by adding at the end the following:

''(d) REQUIRED DISCLOSURES BY BROADCASTERS.—

''(1) IN GENERAL.—A broadcaster that owns the television broadcast rights for a professional boxing match of 10 rounds or more shall, within 7 days after that match, provide to the Commission—

''(A) a statement of any advance, guarantee, or license fee paid or owed by the broadcaster to a promoter in connection with that match;

''(B) a copy of any contract executed by or on behalf of the broadcaster with—

''(i) a boxer who participated in that match; or

''(ii) the boxer's manager, promoter, promotional company, or other representative or the owner or representative of the site of the match; and

''(C) a list identifying sources of income received from the broadcast of the match.

''(2) COPY TO BOXING COMMISSION.—Upon request from the boxing commission in the State or Indian land responsible for regulating a match to which paragraph (1) applies, a broadcaster shall provide the information described in paragraph (1) to that boxing commission.

''(3) CONFIDENTIALITY.—The information provided to the Commission or to a boxing commission pursuant to this subsection shall

be confidential and not revealed by the Commission or a boxing commission, except that the Commission may publish an analysis of the data in aggregate form or in a manner which does not disclose confidential information about identifiable broadcasters.

''(4) TELEVISION BROADCAST RIGHTS.—In paragraph (1), the term 'television broadcast rights' means the right to broadcast the match, or any part thereof, via a broadcast station, cable service, or multichannel video programming distributor as such terms are defined in section 3(5), 602(6), and 602(13) of the Communications Act of 1934 (47 U.S.C. 153(5), 602(6), and 602(13), respectively).''.

SEC. 215. JUDGES AND REFEREES.

(a) IN GENERAL.—Section 16 (15 U.S.C. 6307h) is amended—

(1) by inserting ''(a) LICENSING AND ASSIGNMENT REQUIREMENT.—'' before ''No person'';

(2) by striking ''certified and approved'' and inserting ''selected'';

(3) by inserting ''or Indian lands'' after ''State''; and

(4) by adding at the end the following:

''(b) CHAMPIONSHIP AND 10-ROUND BOUTS.—In addition to the requirements of subsection (a), no person may arrange, promote, organize, produce, or fight in a professional boxing match advertised to the public as a championship match or in a professional boxing match scheduled for 10 rounds or more unless all referees and judges participating in the match have been licensed by the Commission.

''(c) ROLE OF SANCTIONING ORGANIZATION.—A sanctioning organization may provide a list of judges and referees deemed qualified by that organization to a boxing commission, but the boxing commission shall select, license, and appoint the judges and referees participating in the match.

''(d) ASSIGNMENT OF NONRESIDENT JUDGES AND REFEREES.—A boxing commission may assign judges and referees who reside outside that commission's State or Indian land.

''(e) REQUIRED DISCLOSURE.—A judge or referee shall provide to the boxing commission responsible for regulating a professional boxing match in a State or on Indian land a statement of all consideration, including reimbursement for expenses, that the judge or referee has received, or will receive, from any source for participation in the match. If the match is scheduled for 10 rounds or more, the judge or referee shall also provide such a statement to the Commission.''.

(b) CONFORMING AMENDMENT.—Section 14 (15 U.S.C. 6307f) is repealed.

SEC. 216. MEDICAL REGISTRY.

The Act is amended by inserting after section 13 (15 U.S.C. 6307e) the following:

''SEC. 14. MEDICAL REGISTRY.

''(a) IN GENERAL.—The Commission shall establish and maintain, or certify a third party entity to establish and maintain, a medical registry that contains comprehensive medical records and medical denials or suspensions for every licensed boxer.

''(b) CONTENT; SUBMISSION.—The Commission shall determine—

''(1) the nature of medical records and medical suspensions of a boxer that are to be forwarded to the medical registry; and

''(2) the time within which the medical records and medical suspensions are to be submitted to the medical registry.

''(c) CONFIDENTIALITY.—The Commission shall establish confidentiality standards for the disclosure of personally identifiable information to boxing commissions that will—

''(1) protect the health and safety of boxers by making relevant information available to the boxing commissions for use but not public disclosure; and

''(2) ensure that the privacy of the boxers is protected.''.

SEC. 217. CONFLICTS OF INTEREST.

Section 17 (15 U.S.C. 6308) is amended—

(1) by striking ''enforces State boxing laws,'' in subsection (a) and inserting ''implements State or tribal boxing laws, no officer or employee of the Commission,'';

(2) by striking ''belong to,'' and inserting ''hold office in,'' in subsection (a);

(3) by striking the last sentence of subsection (a);

(4) by striking subsection (b) and inserting the following:

''(b) BOXERS.—A boxer may not own or control, directly or indirectly, an entity that promotes the boxer's bouts if that entity is responsible for—

''(1) executing a bout agreement or promotional agreement with the boxer's opponent; or

''(2) providing any payment or other compensation to—

''(A) the boxer's opponent for participation in a bout with the boxer;

''(B) the boxing commission that will regulate the bout; or

''(C) ring officials who officiate at the bout.''.

SEC. 218. ENFORCEMENT.

Section 18 (15 U.S.C. 6309) is amended—

(1) by striking ''(a) INJUNCTIONS.—'' in subsection (a) and inserting ''(a) ACTIONS BY ATTORNEY GENERAL.—'';

(2) by striking ''enforces State boxing laws,'' in subsection (b)(3) and inserting ''implements State or tribal boxing laws, any officer or employee of the Commission,'';

(3) by inserting ''has engaged in or'' after ''organization'' in subsection (c);

(4) by striking ''subsection (b)'' in subsection (c)(3) and inserting ''subsection (b), a civil penalty, or''; and

(5) by striking ''boxer'' in subsection (d) and inserting ''person''.

SEC. 219. REPEAL OF DEADWOOD.

Section 20 (15 U.S.C. 6311) is repealed.

SEC. 220. RECOGNITION OF TRIBAL LAW.

Section 22 (15 U.S.C. 6313) is amended—

(1) by insert ''or tribal'' in the section heading after ''state''; and

(2) by inserting ''or Indian tribe'' after ''State''.

SEC. 221. ESTABLISHMENT OF UNITED STATES BOXING COMMISSION.

(a) IN GENERAL.—The Act is amended by adding at the end the following:

''TITLE II—UNITED STATES BOXING COMMISSION

''SEC. 201. PURPOSE.

''The purpose of this title is to protect the health, safety, and welfare of boxers and to ensure fairness in the sport of professional boxing.

''SEC. 202. UNITED STATES BOXING COMMISSION.

''(a) IN GENERAL.—The United States Boxing Commission is established as a commission within the Department of Commerce.

''(b) MEMBERS.—

''(1) IN GENERAL.—The Commission shall consist of 3 members appointed by the President, by and with the advice and consent of the Senate.

''(2) QUALIFICATIONS.—

''(A) IN GENERAL.—Each member of the Commission shall be a citizen of the United States who—

''(i) has extensive experience in professional boxing activities or in a field directly related to professional sports;

''(ii) is of outstanding character and recognized integrity; and

''(iii) is selected on the basis of training, experience, and qualifications and without regard to political party affiliation.

''(B) SPECIFIC QUALIFICATIONS FOR CERTAIN MEMBERS.—At least 1 member of the Commission shall be a former member of a local boxing authority. If practicable, at least 1 member of the Commission shall be a physician or other health care professional duly licensed as such.

''(C) DISINTERESTED PERSONS.—No member of the Commission may, while serving as a member of the Commission—

''(i) be engaged as a professional boxer, boxing promoter, agent, fight manager, matchmaker, referee, judge, or in any other capacity in the conduct of the business of professional boxing;

''(ii) have any pecuniary interest in the earnings of any boxer or the proceeds or outcome of any boxing match; or

''(iii) serve as a member of a boxing commission.

''(3) BIPARTISAN MEMBERSHIP.—Not more than 2 members of the Commission may be members of the same political party.

''(4) GEOGRAPHIC BALANCE.—Not more than 2 members of the Commission may be residents of the same geographic region of the United States when appointed to the Commission. For purposes of the preceding sentence, the area of the United States east of the Mississippi River is a geographic region, and the area of the United States west of the Mississippi River is a geographic region.

''(5) TERMS.—

''(A) IN GENERAL.—The term of a member of the Commission shall be 3 years.

''(B) REAPPOINTMENT.—Members of the Commission may be reappointed to the Commission.

''(C) MIDTERM VACANCIES.—A member of the Commission appointed to fill a vacancy in the Commission occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of that unexpired term.

''(D) CONTINUATION PENDING REPLACEMENT.—A member of the Commission may serve after the expiration of that member's term until a successor has taken office.

''(6) REMOVAL.—A member of the Commission may be removed by the President only for cause.

''(c) EXECUTIVE DIRECTOR.—

''(1) IN GENERAL.—The Commission shall employ an Executive Director to perform the administrative functions of the Commission under this Act, and such other functions and duties of the Commission as the Commission shall specify.

''(2) DISCHARGE OF FUNCTIONS.—Subject to the authority, direction, and control of the Commission the Executive Director shall carry out the functions and duties of the Commission under this Act.

''(d) GENERAL COUNSEL.—The Commission shall employ a General Counsel to provide legal counsel and advice to the Executive Director and the Commission in the performance of its functions under this Act, and to carry out such other functions and duties as the Commission shall specify.

''(e) STAFF.—The Commission shall employ such additional staff as the Commission considers appropriate to assist the Executive Director and the General Counsel in carrying out the functions and duties of the Commission under this Act.

''(f) COMPENSATION.—

''(1) MEMBERS OF COMMISSION.—

''(A) IN GENERAL.—Each member of the Commission shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission.

''(B) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of

agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

''(2) EXECUTIVE DIRECTOR AND STAFF.—The Commission shall fix the compensation of the Executive Director, the General Counsel, and other personnel of the Commission. The rate of pay for the Executive Director, the General Counsel, and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

''SEC. 203. FUNCTIONS.

''(a) PRIMARY FUNCTIONS.—The primary functions of the Commission are—

''(1) to protect the health, safety, and general interests of boxers consistent with the provisions of this Act; and

''(2) to ensure uniformity, fairness, and integrity in professional boxing.

''(b) SPECIFIC FUNCTIONS.—The Commission shall—

''(1) administer title I of this Act;

''(2) promulgate uniform standards for professional boxing in consultation with the Association of Boxing Commissions;

''(3) except as otherwise determined by the Commission, oversee all professional boxing matches in the United States;

''(4) work with the boxing commissions of the several States and tribal organizations—

''(A) to improve the safety, integrity, and professionalism of professional boxing in the United States;

''(B) to enhance physical, medical, financial, and other safeguards established for the protection of professional boxers; and

''(C) to improve the status and standards of professional boxing in the United States;

''(5) ensure, in cooperation with the Attorney General (who shall represent the Commission in any judicial proceeding under this Act), the chief law enforcement officer of the several States, and other appropriate officers and agencies of Federal, State, and local government, that Federal and State laws applicable to professional boxing matches in the United States are vigorously, effectively, and fairly enforced;

''(6) review boxing commission regulations for professional boxing and provide assistance to such authorities in meeting minimum standards prescribed by the Commission under this title;

''(7) serve as the coordinating body for all efforts in the United States to establish and maintain uniform minimum health and safety standards for professional boxing;

''(8) if the Commission determines it to be appropriate, publish a newspaper, magazine, or other publication and establish and maintain a website consistent with the purposes of the Commission;

''(9) procure the temporary and intermittent services of experts and consultants to the extent authorized by section 3109(b) of title 5, United States Code, at rates the Commission determines to be reasonable; and

''(10) promulgate rules, regulations, and guidance, and take any other action necessary and proper to accomplish the purposes of, and consistent with, the provisions of this title.

''(c) PROHIBITIONS.—The Commission may not—

''(1) promote boxing events or rank professional boxers; or

''(2) provide technical assistance to, or authorize the use of the name of the Commission by, boxing commissions that do not comply with requirements of the Commission.

''(d) USE OF NAME.—The Commission shall have the exclusive right to use the name 'United States Boxing Commission'. Any person who, without the permission of the Commission, uses that name or any other exclusive name, trademark, emblem, symbol, or insignia of the Commission for the purpose of inducing the sale or exchange of any goods or services, or to promote any exhibition, performance, or sporting event, shall be subject to suit in a civil action by the Commission for the remedies provided in the Act of July 5, 1946 (commonly known as the 'Trademark Act of 1946'; 15 U.S.C. 1051 et seq.).

''SEC. 204. LICENSING AND REGISTRATION OF BOXING PERSONNEL.

''(a) LICENSING.—

''(1) REQUIREMENT FOR LICENSE.—No person may compete in a professional boxing match or serve as a boxing manager, boxing promoter, or sanctioning organization for a professional boxing match except as provided in a license granted to that person under this subsection.

''(2) APPLICATION AND TERM.—

''(A) IN GENERAL.—The Commission shall—

''(i) establish application procedures, forms, and fees;

''(ii) establish and publish appropriate standards for licenses granted under this section; and

''(iii) issue a license to any person who, as determined by the Commission, meets the standards established by the Commission under this title.

''(B) DURATION.—A license issued under this section shall be for a renewable—

''(i) 4-year term for a boxer; and

''(ii) 2-year term for any other person.

''(C) PROCEDURE.—The Commission may issue a license under this paragraph through boxing commissions or in a manner determined by the Commission.

''(b) LICENSING FEES.—

''(1) AUTHORITY.—The Commission may prescribe and charge reasonable fees for the licensing of persons under this title. The Commission may set, charge, and adjust varying fees on the basis of classifications of persons, functions, and events determined appropriate by the Commission.

''(2) LIMITATIONS.—In setting and charging fees under paragraph (1), the Commission shall ensure that, to the maximum extent practicable—

''(A) club boxing is not adversely effected;

''(B) sanctioning organizations and promoters pay comparatively the largest portion of the fees; and

''(C) boxers pay as small a portion of the fees as is possible.

''(3) COLLECTION.—Fees established under this subsection may be collected through boxing commissions or by any other means determined appropriate by the Commission.

''SEC. 205. NATIONAL REGISTRY OF BOXING PERSONNEL.

''(a) REQUIREMENT FOR REGISTRY.—The Commission shall establish and maintain (or authorize a third party to establish and maintain) a unified national computerized registry for the collection, storage, and retrieval of information related to the performance of its duties.

''(b) CONTENTS.—The information in the registry shall include the following:

''(1) BOXERS.—A list of professional boxers and data in the medical registry established under section 114 of this Act, which the Commission shall secure from disclosure in accordance with the confidentiality requirements of section 114(c).

''(2) OTHER PERSONNEL.—Information (pertinent to the sport of professional boxing) on boxing promoters, boxing matchmakers, boxing managers, trainers, cut men, referees, boxing judges, physicians, and any other personnel determined by the Commission as performing a professional activity for professional boxing matches.

''SEC. 206. CONSULTATION REQUIREMENTS.

''The Commission shall consult with the Association of Boxing Commissions—

''(1) before prescribing any regulation or establishing any standard under the provisions of this title; and

''(2) not less than once each year regarding matters relating to professional boxing.

''SEC. 207. MISCONDUCT.

''(a) SUSPENSION AND REVOCATION OF LICENSE OR REGISTRATION.—

''(1) AUTHORITY.—The Commission may, after notice and opportunity for a hearing, suspend or revoke any license issued under this title if the Commission finds that—

''(A) the license holder has violated any provision of this Act;

''(B) there are reasonable grounds for belief that a standard prescribed by the Commission under this title is not being met, or that bribery, collusion, intentional losing, racketeering, extortion, or the use of unlawful threats, coercion, or intimidation have occurred in connection with a license; or

''(C) the suspension or revocation is necessary for the protection of health and safety or is otherwise in the public interest.

''(2) PERIOD OF SUSPENSION.—

''(A) IN GENERAL.—A suspension of a license under this section shall be effective for a period determined appropriate by the Commission except as provided in subparagraph (B).

''(B) SUSPENSION FOR MEDICAL REASONS.—In the case of a suspension or denial of the license of a boxer for medical reasons by the Commission, the Commission may terminate the suspension or denial at any time that a physician certifies that the boxer is fit to participate in a professional boxing match. The Commission shall prescribe the standards and procedures for accepting certifications under this subparagraph.

''(3) PERIOD OF REVOCATION.—In the case of a revocation of the license of a boxer, the revocation shall be for a period of not less than 1 year.

''(b) INVESTIGATIONS AND INJUNCTIONS.—

''(1) AUTHORITY.—The Commission may—

''(A) conduct any investigation that it considers necessary to determine whether any person has violated, or is about to violate, any provision of this Act or any regulation prescribed under this Act;

''(B) require or permit any person to file with it a statement in writing, under oath or otherwise as the Commission shall determine, as to all the facts and circumstances concerning the matter to be investigated;

''(C) in its discretion, publish information concerning any violations; and

''(D) investigate any facts, conditions, practices, or matters to aid in the enforcement of the provisions of this Act, in the prescribing of regulations under this Act, or in securing information to serve as a basis for recommending legislation concerning the matters to which this Act relates.

''(2) POWERS.—

''(A) IN GENERAL.—For the purpose of any investigation under paragraph (1) or any other proceeding under this title—

''(i) any officer designated by the Commission may administer oaths and affirmations, subpoena or otherwise compel the attendance of witnesses, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records the Commission considers relevant or material to the inquiry; and

''(ii) the provisions of sections 6002 and 6004 of title 18, United States Code, shall apply.

''(B) WITNESSES AND EVIDENCE.—The attendance of witnesses and the production of any documents under subparagraph (A) may be required from any place in the United States, including Indian land, at any designated place of hearing.

''(3) ENFORCEMENT OF SUBPOENAS.—

''(A) CIVIL ACTION.—In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Commission may file an action in any district court of the United States within the jurisdiction of which an investigation or proceeding is carried out, or where that person resides or carries on business, to enforce the attendance and testimony of witnesses and the production of books, papers, correspondence, memorandums, and other records. The court may issue an order requiring the person to appear before the Commission to produce records, if so ordered, or to give testimony concerning the matter under investigation or in question.

''(B) FAILURE TO OBEY.—Any failure to obey an order issued by a court under subparagraph (A) may be punished as contempt of that court.

''(C) PROCESS.—All process in any contempt case under subparagraph (A) may be served in the judicial district in which the person is an inhabitant or in which the person may be found.

''(4) EVIDENCE OF CRIMINAL MISCONDUCT.—

''(A) IN GENERAL.—No person may be excused from attending and testifying or from producing books, papers, contracts, agreements, and other records and documents before the Commission, in obedience to the subpoena of the Commission, or in any cause or proceeding instituted by the Commission, on the ground that the testimony or evidence, documentary or otherwise, required of that person may tend to incriminate the person or subject the person to a penalty or forfeiture.

''(B) LIMITED IMMUNITY.—No individual may be prosecuted or subject to any penalty or forfeiture for, or on account of, any transaction, matter, or thing concerning the matter about which that individual is compelled, after having claimed a privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that the individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

''(5) INJUNCTIVE RELIEF.—If the Commission determines that any person is engaged or about to engage in any act or practice that constitutes a violation of any provision of this Act, or of any regulation prescribed under this Act, the Commission may bring an action in the appropriate district court of the United States, the United States District Court for the District of Columbia, or the United States courts of any territory or other place subject to the jurisdiction of the United States, to enjoin the act or practice, and upon a proper showing, the court shall grant without bond a permanent or temporary injunction or restraining order.

''(6) MANDAMUS.—Upon application of the Commission, the district courts of the United States, the United States District Court for the District of Columbia, and the United States courts of any territory or other place subject to the jurisdiction of the United States, shall have jurisdiction to issue writs of mandamus commanding any person to comply with the provisions of this Act or any order of the Commission.

''(c) INTERVENTION IN CIVIL ACTIONS.—

''(1) IN GENERAL.—The Commission, on behalf of the public interest, may intervene of right as provided under rule 24(a) of the Federal Rules of Civil Procedure in any civil action relating to professional boxing filed in a district court of the United States.

''(2) AMICUS FILING.—The Commission may file a brief in any action filed in a court of the United States on behalf of the public interest in any case relating to professional boxing.

''(d) HEARINGS BY COMMISSION.—Hearings conducted by the Commission under this Act shall be public and may be held before any officer of the Commission. The Commission shall keep appropriate records of the hearings.

''SEC. 208. NONINTERFERENCE WITH BOXING COMMISSIONS.

''(a) NONINTERFERENCE.—Nothing in this Act prohibits any boxing commission from exercising any of its powers, duties, or functions with respect to the regulation or supervision of professional boxing or professional boxing matches to the extent not inconsistent with the provisions of this Act.

''(b) MINIMUM STANDARDS.—Nothing in this Act prohibits any boxing commission from enforcing local standards or requirements that exceed the minimum standards or requirements promulgated by the Commission under this Act.

''SEC. 209. ASSISTANCE FROM OTHER AGENCIES.

''Any employee of any executive department, agency, bureau, board, commission, office, independent establishment, or instrumentality may be detailed to the Commission, upon the request of the Commission, on a reimbursable or nonreimbursable basis, with the consent of the appropriate authority having jurisdiction over the employee. While so detailed, an employee shall continue to receive the compensation provided pursuant to law for the employee's regular position of employment and shall retain, without interruption, the rights and privileges of that employment.

''SEC. 210. REPORTS.

''(a) ANNUAL REPORT.—The Commission shall submit a report on its activities to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Commerce each year. The annual report shall include—

''(1) a detailed discussion of the activities of the Commission for the year covered by the report; and

''(2) an overview of the licensing and enforcement activities of the State and tribal organization boxing commissions.

''(b) PUBLIC REPORT.—The Commission shall annually issue and publicize a report of the Commission on the progress made at Federal and State levels and on Indian lands in the reform of professional boxing, which shall include comments on issues of continuing concern to the Commission.

''(c) FIRST ANNUAL REPORT ON THE COMMISSION.—The first annual report under this title shall be submitted not later than 2 years after the effective date of this title.

''SEC. 211. INITIAL IMPLEMENTATION.

''(a) TEMPORARY EXEMPTION.—The requirements for licensing under this title do not apply to a person for the performance of an activity as a boxer, boxing judge, or referee, or the performance of any other professional activity in relation to a professional boxing match, if the person is licensed by a boxing commission to perform that activity as of the effective date of this title.

''(b) EXPIRATION.—The exemption under subsection (a) with respect to a license issued by a boxing commission expires on the earlier of—

''(A) the date on which the license expires; or

''(B) the date that is 2 years after the date of the enactment of the Professional Boxing Amendments Act of 2004.

''SEC. 212. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There are authorized to be appropriated for the Commission for each fiscal year such sums as may be necessary for the Commission to perform its functions for that fiscal year.

''(b) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.—Notwithstanding section 3302 of title 31, United States Code, any fee collected under this title—

''(1) shall be credited as offsetting collections to the account that finances the activities and services for which the fee is imposed;

''(2) shall be available for expenditure only to pay the costs of activities and services for which the fee is imposed; and

''(3) shall remain available until expended.''.

(b) CONFORMING AMENDMENTS.—

(1) PBSA.—The Professional Boxing Safety Act of 1996, as amended by this Act, is further amended—

(A) by striking section 1 and inserting the following:

''SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

''(a) SHORT TITLE.—This Act may be cited as the 'Professional Boxing Safety Act'.

''(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

(B) by inserting before section 3 the following:

''TITLE I—PROFESSIONAL BOXING SAFETY'';

(C) by redesignating sections 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 21, and 22 as sections 101 through 118, respectively;

(D) by striking subsection (a) of section 113, as redesignated, and inserting the following:

''(a) IN GENERAL.—Except to the extent required in a legal, administrative, or judicial proceeding, a boxing commission, an Attorney General, or the Commission may not disclose to the public any matter furnished by a promoter under section 111.'';

(E) by striking ''section 13'' in subsection (b) of section 113, as redesignated, and inserting ''section 111'';

(F) by striking ''9(b), 10, 11, 12, 13, 14, or 16,'' in paragraph (1) of section 116(b), as redesignated, and inserting ''107, 108, 109, 110, 111, or 114,'';

(G) by striking ''9(b), 10, 11, 12, 13, 14, or 16'' in paragraph (2) of section 116(b), as redesignated, and inserting ''107, 108, 109, 110, 111, or 114'';

(H) by striking ''section 17(a)'' in subsection (b)(3) of section 116, as redesignated, and inserting ''section 115(a)'';

(I) by striking ''section 10'' in subsection (e)(3) of section 116, as redesignated, and inserting ''section 108''; and

(J) by striking ''of this Act'' each place it appears in sections 101 through 120, as redesignated, and inserting ''of this title''.

(2) COMPENSATION OF MEMBERS.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

''Members of the United States Boxing Commission.''.

SEC. 222. STUDY AND REPORT ON DEFINITION OF PROMOTER.

(a) STUDY.—The United States Boxing Commission shall conduct a study on how the term ''promoter'' should be defined for purposes of the Professional Boxing Safety Act.

(b) HEARINGS.—As part of that study, the Commission shall hold hearings and solicit testimony at those hearings from boxers, managers, promoters, premium, cable, and satellite program service providers, hotels, casinos, resorts, and other commercial establishments that host or sponsor professional boxing matches, and other interested parties with respect to the definition of that term as it is used in the Professional Boxing Safety Act.

(c) REPORT.—Not later than 12 months after the date of the enactment of this Act, 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 on the study conducted under subsection (a). The report shall—

(1) set forth a proposed definition of the term ''promoter'' for purposes of the Professional Boxing Safety Act; and

(2) describe the findings, conclusions, and rationale of the Commission for the proposed definition, together with any recommendations of the Commission, based on the study.

SEC. 223. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this title shall take effect on the date of enactment of this Act.

(b) 1-YEAR DELAY FOR CERTAIN TITLE II PROVISIONS.—Sections 205 through 212 of the Professional Boxing Safety Act of 1996, as added by section 221(a) of this title, shall take effect 1 year after the date of enactment of this Act.

SA 4075. Mr. MCCAIN (for Ms. COLLINS) proposed an amendment to the bill S. 2657, to amend part III of title 5, United States Code, to provide for the establishment of programs under which supplemental dental and vision benefits are made available to Federal employees, retirees, and their dependents, to expand the contracting authority of the Office of Personnel Management, and for other purposes; as follows:

On page 3, line 10, insert ''or an employee organization defined under section 8901(8)'' after ''companies)''.

On page 8, line 9, insert ''area'' after ''delivery''.

On page 12, line 15, strike ''General Accounting Office'' and insert ''Government Accountability Office''.

On page 13, line 1, strike ''General Accounting Office'' and insert ''Government Accountability Office''.

On page 15, line 4, insert ''or an employee organization defined under section 8901(8)'' after ''companies)''.

On page 19, line 20, ''area'' after ''delivery''.

On page 23, line 25, strike ''General Accounting Office'' and insert ''Government Accountability Office''.

On page 24, line 11, strike ''General Accounting Office'' and insert ''Government Accountability Office''.

On page 25, line 18, strike all through page 26, line 19.

On page 26, line 20, strike ''**SEC. 7.**'' and insert ''**SEC. 6.**''.

On page 27, line 7, strike ''**SEC. 8.**'' and insert ''**SEC. 7.**''.

SA 4076. Mr. STEVENS proposed an amendment to the concurrent resolution H. Con. Res. 528, Official Title Not Available; as follows:

Strike Section 222 of Title II of Division H.

SA 4077. Mr. FRIST (for Ms. COLLINS (for herself and Mr. BINGAMAN)) proposed an amendment to the bill S. 2635, to establish an intergovernmental grant program to identify and develop homeland security information, equipment, capabilities, technologies, and services to further the homeland security needs of the United States and to address the homeland security needs of Federal, State, and local governments; as follows:

On page 9, line 10, after ''institution,'' insert ''Department of Energy national laboratory,''.

SA 4078. Mr. FRIST (for Mr. INOUYE) proposed an amendment to the bill S. 2488, to establish a program within the National Oceanic and Atmospheric Administration and the United States Coast Guard to help identify, assess, reduce, and prevent marine debris and its adverse impacts on the marine environment and navigation safety, in coordination with non-Federal entities, and for other purposes; as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Marine Debris Research Prevention and Reduction Act''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress makes the following findings:

(1) The oceans, which comprise nearly three quarters of the Earth's surface, are an important source of food and provide a wealth of other natural products that are important to the economy of the United States and the world.

(2) Ocean and coastal areas are regions of remarkably high biological productivity, are of considerable importance for a variety of recreational and commercial activities, and provide a vital means of transportation.

(3) Ocean and coastal resources are limited and susceptible to change as a direct and indirect result of human activities, and such changes can impact the ability of the ocean to provide the benefits upon which the Nation depends.

(4) Marine debris, including plastics, derelict fishing gear, and a wide variety of other objects, has a harmful and persistent effect on marine flora and fauna and can have adverse impacts on human health.

(5) Marine debris is also a hazard to navigation, putting mariners and rescuers, their vessels, and consequently the marine environment at risk, and can cause economic loss due to entanglement of vessel systems.

(6) Modern plastic materials persist for decades in the marine environment and therefore pose the greatest potential for long-term damage to the marine environment.

(7) Insufficient knowledge and data on the source, movement, and effects of plastics and other marine debris in marine ecosystems has hampered efforts to develop effective approaches for addressing marine debris.

(8) Lack of resources, inadequate attention to this issue, and poor coordination at the Federal level has undermined the development and implementation of a Federal program to address marine debris, both domestically and internationally.

(b) PURPOSES.—The purposes of this Act are—

(1) to establish programs within the National Oceanic and Atmospheric Administration and the United States Coast Guard to help identify, determine sources of, assess, reduce, and prevent marine debris and its adverse impacts on the marine environment and navigation safety, in coordination with other Federal and non-Federal entities;

(2) to re-establish the Inter-agency Marine Debris Coordinating Committee to ensure a coordinated government response across Federal agencies;

(3) to develop a Federal information clearinghouse to enable researchers to study the sources, scale and impact of marine debris more efficiently; and

(4) to take appropriate action in the international community to prevent marine debris and reduce concentrations of existing debris on a global scale.

SEC. 3. NOAA MARINE DEBRIS PREVENTION AND REMOVAL PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—There is established, within the National Oceanic and Atmospheric Administration, a Marine Debris Prevention and Removal Program to reduce and prevent the occurrence and adverse impacts of marine debris on the marine environment and navigation safety.

(b) PROGRAM COMPONENTS.—Through the Marine Debris Prevention and Removal Program, the Under Secretary for Oceans and Atmosphere (Under Secretary) shall carry out the following activities:

(1) MAPPING, IDENTIFICATION, IMPACT ASSESSMENT, REMOVAL, AND PREVENTION.—The Under Secretary shall, in consultation with relevant Federal agencies, undertake marine debris mapping, identification, impact assessment, prevention, and removal efforts, with a focus on marine debris posing a threat to living marine resources (particularly endangered or protected species) and navigation safety, including—

(A) the establishment of a process, building on existing information sources maintained by Federal agencies such as the Environmental Protection Agency and the Coast Guard, for cataloguing and maintaining an inventory of marine debris and its impacts found in the United States navigable waters and the United States exclusive economic zone, including location, material, size, age, and origin, and impacts on habitat, living marine resources, human health, and navigation safety;

(B) measures to identify the origin, location, and projected movement of marine debris within the United States navigable waters, the United States exclusive economic zone, and the high seas, including the use of oceanographic, atmospheric, satellite, and remote sensing data; and

(C) development and implementation of strategies, methods, priorities, and a plan for preventing and removing marine debris from United States navigable waters and within

the United States exclusive economic zone, including development of local or regional protocols for removal of derelict fishing gear.

(2) REDUCING AND PREVENTING LOSS OF GEAR.—The Under Secretary shall improve efforts and actively seek to prevent and reduce fishing gear losses, as well as to reduce adverse impacts of such gear on living marine resources and navigation safety, including—

(A) research and development of alternatives to gear posing threats to the marine environment, and methods for marking gear used in specific fisheries to enhance the tracking, recovery, and identification of lost and discarded gear; and

(B) development of voluntary or mandatory measures to reduce the loss and discard of fishing gear, and to aid its recovery, such as incentive programs, reporting loss and recovery of gear, observer programs, toll-free reporting hotlines, computer-based notification forms, and providing adequate and free disposal recepticals at ports.

(3) OUTREACH.—The Under Secretary shall undertake outreach and education of the public and other stakeholders, such as the fishing industry, fishing gear manufacturers, and other marine-dependent industries, on sources of marine debris, threats associated with marine debris and approaches to identify, determine sources of, assess, reduce, and prevent marine debris and its adverse impacts on the marine environment and navigational safety. Including outreach and education activities through public-private initiatives. The Under Secretary shall coordinate outreach and education activities under this paragraph with any outreach programs conducted under section 2204 of the Marine Plastic Pollution Research and Control Act of 1987 (33 U.S.C. 1915).

(c) GRANTS.—

(1) IN GENERAL.—The Under Secretary shall provide financial assistance, in the form of grants, through the Marine Debris Prevention and Removal Program for projects to accomplish the purposes of this Act.

(2) 50 PERCENT MATCHING REQUIREMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), Federal funds for any project under this section may not exceed 50 percent of the total cost of such project. For purposes of this subparagraph, the non-Federal share of project costs may be provided by in-kind contributions and other noncash support.

(B) WAIVER.—The Under Secretary may waive all or part of the matching requirement under subparagraph (A) if the Under Secretary determines that no reasonable means are available through which applicants can meet the matching requirement and the probable benefit of such project outweighs the public interest in such matching requirement.

(3) AMOUNTS PAID AND SERVICES RENDERED UNDER CONSENT.—

(A) CONSENT DECREES AND ORDERS.—The non-Federal share of the cost of a project carried out under this Act may include money paid pursuant to, or the value of any in-kind service performed under, an administrative order on consent or judicial consent decree that will remove or prevent marine debris.

(B) OTHER DECREES AND ORDERS.—The non-Federal share of the cost of a project carried out under this Act may not include any money paid pursuant to, or the value of any in-kind service performed under, any other administrative order or court order.

(4) ELIGIBILITY.—Any natural resource management authority of a State, Federal or other government authority whose activities directly or indirectly affect research or regulation of marine debris, and any educational or nongovernmental institutions with demonstrated expertise in a field related to marine debris, are eligible to submit to the Under Secretary a marine debris proposal under the grant program.

(5) GRANT CRITERIA AND GUIDELINES.—Within 180 days after the date of enactment of this Act, the Under Secretary shall promulgate necessary guidelines for implementation of the grant program, including development of criteria and priorities for grants. Such priorities may include proposals that would reduce new sources of marine debris and provide additional benefits to the public, such as recycling of marine debris or use of biodegradable materials. In developing those guidelines, the Under Secretary shall consult with—

(A) the Interagency Marine Debris Committee;

(B) regional fishery management councils established under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.);

(C) State, regional, and local governmental entities with marine debris experience;

(D) marine-dependent industries; and

(E) non-governmental organizations involved in marine debris research, prevention, or removal activities.

(6) PROJECT REVIEW AND APPROVAL.—The Under Secretary shall review each marine debris project proposal to determine if it meets the grant criteria and supports the goals of the Act. Not later than 120 days after receiving a project proposal under this section, the Under Secretary shall—

(A) provide for external merit-based peer review of the proposal;

(B) after considering any written comments and recommendations based on the review, approve or disapprove the proposal; and

(C) provide written notification of that approval or disapproval to the person who submitted the proposal.

(7) PROJECT REPORTING.—Each grantee under this section shall provide periodic reports as required by the Under Secretary. Each report shall include all information required by the Under Secretary for evaluating the progress and success in meeting its stated goals, and impact on the marine debris problem.

SEC. 4. COAST GUARD PROGRAM.

The Commandant of the Coast Guard shall, in cooperation with the Under Secretary, undertake measures to reduce violations of MARPOL Annex V and the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.) with respect to the discard of plastics and other garbage from vessels. The measures shall include—

(1) the development of a strategy to improve monitoring and enforcement of current laws, as well as recommendations for statutory or regulatory changes to improve compliance and for the development of any appropriate amendments to MARPOL;

(2) regulations to address implementation gaps with respect to the requirement of MARPOL Annex V and section 6 of the Act to Prevent Pollution from Ships (33 U.S.C. 1905) that all United States ports and terminals maintain receptacles for disposing of plastics and other garbage, which may include measures to ensure that a sufficient quantity of such facilities exist at all such ports and terminals, requirements for logging the waste received, and for Coast Guard comparison of vessel and port log books to determine compliance;

(3) regulations to close record keeping gaps, which may include requiring fishing vessels under 400 gross tons entering United States ports to maintain records subject to Coast Guard inspection on the disposal of plastics and other garbage, that, at a minimum, include the time, date, type of garbage, quantity, and location of discharge by latitude and longitude or, if discharged on land, the name of the port where such material is offloaded for disposal;

(4) regulations to improve ship-board waste management, which may include expanding to smaller vessels existing requirements to maintain ship-board receptacles and maintain a ship-board waste management plan, taking into account potential economic impacts and technical feasibility;

(5) the development, through outreach to commercial vessel operators and recreational boaters, of a voluntary reporting program, along with the establishment of a central reporting location, for incidents of damage to vessels caused by marine debris, as well as observed violations of existing laws and regulations relating to disposal of plastics and other marine debris; and

(6) a voluntary program encouraging United States flag vessels to inform the Coast Guard of any ports in other countries that lack adequate port reception facilities for garbage.

SEC. 5. INTERAGENCY COORDINATION.

(a) INTERAGENCY MARINE DEBRIS COMMITTEE ESTABLISHED.—There is established an Interagency Committee on Marine Debris to coordinate a comprehensive program of marine debris research and activities among Federal agencies, in cooperation and coordination with non-governmental organizations, industry, universities, and research institutions, State governments, Indian tribes, and other nations, as appropriate, and to foster cost-effective mechanisms to identify, determine sources of, assess, reduce, and prevent marine debris, and its adverse inpact on the marine environment and navigational safety, including the joint funding of research and mitigation and prevention strategies.

(b) MEMBERSHIP.—The Committee shall include a senior official from—

(1) the National Oceanic and Atmospheric Administration, who shall serve as the chairperson of the Committee;

(2) the United States Coast Guard;

(3) the Environmental Protection Agency;

(4) the United States Navy;

(5) the Maritime Administration of the Department of Transportation;

(6) the National Aeronautics and Space Administration;

(7) the U.S. Fish and Wildlife Service;

(8) the Department of State;

(9) the Marine Mammal Commission; and

(10) such other Federal agencies that have an interest in ocean issues or water pollution prevention and control as the Secretary of Commerce determines appropriate.

(c) MEETINGS.—The Committee shall meet at least twice a year to provide a public, interagency forum to ensure the coordination of national and international research, monitoring, education, and regulatory actions addressing the persistent marine debris problem.

(d) DEFINITION.—The Committee shall develop and promulgate through regulation a definition of the term ''marine debris''.

(e) REPORTING.—

(1) INTERAGENCY REPORT ON MARINE DEBRIS IMPACTS AND STRATEGIES.—Not later than 12 months after the date of the enactment of this Act, the Committee, through the chairperson, and in cooperation with the coastal States, Indian tribes, local governments, and non-governmental organizations, shall complete and submit to the Congress a report identifying the source of marine debris, examining the ecological and economic impact of marine debris, alternatives for reducing, mitigating, preventing, and controlling the

harmful affects of marine debris, the social and economic costs and benefits of such alternatives, and recommendations regarding both domestic and international marine debris issues.

(2) CONTENTS.—The report submitted under paragraph (1) shall provide recommendations on—

(A) establishing priority areas for action to address leading problems relating to marine debris;

(B) developing an effective strategy and approaches to preventing, reducing, removing, and disposing of marine debris, including through private-public partnerships;

(C) providing appropriate infrastructure for effective implementation and enforcement of measures to prevent and remove marine debris, especially the discard and loss of fishing gear;

(D) establishing effective and coordinated education and outreach activities; and

(E) ensuring Federal cooperation with, and assistance to, the coastal States (as defined in section 304(4) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(4))), Indian tribes, and local governments in the identification, determination of sources, prevention, reduction, management, mitigation, and control of marine debris and its adverse impacts.

(3) ANNUAL PROGRESS REPORTS.—Not later than 2 years after the date of the enactment of this Act, and every year thereafter, the Committee, through the chairperson, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives a report that evaluates United States and international progress in meeting the purposes of this Act. The report shall include—

(A) the status of implementation of the recommendations of the Committee and analysis of their effectiveness;

(B) a summary of the marine debris inventory to be maintained by the National Oceanic and Atmospheric Administration;

(C) a review of the National Oceanic and Atmospheric Administration program authorized by section 3 of this Act, including projects funded and accomplishments relating to reduction and prevention of marine debris;

(D) a review of United States Coast Guard programs and accomplishments relating to marine debris removal, including enforcement and compliance with MARPOL requirements; and

(E) estimated Federal and non-Federal funding provided for marine debris and recommendations for priority funding needs.

(f) MONITORING.—The Secretary of Commerce, acting through the Administrator of the National Oceanic and Atmospheric Administration and in cooperation with the Administrator of the Environmental Protection Agecny, shall utilize the marine debris data derived under this Act and title V of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 2801 et seq.) to assist—

(1) the Committee in ensuring coordination of research, monitoring, education, and regulatory actions; and

(2) the United States Coast Guard in assessing the effectiveness of this Act and the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.) in ensuring compliance under section 2201 of the Marine Plastic Pollution Research and Control Act of 1987 (33 U.S.C. 1913).

(g) CONFORMING AMENDMENT.—Section 2203 of the Marine Plastic Pollution Research and Control Act of 1987 (33 U.S.C. 1914) is repealed.

SEC. 6. INTERNATIONAL COOPERATION.

The Interagency Marine Debris Committee shall develop a strategy and pursue in the International Maritime Organization and other appropriate international and regional forums, international action to reduce the incidence of marine debris, including—

(1) the inclusion of effective and enforceable marine debris prevention and removal measures in international and regional agreements, including fisheries agreements and maritime agreements;

(2) measures to strengthen and to improve compliance with MARPOL Annex V;

(3) national reporting and information requirements that will assist in improving information collection, identification and monitoring of marine debris;

(4) the establishment of an international database, consistent with the information clearinghouse established under section 7, that will provide current information on location, source, prevention, and removal of marine debris;

(5) the establishment of public-private partnerships and funding sources for pilot programs that will assist in implementation and compliance with marine debris requirements in international agreements and guidelines;

(6) the identification of possible amendments to and provisions in the International Maritime Organization Guidelines for the Implementation of Annex V of MARPOL for potential inclusion in Annex V; and

(7) when appropriate assist the responsible Federal agency in bilateral negotiations to effectively enforce marine debris prevention.

SEC. 7. FEDERAL INFORMATION CLEARINGHOUSE.

The Under Secretary, in coordination with the Committee, shall maintain a Federal information clearinghouse on marine debris that will be available to researchers and other interested parties to improve source identification, data sharing, and monitoring efforts through collaborative research and open sharing of data. The clearinghouse shall include—

(1) standardized protocols to map locations of commercial fishing and aquaculture activities using Geographic Information System techniques;

(2) a world-wide database which describes fishing gear and equipment, and fishing practices, including information on gear types and specifications;

(3) guidance on the identification of types of fishing gear fragments and their sources developed in consultation with persons of relevant expertise; and

(4) the data on mapping and identification of marine debris to be developed pursuant to section 3(b)(1) of this Act.

SEC. 8. DEFINITIONS.

In this Act:

(1) UNDER SECRETARY.—The term ''Under Secretary'' means the Under Secretary for Oceans and Atmosphere of the Department of Commerce.

(2) COMMITTEE.—The term ''Committee'' means the Interagency Marine Debris Committee established by section 5 of this Act.

(3) UNITED STATES EXCLUSIVE ECONOMIC ZONE.—The term ''United States exclusive economic zone'' means the zone established by Presidential Proclamation Numbered 5030, dated March 10, 1983, including the ocean waters of the areas referred to as ''eastern special areas'' in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990.

(4) MARPOL; ANNEX V; CONVENTION.—The terms ''MARPOL'', ''Annex 5'', and ''Convention'' have the meaning given those terms in paragraphs (3) and (4) of section 2(a) of the Act to Prevent Pollution from Ships (33 U.S.C. 1901(a)).

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each fiscal year 2005 through 2009

(1) to the Secretary of Commerce for the purpose of carrying out sections 3 and 7 of this Act, $10,000,000, of which no more than 10 percent may be for administrative costs; and

(2) to the Secretary of the Department in which the Coast Guard is operating, for the use of the Commandant of the Coast Guard in carrying out sections 4 and 6 of this Act, $5,000,000, of which no more than 10 percent may be used for administrative costs.

Amend the title so as to read: ''A Bill To establish a program within the National Oceanic and Atmospheric Administration and the United States Coast Guard to help identify, determine sources of, assess, reduce, and prevent marine debris and its adverse impacts on the marine environment and navigation safety, in coordination with non-Federal entities, and for other purposes.

SA 4079. Mr. FRIST proposed an amendment to the concurrent resolution H. Con. Res. 529, Official Title Not Available; as follows:

On page 1, line 2, strike from ''that'' through the end of page 2, line 9 and insert in lieu thereof the following:

''When the House adjourns on Wednesday, November 24, 2004, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Monday, December 6, 2004, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and when the Senate recesses or adjourns from Saturday, November 20, 2004, through Wednesday, November 24, 2004, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, December 6, 2004, or Tuesday, December 7, 2004, or until such other time as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until the time of reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.''

FOREIGN TRAVEL FINANCIAL REPORTS

In accordance with the approprite provisions of law, the Secretary of the Senate herewith submits the following reports for standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS FOR TRAVEL FROM JULY 1 TO SEPT. 30, 2004

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Ted Stevens:									
England	Pound		740.00						740.00
Senator Thad Cochran:									
England	Pound		740.00						740.00
Senator Richard Shelby:									
England	Pound		555.00						555.00
Jim Morhard:									
England	Pound		740.00						740.00
Terry Sauvain:									
England	Pound		740.00						740.00
Sid Ashworth:									
England	Pound		555.00						555.00
Jennifer Chartrand:									
England	Pound		555.00						555.00
Mazie R. Mattson:									
England	Pound		740.00						740.00
Dona Pate:									
England	Pound		555.00						555.00
Lindsay Leonard:									
England	Pound		740.00						740.00
Kay Webber:									
England	Pound		740.00						740.00
Stewart Holmes:									
England	Pound		555.00						555.00
Charlie Houy:									
England	Pound		555.00						555.00
Kathy Casey:									
England	Pound		555.00						555.00
Dr. John Eisold:									
England	Pound		555.00						555.00
Tim Rieser:									
Kenya	Dollar		150.00				20.00		170.00
Rwanda	Dollar		101.00		20.00		395.00		516.00
Tanzania	Dollar		920.00		350.00		140.00		1,410.00
United States	Dollar				3,860.00				3,860
Stewart Holmes:									
Italy	Euros		604.00						604.00
Germany	Euros		480.00						480.00
United States	Dollar				3,708.60				3,708.60
Jessica Roberts:									
United States	Dollar				7,193.52				7,193.52
United Kingdom	Pound		729.00						729.00
Turkey	Dollar		1,380.00						1,380.00
Katherine Hennessey:									
United States	Dollar				7,193.52				7,193.52
United Kingdom	Pound		729.00						729.00
Turkey	Dollar		1,380.00						1,380.00
Katherine Eltrich:									
United States	Dollar				7,193.52				7,193.52
United Kingdom	Pound		729.00						729.00
Turkey	Dollar		1,380.00						1,380.00
Scott Gudes:									
Colombia	Dollar		992.00						992.00
Ecuador	Dollar		908.00						908.00
United States	Dollar				2,722.00				2,722.00
Paul L. Grove:									
Haiti	Dollar		215.00						215.00
United States	Dollar				798.50				798.50
Tim Rieser:									
Haiti	Dollar		390.00				35.00		425.00
United States	Dollar				798.00				798.00
Total			18,807.00		31,115.66		590.00		50,512.66

TED STEVENS,
Chairman, Committee on Appropriations, Sept. 22, 2004.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), AMENDED FROM 3RD QUARTER, COMMITTEE ON APPROPRIATIONS FOR TRAVEL FROM JULY 1 TO SEPT. 30, 2004

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Sid Ashworth:									
China	Yuan		1,547.00						1,547.00
Kyrgyzstan	Som		169.31						169.31
Azerbaijan	Manat		376.42						376.42
Malta	Lira		251.00						251.00
Morocco	Dirham		900.91						900.91
Jim Morhard:									
China	Yuan		1,547.00						1,547.00
Kyrgyzstan	Som		169.31						169.31
Azerbaijan	Manat		376.42						376.42
Malta	Lira		251.00						251.00
Morocco	Dirham		900.91						900.91
Charlie Houy:									
China	Yuan		831.00						831.00
United States	Dollar				2,549.30				2,549.30
Betsy Schmid:									
China	Yuan		1,547.00						1,547.00
Kyrgyzstan	Som		169.31						169.31
Azerbaijan	Manat		376.42						376.42
Malta	Lira		251.00						251.00
Morocco	Dirham		900.91						900.91
DeLynn Henry:									
China	Yuan		1,547.00						1,547.00
Kyrgyzstan	Som		169.31						169.31
Azerbaijan	Manat		376.42						376.42
Malta	Lira		251.00						251.00
Morocco	Dirham		900.91						900.91

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), AMENDED FROM 3RD QUARTER, COMMITTEE ON APPROPRIATIONS FOR TRAVEL FROM JULY 1 TO SEPT. 30, 2004—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Mimi Braniff:									
China	Yuan		1,547.00						1,547.00
Kyrgyzstan	Som		169.31						169.31
Azerbaijan	Manat		376.42						376.42
Malta	Lira		251.00						251.00
Morocco	Dirham		900.91						900.91
Kay Webber:									
China	Yuan		1,547.00						1,547.00
Kyrgyzstan	Som		169.31						169.31
Azerbaijan	Manat		376.42						376.42
Malta	Lira		251.00						251.00
Morocco	Dirham		900.91						900.91
Karina Waller:									
China	Yuan		1,547.00						1,547.00
Kyrgyzstan	Som		169.31						169.31
Azerbaijan	Manat		376.42						376.42
Malta	Lira		251.00						251.00
Morocco	Dirham		900.91						900.91
Suzanne Palmer:									
China	Yuan		1,547.00						1,547.00
Kyrgyzstan	Som		169.31						169.31
Azerbaijan	Manat		376.42						376.42
Malta	Lira		251.00						251.00
Morocco	Dirham		900.91						900.91
Jennifer Mies Lowe:									
China	Yuan		1,547.00						1,547.00
Kyrgyzstan	Som		169.31						169.31
Azerbaijan	Manat		376.42						376.42
Malta	Lira		251.00						251.00
Morocco	Dirham		900.91						900.91
George Lowe:									
China	Yuan		1,547.00						1,547.00
Kyrgyzstan	Som		169.31						169.31
Azerbaijan	Manat		376.42						376.42
Malta	Lira		251.00						251.00
Morocco	Dirham		900.91						900.91
Marsha Lefkovits:									
China	Yuan		1,547.00						1,547.00
Kyrgyzstan	Som		169.31						169.31
Azerbaijan	Manat		376.42						376.42
Malta	Lira		251.00						251.00
Morocco	Dirham		900.91						900.91
Richard Quick:									
China	Yuan		1,547.00						1,547.00
Kyrgyzstan	Som		169.31						169.31
Azerbaijan	Manat		376.42						376.42
Malta	Lira		251.00						251.00
Morocco	Dirham		900.91						900.91
Joe Maupin:									
China	Yuan		1,547.00						1,547.00
Kyrgyzstan	Som		169.31						169.31
Azerbaijan	Manat		376.42						376.42
Malta	Lira		251.00						251.00
Morocco	Dirham		900.91						900.91
Senator Ted Stevens:									
China	Yuan		1,547.00						1,547.00
Kyrgyzstan	Som		169.31						169.31
Azerbaijan	Manat		376.42						376.42
Malta	Lira		251.00						251.00
Morocco	Dirham		900.91						900.91
Senator Thad Cochran:									
China	Yuan		1,547.00						1,547.00
Kyrgyzstan	Som		169.31						169.31
Azerbaijan	Manat		376.42						376.42
Malta	Lira		251.00						251.00
Morocco	Dirham		900.91						900.91
Senator Daniel Inouye:									
China	Yuan		831.00						831.00
United States	Dollar				2,549.30				2,549.30
Senator Pat Roberts:									
China	Yuan		831.00						831.00
United States	Dollar				2,523.00				2,523.00
Senator E. Benjamin Nelson:									
China	Yuan		1,547.00						1,547.00
Kyrgyzstan	Som		169.31						169.31
Azerbaijan	Manat		376.42						376.42
Malta	Lira		251.00						251.00
Morocco	Dirham		900.91						900.91
Senator Bill Frist:									
China	Yuan		1,008.00						1,008.00
Julia Hart:									
China	Yuan		1,108.00						1,108.00
United States	Dollar				3,316.80				3,316.80
Mark Esper:									
China	Yuan		1,048.00						1,048.00
Senator Ernest F. Hollings:									
China	Yuan		1,547.00						1,547.00
Kyrgyzstan	Som		169.31						169.31
Azerbaijan	Manat		376.42						376.42
Malta	Lira		251.00						251.00
Morocco	Dirham		900.91						900.91
Robert Stevenson:									
China	Yuan		1,108.00						1,108.00
United States	Dollar				3,316.80				3,316.80
Senator Jeff Bingaman:									
China	Yuan		1,108.00						1,108.00
United States	Dollar		3,754.68						3,754.68
Total			63,031.88		18,009.88				81,041.76

TED STEVENS,
Chairman, Committee on Appropriations, Nov. 15, 2004.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES FOR TRAVEL FROM JULY 1 TO SEPT. 30, 2004

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Pat Roberts:									
United Kingdom	Pound		555.00						555.00
Judith A. Ansley:									
United Kingdom	Pound		455.00						455.00
Joseph T. Sixeas:									
United States	Dollar				2,888.80				2,888.80
United Kingdom	Pound		663.00				107.00		770.00
Italy	Euro		317.00						317.00
Maren R. Leed:									
United States	Dollar				4,007.57				4,007.57
United Kingdom	Pound		544.00				370.00		914.00
Italy	Euro		209.00				150.00		359.00
Senator Jeff Sessions:									
United States	Dollar				7,665.96				7,665.96
Qatar	Dollar						7.00		7.00
Pakistan	Rupee		516.00						516.00
United States	Dollar						60.00		60.00
Senator Joseph I. Lieberman:									
United States	Dollar				6,954.07				6,954.07
Qatar	Dollar		689.71						689.71
Israel	Dollar		200.00						200.00
Frederick M. Downey:									
United States	Dollar				6,954.07				6,954.07
Qatar	Dollar		692.71						692.71
Israel	Dollar		203.00						203.00
Senator Wayne Allard:									
France	Euro		884.68						884.68
United Kingdom	Pound		1,758.00						1,758.00
Senator John Cornyn:									
France	Euro		718.38						718.38
United Kingdom	Pound		1,339.30						1,339.30
L. David Cherington:									
France	Euro		884.68						884.68
United Kingdom	Pound		696.00						696.00
Donald R. Stewart:									
France	Euro		884.68						884.68
United Kingdom	Pound		743.00						743.00
Jayson Roehl:									
France	Euro		884.68						884.68
United Kingdom	Pound		673.00						673.00
Gregory T. Kiley:									
United States	Dollar				5,405.22				5,405.22
Germany	Dollar		221.00						221.00
Romania	Lei		179.00						179.00
Bulgaria	Lev		178.40						178.40
Turkey	Dollar		104.00						104.00
Italy	Euro		272.00						272.00
Michael J. McCord:									
United States	Dollar				5,571.82				5,571.82
Germany	Dollar		145.00						145.00
Romania	Lei		50.00						50.00
Bulgaria	Lev		163.00						163.00
Turkey	Dollar		62.00						62.00
Italy	Euro		220.00						220.00
Lucian L. Niemeyer:									
United States	Dollar				5,571.82				5,571.82
Germany	Dollar		156.00						156.00
Romania	Lei		121.00						121.00
Bulgaria	Lev		211.00						211.00
Turkey	Dollar		76.00						76.00
Italy	Euro		158.00						158.00
Belgium	Euro		18.00						18.00
Senator John McCain:									
Ukraine	Dollar		631.25						631.25
Latvia	Dollar		167.20				86.75		253.95
Estonia	Dollar		130.45				46.00		176.45
Norway	Dollar		442.00				52.20		494.20
Senator Susan Collins:									
Ukraine	Dollar		596.53						596.53
Latvia	Dollar		167.20						167.20
Estonia	Dollar		86.15				7.72		93.87
Norway	Dollar		442.00				48.21		490.21
Senator Lindsey Graham:									
Ukraine	Dollar		597.58				63.00		660.58
Latvia	Dollar		167.20						167.20
Estonia	Dollar		130.45						130.45
Norway	Dollar		442.00						442.00
Richard H. Fontaine, Jr.:									
Ukraine	Dollar		563.91						563.91
Latvia	Dollar		167.20						167.20
Estonia	Dollar		130.45						130.45
Norway	Dollar		442.00				9.10		451.10
Hillary Rodham Clinton:									
United States	Dollar				2,684.31				2,684.31
Estonia	Dollar		130.45						130.45
Norway	Dollar		411.00				174.62		585.62
Andrew J. Shapiro:									
United States	Dollar				2,875.31				2,875.31
Estonia	Dollar		130.45						130.45
Norway	Dollar		442.00				104.62		546.62
Huma M. Abedin:									
United States	Dollar				2,690.31				2,690.31
Estonia	Dollar		130.45						130.45
Norway	Dollar		411.00						411.00
Total			23,804.14		53,269.26		1,286.22		78,359.62

JOHN WARNER,
Chairman, Committee on Armed Services, Nov. 4, 2004.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES FOR TRAVEL FROM APR. 1 TO JUNE 30, 2004

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Jeff Sessions:									
Belgium	Euro		264.96				234.11		499.08
Germany	Euro		57.00				181.86		238.86
Italy	Euro		108.00				197.96		305.96
Spain	Euro		83.03				217.23		300.26
Arch Galloway II:									
Belgium	Euro		264.96				179.00		443.96
Germany	Euro		57.00				126.75		183.75
Italy	Euro		108.00				142.85		250.85
Spain	Euro		83.03				162.12		245.15
Senator Saxby Chambliss:									
Belgium	Euro		611.00						611.00
Germany	Euro		250.00						250.00
Italy	Euro		367.00						367.00
Spain	Euro		282.00						282.00
Teresa McLean Ervin:									
Belgium	Euro		611.00						611.00
Germany	Euro		250.00						250.00
Italy	Euro		367.00						367.00
Spain	Euro		282.00						282.00
Senator James M. Inhofe:									
Burundi	Dollar		120.00				140.00		260.00
Germany	Dollar		222.50				70.00		292.50
United States	Dollar				3,176.17				3,176.17
Mark Powers:									
Burundi	Dollar		81.00				140.00		221.00
Germany	Dollar		222.50				70.00		292.50
United States	Dollar				4,141.00				4,141.00
Senator John Warner:									
France	Euro		402.00						402.00
Cord Sterling:									
France	Euro		386.00						386.00
Senator Daniel Akaka:									
France	Euro		513.00						513.00
Senator Mark Pryor:									
France	Euro		141.79						141.79
Senator Bill Nelson:									
Colombia	Dollar						33.00		33.00
United States	Dollar				2,076.54				2,076.54
Dan Shapiro:									
Colombia	Dollar						106.00		106.00
Venezuela	Dollar		315.90				250.10		566.00
United States	Dollar				2,548.54				2,548.54
Total			6,450.67		11,942.25		2,250.98		20,643.90

JOHN WARNER,
Chairman, Committee on Armed Services, July 19, 2004.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS FOR TRAVEL FROM JULY 1 TO SEPT. 30, 2004

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Richard Shelby:									
Guatemala	Dollar		630.00						630.00
Honduras	Dollar		440.00						440.00
El Salvador	Dollar		123.00						123.00
Nicaragua	Dollar		440.00						440.00
Costa Rica	Dollar		440.00						440.00
New Zealand	Dollar		300.00						300.00
Australia	Dollar		1,490.00						1,490.00
Thailand	Baht		928.00						928.00
Bhutan	Ngultrum		292.00		718.00				1,010.00
India	Rupee		221.00						221.00
Germany	Euro		358.00						358.00
Kathleen L. Casey:									
Guatemala	Dollar		530.00						530.00
Honduras	Dollar		530.00						530.00
El Salvador	Dollar		106.00						106.00
Nicaragua	Dollar		106.00						106.00
Costa Rica	Dollar		420.00						420.00
New Zealand	Dollar		300.00						300.00
Australia	Dollar		1,490.00						1,490.00
Thailand	Baht		928.00						928.00
Bhutan	Ngultrum		292.00		718.00				1,010.00
India	Rupee		221.00						221.00
Germany	Euro		358.00						358.00
Randel L. Zeller:									
Nigeria	Naira		240.00						240.00
Angola	Dollar		184.00						184.00
Cameroon	Dollar		303.00						303.00
United States	Dollar				5,399.76				5,399.76
Anne Caldwell:									
New Zealand	Dollar		300.00						300.00
Australia	Dollar		1,490.00						1,490.00
Thailand	Baht		696.00						696.00
United States	Dollar				3,970.80				3,970.80
Victoria Cox:									
New Zealand	Dollar		300.00						300.00
Australia	Dollar		1,490.00						1,490.00
Thailand	Baht		696.00						696.00
United States	Dollar				3,970.80				3,970.00
Gregory J. Dean:									
China	Renminbi		1,308.00		914.00				2,222.00
United States	Dollar				6,306.50				6,306.50
Total			18,047.00		21,997.86				40,044.86

RICHARD SHELBY,
Chairman, Committee on Banking, Housing, and Urban Affairs, Sept. 24, 2004.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON BUDGET FOR TRAVEL FROM JULY 1 TO SEPT. 30, 2004

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Don Nickels:									
United States	Dollar				8,721.96				8,721.96
Qatar	Dollar		628.00						628.00
Pakistan	Dollar		585.00						585.00
Roy Phillips:									
United States	Dollar				8,721.96				8,721.96
Qatar	Dollar		629.00						629.00
Pakistan	Dollar		568.00						568.00
Roy Phillips:									
United States	Dollar				4,962.14				4,962.14
Germany	Euro		156.00		55.00				211.00
Romania	Lei		121.00						121.00
Bulgaria	Lev		205.00						205.00
Turkey	Dollar		73.00						73.00
Italy	Dollar		85.00		55.00		85.00		225.00
Total			3,050.00		22,516.06		85.00		25,651.06

DON NICKLES,
Chairman, Committee on Budget, Sept. 22, 2004.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION FOR TRAVEL FROM JULY 1 TO SEPT. 30, 2004

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Amy Fraenkel:									
Italy	Euro		2,513,00		25.36				2,538.36
United States	Dollar				900.77				900.77
Senator Frank R. Lautenberg:									
Thailand	Baht		928.00						928.00
Bhutan	Ngultrum		292.00		718.00				1,010.00
India	Rupee		221.00						221.00
Germany	Euro		358.00						358.00
United States	Dollar				3,555.55				3,555.55
Floyd DesChamps:									
Estonia	Kroon		149.23						149.23
Norway	Kroner		599.87						599.87
United States	Dollar				611.37				611.37
Total			5,061.10		5,811.05				10,872.15

JOHN McCAIN,
Chairman, Committee on Commerce, Science, and Transportation, Sept. 30, 2004.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ENERGY AND NATURAL RESOURCES FOR TRAVEL FROM JULY 1 TO SEPT. 30, 2004

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Peter B. Lyons:									
Netherlands	Euro		119.04						119.04
France	Euro		1,162.42		32.20				1,194.62
United States	Dollar				6,664.24				6,664.24
Total			1,281.46		6,696.44				7,977.90

PETE V. DOMENICI,
Chairman, Committee on Energy and Natural Resources, Sept. 20, 2004.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS FOR TRAVEL FROM APR. 1 TO JUNE 30, 2004

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator James M. Jeffords:									
United States	Dollar				5,133.00				5,133.00
Finland	Euro		443.00						443.00
Iceland	Krona		1,116.00						1,116.00
Margaret Wetherald:									
United States	Dollar				5,133.00				5,133.00
Finland	Euro		537.00						537.00
Iceland	Krona		1,005.00						1,005.00
Emma Munger:									
United States	Dollar				5,133.00				5,133.00
Finland	Euro		475.00						475.00
Iceland	Krona		1,007.00						1,007.00
Geoffrey Brown:									
United States	Dollar				5,133.00				5,133.00

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS FOR TRAVEL FROM APR. 1 TO JUNE 30, 2004—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Finland	Euro		518.00						518.00
Iceland	Krona		1,226.00						1,226.00
Delegation Expenses:							314.68		314.68
Total			6,327.00		20,532.00		314.68		27,173.68

JAMES INHOFE,
Chairman, Committee on Environment and Public Works, July 27, 2004.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FINANCE FOR TRAVEL FROM APR. 1 TO JUNE 30, 2004

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Anya Landau:									
Cuba	Dollar		1,050.00						1,050.00
Anya Landau:									
United States	Dollar				777.19				777.19
David Johanson:									
Switzerland	Franc		645.72						645.72
Total			1,695.72		777.19				2,472.91

CHARLES GRASSLEY,
Chairman, Committee on Finance, Oct. 14, 2004.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS FOR TRAVEL FROM JULY 1 TO SEPT. 30, 2004

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Sam Brownback:									
Israel	Shekel		449.54						449.54
United States	Dollar				4,976.32				4,976.32
Senator Chuck Hagel:									
Germany	Euro		358.00						358.00
Angola	Kwanza		184.00						184.00
Cameroon	Franc		303.00						303.00
Nigeria	Naira		240.00						240.00
United States	Dollar				5,399.76				5,399.76
Senator Richard Lugar:									
Turkey	Lira		652.00						652.00
Switzerland	Franc		2,270.00						2,270.00
United States	Dollar				5,405.00				5,405.00
Senator Richard Lugar:									
Germany	Euro		443.00						443.00
United Kingdom	Pound		1,907.00						1,907.00
United States	Dollar				6,011.76				6,011.76
Senator Richard Lugar:									
Italy	Euro		2,250.00						2,250.00
Albania	Lek		305.00						305.00
Bosnia and Herzegovina	Marka		192.00						192.00
Georgia	Lari		640.00						640.00
Ukraine	Hryvnia		359.00						359.00
Iceland	Krona		804.00						804.00
United States	Dollar				5,028.94				5,028.94
Senator Bill Nelson:									
United States	Dollar				1,592.40				1,592.40
Senator John Sununu:									
Ukraine	Hryvnia		597.00						597.00
Latvia	Lat		195.00						195.00
Estonia	Kroon		130.45						130.45
Norway	Kroner		485.43						485.43
Jonah Blank:									
United Arab Emirates	Dirham		770.00						770.00
Afghanistan	Afghani		230.00						230.00
United States	Dollar				7,371.26				7,371.26
James Branegan:									
Philippines	Peso		1,304.00						1,304.00
United States	Dollar				4,893.50				4,893.50
Heather Flynn:									
Togo	Franc		864.00						864.00
Benin	Franc		703.00						703.00
Niger	Franc		763.00						763.00
United States	Dollar				5,258.12				5,258.12
Jessica Fugate:									
Croatia	Kuna		303.41						303.41
Macedonia	Denar		257.86						257.86
United States	Dollar				5,474.25				5,474.25
Michael Haltzel:									
Serbia and Montenegro	Dinar		524.00						524.00
United States	Dollar				5,786.34				5,786.34
Michael Haltzel:									
Bosnia and Herzegovina	Marka		430.00						430.00
Serbia and Montenegro	Dinar		575.00						575.00
Macedonia	Denar		472.00						472.00
Austria	Euro		873.00						873.00
United States	Dollar				5,645.64				5,645.64
Frank Jannuzi:									
China	Yuan		2,022.00						2,022.00
South Korea	Won		640.00						640.00

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS FOR TRAVEL FROM JULY 1 TO SEPT. 30, 2004—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
United States	Dollar				5,795.80				5,795.80
Frank Jannuzi:									
Vietnam	Dong		965.00						965.00
Thailand	Baht		696.00				127.18		823.18
United States	Dollar				4,739.08				4,739.08
Chris Ann Keehner:									
South Africa	Rand		711.00						711.00
Malawi	Kwacha		1,140.00						1,140.00
United States	Dollar				6,870.71				6,870.71
Kenneth Myers, Jr.:									
Germany	Euro		443.00						443.00
United Kingdom	Pound		1,907.00						1,907.00
United States	Dollar				6,011.76				6,011.76
Kenneth Myers, Jr.:									
Turkey	Lira		652.00						652.00
Switzerland	Franc		908.00						908.00
United States	Dollar				5,583.17				5,583.17
Kenneth Myers, Jr.:									
Italy	Euro		450.00						450.00
Albania	Lek		305.00						305.00
Bosnia and Herzegovina	Marka		192.00						192.00
Georgia	Lari		640.00						640.00
Ukraine	Hryvnia		359.00						359.00
Iceland	Krona		804.00						804.00
United States	Dollar				5,573.89				5,573.89
Kenneth Myers, III:									
Turkey	Lira		800.000						800.00
Switzerland	Franc		800.00						800.00
United States	Dollar				5,563.17				5,563.17
Kenneth Myers, III:									
Germany	Euro		443.00						443.00
United Kingdom	Pound		1,907.00						1,907.00
United States	Dollar				6,011.76				6,011.76
Kenneth Myers, III:									
Italy	Euro		450.00						450.00
Albania	Lek		305.00						305.00
Bosnia and Herzegovina	Marka		192.00						192.00
Georgia	Lari		640.00						640.00
Ukraine	Hryvnia		359.00						359.00
Iceland	Krona		804.00						804.00
United States	Dollar				5,773.89				5,773.89
Andrew Parasiliti:									
Nigeria	Naira		240.00						240.00
Angola	Kwanza		184.00						184.00
Cameroon	Franc		303.00						303.00
Germany	Euro		358.00						358.00
United States	Dollar				5,399.76				5,399.76
Michael Phelan:									
United Arab Emirates	Dirham		516.00						516.00
Afghanistan	Afghani		230.00						230.00
United States	Dollar				7,535.58				7,535.58
Nilmini Rubin:									
Lesotho	Loti		1,408.46						1,408.46
South Africa	Rand		517.41						517.41
United States	Dollar				7,949.79				7,949.79
Jennifer Simon:									
Colombia	Peso		1,100.00						1,100.00
Guatemala	Quetzal		1,128.00						1,128.00
United States	Dollar				2,295.50				2,295.50
Nancy Stetson:									
Kuwait	Dinar		788.00						788.00
Iraq	Dinar		61.00						61.00
United States	Dollar				6,221.00				6,221.00
Puneet Talwar:									
Italy	Euro		840.00						840.00
United States	Dollar				5,622.50				5,622.50
Puneet Talwar:									
Israel	Shekel		1,034.00						1,034.00
Lebanon	Pound		199.00						199.00
Jordan	Dinar		238.00						238.00
Kuwait	Dinar		1,182.00						1,182.00
Iraq	Dinar		61.00						61.00
United States	Dollar				5,507.42				5,507.42
Sean Woo:									
Israel	Shekel		507.86						507.86
United States	Dollar				2,843.32				2,843.32
Total			51,263.42		158,141.39		127.18		209,531.99

RICHARD LUGAR,
Chairman, Committee on Foreign Relations, Oct. 21, 2004.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON GOVERNMENTAL AFFAIRS FOR TRAVEL FROM JULY 1 TO SEPT. 30, 2004

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Raymond Shepherd III:									
United States	Dollar				4,565.07				4,565.07
Hong Kong	Dollar		1,516.00						1,516.00
Singapore	Dollar		931.34						931.34
Jason Foster:									
United States	Dollar				4,565.07				4,565.07
Hong Kong	Dollar		1,516.00						1,516.00
Singapore:	Dollar		896.80						896.80
Jason Yanussi:									
United States	Dollar				4,565.07				4,565.07
Hong Kong	Dollar		1,359.34				159.68		1,519.02
Singapore	Dollar		848.13		55.98		32.13		936.24

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON GOVERNMENTAL AFFAIRS FOR TRAVEL FROM JULY 1 TO SEPT. 30, 2004—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Robert Roach:									
United States	Dollar				1,685.43				1,685.43
England	Pound		513.28						513.28
Total			7,580.89		15,436.62		191.81		23,209.32

SUSAN COLLINS,
Chairman, Committee on Governmental Affairs, Oct. 7, 2004.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP FOR TRAVEL FROM JULY 1 TO SEPT. 30, 2004.

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Weston J. Coulam:									
United States	Dollar				6,852.00				6,852.00
China	Dollar		1,102.00		369.00		264.00		1,735.00
Total			1,102.00		7,221.00		264.00		8,587.00

OLYMPIA SNOWE,
Chairman, Committee on Small Business and Entrepreneurship, Sept. 8, 2004.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON VETERANS' AFFAIRS FOR TRAVEL FROM JULY 1 TO SEPT. 30, 2004.

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Bob Graham:									
France	Euro		685.00						685.00
United Kingdom	Pound		1,004.00						1,004.00
Edward Pusey:									
France	Euro		741.00						741.00
United Kingdom	Pound		904.00						904.00
Total			3,334.00						3,334.00

ARLEN SPECTER,
Chairman, Committee on Veterans' Affairs, Nov. 4, 2004.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON INTELLIGENCE FOR TRAVEL FROM APR. 1 TO JUNE 30, 2004

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Nancy St. Louis:									
	Dollar		1,305.00						1,305.00
	Dollar				5,753.16				5,753.16
Brandon Milhorn:									
	Dollar		1,305.00						1,305.00
	Dollar				5,753.16				5,753.16
Adam Harris:									
	Dollar		1,305.00						1,305.00
	Dollar				5,753.16				5,753.16
Randall Bookout:									
	Dollar		1,004.00						1,004.00
	Dollar				5,734.41				5,734.41
Lorenzo Goco:									
	Dollar		1,004.00						1,004.00
	Dollar				5,734.41				5,734.41
Donald Mitchell:									
	Dollar		348.00						348.00
	Dollar				5,700.64				5,700.64
Total			6,271.00		34,428.94				40,699.94

PAT ROBERTS,
Chairman, Committee on Intelligence, July 26, 2004.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, AMENDED, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON INTELLIGENCE FOR TRAVEL FROM APR. 1 TO JUNE 30, 2004

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator John Edwards:									
	Dollar				5,607.46				5,607.46
Donald Mitchell:									
	Dollar		348.00						348.00

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, AMENDED, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON INTELLIGENCE FOR TRAVEL FROM APR. 1 TO JUNE 30, 2004—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
	Dollar				5,700.64				5,700.64
Derek Chollet:									
	Dollar		365.00						365.00
	Dollar				5,700.64				5,700.64
Total			713.00		17,008.74				17,721.74

PAT ROBERTS,
Chairman, Committee on Intelligence, Aug. 10, 2004.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON INTELLIGENCE FOR TRAVEL FROM JULY 1 TO SEPT. 30, 2004

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Lindsey Fair:									
	Dollar		1,091.00						1,091.00
	Dollar				11,907.87				11,907.87
Randy Bookout:									
	Dollar		650.00						650.00
	Dollar				8,124.00				8,124.00
Donald Stone:									
	Dollar		646.00						646.00
	Dollar				8,124.00				8,124.00
Nancy St. Louis:									
	Dollar		2,346.00						2,346.00
	Dollar				6,845.23				6,845.23
Brandon Milhorn:									
	Dollar		2,346.00						2,346.00
	Dollar				6,845.23				6,845.23
Christopher Jackson:									
	Dollar		1,896.00						1,896.00
	Dollar				6,845.23				6,845.23
Thomas Auld:									
	Dollar		1,499.00						1,499.00
	Dollar				7,913.00				7,913.00
Elizabeth O'Reilly:									
	Dollar		1,559.00						1,559.00
	Dollar				7,913.00				7,913.00
Rebecca Farley:									
	Dollar		1,764.00						1,764.00
	Dollar				7,913.00				7,913.00
Nancy St. Louis:									
	Dollar		1,305.00						1,305.00
	Dollar				5,753.16				5,753.16
Brandon Milhorn:									
	Dollar		1,305.00						1,305.00
	Dollar				5,753.16				5,753.16
Adam Harris:									
	Dollar		1,305.00						1,305.00
	Dollar				5,753.16				5,753.16
Randy Bookout:									
	Dollar		1,004.00						1,004.00
	Dollar				5,734.41				5,734.41
Lorenzo Goco:									
	Dollar		1,004.00						1,004.40
	Dollar				5,734.41				5,734.41
Total			19,720.00		101,158.86				120,878.86

PAT ROBERTS,
Chairman, Committee on Intelligence, Sept. 30, 2004.

CONSOLIDATED REPORT OF EXPENDITURE FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), JOINT ECONOMIC COMMITTEE FOR TRAVEL FROM JAN. 1 TO MAR. 31 2004

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Rep. Pete Stark:									
Great Britain	Pound				2,109.52				2,109.52
Total					2,109.52				2,109.52

ROBERT F. BENNETT,
Chairman, Joint Economic Committee, Sept. 23, 2004.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), CONGRESSIONAL-EXECUTIVE COMMISSION ON CHINA FOR TRAVEL FROM APR. 1 TO JUNE 30, 2004

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Steven D. Marshall:									
United States	Dollar				6,491.50				6,491.50
China	Yuan		2,849.00						2,849.00
Keith Hand:									
United States	Dollar				6,865.00				6,865.00

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), CONGRESSIONAL-EXECUTIVE COMMISSION ON CHINA FOR TRAVEL FROM APR. 1 TO JUNE 30, 2004—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
China	Yuan		3,681.00						3,681.00
Carl Minzner:									
United States	Dollar				6,457.50				6,457.50
China	Yuan		3,014.00						3,014.00
David Dorman:									
United States	Dollar				6,491.00				6,491.00
China	Yuan		2,849.00						2,849.00
Total			12,393,00		26,305.00				38,698.00

JAMES LEACH,
Congressional-Executive Commission on China, Oct. 27, 2004.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), CONGRESSIONAL-EXECUTIVE COMMISSION ON CHINA FOR TRAVEL FROM JULY 1 TO SEPT. 30, 2004

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Mark Milosch:									
United States	Dollar				6,905.88				6,905.88
China	Yuan		2,092.00						2,092.00
Hong Kong	Dollar		1,516.00						1,516.00
Total			3,608.00		6,905.88				10,513.88

JAMES LEACH,
Congressional-Executive Commission on China, Oct. 27, 2004.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), CODEL FRIST FOR TRAVEL FROM JUNE 25 TO JUNE 28, 2004

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Bill Frist:									
United States	Dollar				7,493.80				7,493.80
Turkey	Dollar		958.00						958.00
Mark Esper:									
United States	Dollar				7,316.80				7,316.80
Turkey	Dollar		852.59						852.59
Amy Call:									
United States	Dollar				7,316.80				7,316.80
Turkey	Dollar		887.00						887.00
Delegation Expenses:*									
Turkey	Dollar						1,520.12		1,520.12
Total			2,697.59		22,127.40		1,520.12		26,345.11

* Delegation expenses include payments and reimbursements to the Department of State, and the Department of Defense under the authority of Sec. 502(b) of the Mutual Security Act of 1954, as amended by Sec. 22 of P.L. 95–384, and S. Res. 179 agreed to May 25, 1977.

BILL FRIST,
Majority Leader, Sept. 15, 2004.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), CODEL FRIST FOR TRAVEL FROM JUNE 3 TO JUNE 6, 2004

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Bill Frist:									
Kuwait	Dollar		394.00						394.00
France	Euro		600.00						600.00
Senator Robert Bennett:									
Kuwait	Dollar		394.00						394.00
France	Euro		575.00						575.00
Senator John Ensign:									
Kuwait	Dollar		394.00						394.00
France	Euro		600.00						600.00
William Pickle:									
Kuwait	Dollar		394.00						394.00
France	Euro		600.00						600.00
Mark Esper:									
Kuwait	Dollar		394.00						394.00
France	Euro		600.00						600.00
Bob Stevenson:									
Kuwait	Dollar		394.00						394.00
France	Euro		746.00						746.00
George Tolbert:									
Kuwait	Dollar		364.00						364.00
France	Euro		600.00						600.00
Sally Walsh:									
Kuwait	Dollar		394.00						394.00
France	Euro		700.00						700.00
Delegation Expenses:*									
Kuwait	Dollar						2,938.44		2,938.44
Iraq	Dollar						684.15		684.15
France	Euro						40,584.40		40,584.40

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), CODEL FRIST FOR TRAVEL FROM JUNE 3 TO JUNE 6, 2004—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Total			8,143.00				44,206.99		52,349.99

*Delegation expenses include payments and reimbursements to the Department of State, and the Department of Defense under the authority of Sec. 502(b) of the Mutual Security Act of 1954, as amended by Sec. 22 of P.L. 95–384, and S. Res. 179 agreed to May 25, 1977.

BILL FRIST,
Majority Leader.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), DEMOCRATIC LEADER FOR TRAVEL FROM JULY 1 TO SEPT. 30, 2004

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Randy Massanelli:									
Jordan	Dinar		208.20						208.20
Germany	Dollar		43.95						43.95
Total			252.15						252.15

TOM DASCHLE,
Democratic Leader, Sept. 21, 2004.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), DEMOCRATIC LEADER FOR TRAVEL FROM APR. 1 TO JUNE 30, 2004.

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Tom Daschle:									
Kuwait	Dollar		344.00						344.00
Senator Joe Biden:									
Kuwait	Dollar		344.00						344.00
Senator Lindsey Graham:									
Kuwait	Dollar		344.00						344.00
Denis McDonough:									
Kuwait	Dollar		344.00						344.00
Rich Verma:									
Kuwait	Dollar		344.00						344.00
Alex Jarvis:									
Kuwait	Dollar		344.00						344.00
Anthony Blinken:									
Kuwait	Dollar		344.00						344.00
Puneet Talwar:									
Kuwait	Dollar		344.00						344.00
Delegation Expenses:*									
Kuwait	Dollar						2,726.94		2,726.94
Total			2,752.00				2,726.94		5,478.94

*Delegation expenses include payments and reimbursements to the Department of State under the authority of Sec. 502(b) of the Mutual Security Act of 1954, as amended by Sec. 22 of P.L. 95–384 and S. Res. 179 agreed to May 25, 1977.

TOM DASCHLE,
Democratic Leader, Sept. 23, 2004.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Calendar Nos. 48, 49, 411, 488, 509, 594, 595, 611, 612, 613, 614, 615, 617, 623, 628, 629, 630, 631, 632, 633, 634, 635, 636, 640, 641, 642, 643, 658, 687, 689, 694, 696, 699, 701, 702, 703, 707, 708, 709, 710, 712, 725, 727, 729, 788, 795, 797, 800, 801, 802, 805, 806, 807, 808, 813, 814, 816, 817, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 914, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, all nominations on the Secretary's desk.

Further, the following nominations be discharged from the respective committees and the Senate proceed to their consideration en bloc: HELP Committee, the list of nominations at the desk, and that they be considered en bloc and PN2045, and 1508; the Agriculture Committee, Michael Harrison (PN1969), Frederick Hatfield (PN2014), Sharon Brown-Hruska (PN1837), Michael Dunn (2030), Dallas Tonsager (PN2029); from the Judiciary Committee, PN2050.

I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. I don't suppose I should ask you to restate the unanimous consent request.

Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

NOMINATIONS

UNITED STATES INTERNATIONAL TRADE COMMISSION

Daniel Pearson, of Minnesota, to be 2 Member of the United States International Trade Commission for the term expiring June 16, 2011.

Charlotte A. Lane, of West Virginia, to be a Member of the United States International Trade Commission for a term expiring December 16, 2009.

DEPARTMENT OF JUSTICE

Deborah Ann Spagnoli, of California, to be a Commissioner of the United States Parole Commission for a term of six years.

DEPARTMENT OF COMMERCE

Michael D. Gallagher, of Washington, to be Assistant Secretary of Commerce for Communications and Information.

THE JUDICIARY

Alan G. Lance, Sr., of Idaho, to be a Judge of the United States Court of Appeals for Veterans Claims for the term prescribed by law.

EXPORT-IMPORT BANK OF THE UNITED STATES

Linda Mysliwy Conlin, of New Jersey, to be a Member of the Board of Directors of the Export-Import Bank of the United States for a term expiring January 20, 2007.

DEPARTMENT OF THE INTERIOR

Sue Ellen Wooldridge, of Virginia, to be Solicitor of the Department of the Interior, vice William Gerry Myers III, resigned.

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

Gary Lee Visscher, of Maryland, to be a Member of the Chemical Safety and Hazard Investigation Board for a term of five years.

ENVIRONMENTAL PROTECTION AGENCY

Stephen L. Johnson, of Maryland, to be Deputy Administrator of the Environmental Protection Agency.

Charles Johnson, of Utah, to be chief Financial Officer, Environmental Protection Agency.

Ann R. Klee, of Virginia, to be an Assistant Administrator of the Environmental Protection Agency.

Benjamin Grumbles, of Virginia, to be an Assistant Administrator of the Environmental Protection Agency.

DEPARTMENT OF COMMERCE

Theodore William Kassinger, of Maryland, to be Deputy Secretary of Commerce.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

Jack Edwin McGregor, of Connecticut, to be a Member of the Advisory Board of the Saint Lawrence Seaway Development Corporation.

DEPARTMENT OF LABOR

Lisa Kruska, of Virginia, to be an Assistant Secretary of Labor, vice Kathleen M. Harrington.

DEPARTMENT OF EDUCATION

Edward R. McPherson, of Texas, to be Under Secretary of Education.

JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION

David Wesley Fleming, of California, to be a Member of the Board of Trustees of the James Madison Memorial Fellowship Foundation for a term expiring May 29, 2007.

Jay Phillip Greene, of Florida, to be a Member of the Board of Trustees of the James Madison Memorial Fellowship Foundation for a term expiring November 17, 2005.

John Richard Petrocik, of Missouri, to be a Member of the Board of Trustees of the James Madison Memorial Fellowship Foundation for a term expiring September 27, 2008.

HARRY S TRUMAN SCHOLARSHIP FOUNDATION

Patrick Lloyd McCrory, of North Carolina, to be a Member of the Board of Trustees of the Harry S Truman Scholarship Foundation for a term expiring December 10, 2005.

Juanita Alicia Vasquez-Gardner, of Texas, to be a Member of the Board of Trustees of the Harry S Truman Scholarship Foundation for a term expiring December 10, 2009.

DEPARTMENT OF EDUCATION

Robert C. Granger, of New Jersey, to be a Member of the Board of Directors of the National Board for Education Sciences for a term of four years.

Gerald Lee, of Pennsylvania, to be a Member of the Board of Directors of the National Board for Education Sciences for a term of four years.

THE JUDICIARY

Curtis V. Gomez, of Virgin Islands, to be Judge for the District Court of the Virgin Islands for a term of ten years.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Cathy M. MacFarlane, of Virginia, to be an Assistant Secretary of Housing and Urban Development.

Dennis C. Shea, of Virginia, to be an Assistant Secretary of Housing and Urban Development.

Romolo A. Bernardi, of New York, to be Deputy Secretary of Housing and Urban Development.

AFRICAN DEVELOPMENT FOUNDATION

Constance Berry Newman, Assistant Secretary of State (African Affairs), to be a Member of the Board of Directors of the African Development Foundation for a term expiring September 27, 2009.

SELECTIVE SERVICE SYSTEM

William A. Chatfield, of Texas, to be Director of Selective Service.

DEPARTMENT OF DEFENSE

Mark Falcoff, of California, to be a Member of the National Security Education Board for a term of four years.

DEPARTMENT OF COMMERCE

Jonathan W. Dudas, of Virginia, to be Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

DEPARTMENT OF VETERANS AFFAIRS

Pamela M. Iovino, of the District of Columbia, to be an Assistant Secretary of Veterans Affairs (Congressional Affairs).

EXECUTIVE OFFICE OF THE PRESIDENT

David Safavian, of Michigan, to be Administrator for Federal Procurement Policy.

UNITED STATES POSTAL SERVICE

James C. Miller III, of Virginia, to be a Governor of the United States Postal Service for the term expiring December 8, 2010.

POSTAL RATE COMMISSION

Dawn A. Tisdale, of Texas, to be a Commissioner of the Postal Rate Commission for a term expiring November 22, 2006.

FEDERAL ENERGY REGULATORY COMMISSION

Suedeen G. Kelly, of New Mexico, to be a Member of the Federal Energy Regulatory Commission for the term expiring June 30, 2009. (Reappointment)

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

James R. Kunder, of Virginia, to be an Assistant Administrator of the United States Agency for International Development.

AFRICAN DEVELOPMENT FOUNDATION

Edward Brehm, of Minnesota, to be a Member of the Board of Directors of the African Development Foundation for a term expiring November 13, 2007.

EXECUTIVE OFFICE OF THE PRESIDENT

Adam Marc Lindemann, of New York, to be Member of the Advisory Board for Cuba Broadcasting for a term expiring October 27, 2005.

DEPARTMENT OF STATE

Ann M. Corkery, of Virginia, to be an Alternate Representative of the United States of America to the Fifty-eighth Session of the General Assembly of the United Nations.

Walid Maalouf, of Virginia, to be an Alternate Representative of the United States of America to the Fifty-eighth Session of the General Assembly of the United Nations.

John D. Rood, of Florida, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Commonwealth of The Bahamas.

Charles Graves Untermeyer, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Qatar.

Aldona Wos, of North Carolina, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Estonia.

UNITED STATES PAROLE COMMISSION

Isaac Fulwood, Jr., of the District of Columbia, to be a Commissioner of the United States Parole Commission for a term of six years.

DEPARTMENT OF THE TREASURY

Timothy S. Bitsberger, of Massachusetts, to be an Assistant Secretary of the Treasury.

Paul Jones, of Colorado, to be a Member of the Internal Revenue Service Oversight Board for a term expiring September 14, 2008.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Carin M. Barth, of Texas, to be Chief Financial Officer, Department of Housing and Urban Development.

MERIT SYSTEMS PROTECTION BOARD

Neil McPhie, of Virginia, to be Chairman of the Merit Systems Protection Board.

Barbara J. Sapin, of Maryland, to be a Member of the Merit Systems Protection Board for the term of seven years expiring March 1, 2007.

DEPARTMENT OF COMMERCE

Benjamin H. Wu, of Maryland, to be Assistant Secretary of Commerce for Technology Policy.

Brett T. Palmer, of New York, to be an Assistant Secretary of Commerce.

Albert A. Frink, Jr., of California, to be an Assistant Secretary of Commerce.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

Scott Kevin Walker, of Wisconsin, to be a Member of the Advisory Board of the Saint Lawrence Seaway Development Corporation.

SOCIAL SECURITY ADMINISTRATION

Patrick P. O'Carroll, Jr., of Maryland, to be Inspector General, Social Security Administration.

MERIT SYSTEMS PROTECTION BOARD

Neil McPhie, of Virginia, to be a Member of the Merit Systems Protection Board for the term of seven years expiring March 1, 2009.

FEDERAL TRADE COMMISSION

Jon D. Leibowitz, of Maryland, to be a Federal Trade Commissioner for a term of seven years from September 26, 2003.

Deborah P. Majoras, of Virginia, to be a Federal Trade Commissioner for the unexpired term of seven years from September 26, 2001.

NATIONAL COUNCIL ON THE ARTS

Gerard Schwarz, of Washington, to be a Member of the National Council on the Arts for the remainder of the term expiring September 3, 2006.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

James Ballinger, of Arizona, to be a Member of the National Council on the Arts for a term expiring September 3, 2010.

Terrence Alan Teachout, of New York, to be a Member of the National Council on the Arts for a term expiring September 3, 2010.

DEPARTMENT OF EDUCATION

Jonathan Baron, of Maryland, to be a Member of the Board of Directors of the National Board for Education Sciences for a term of three years.

Elizabeth Ann Bryan, of Texas, to be a Member of the Board of Directors of the National Board for Education Sciences for a term of four years.

James R. Davis, of Mississippi, to be a Member of the Board of Directors of the National Board for Education Sciences for a term of two years. (New Position)

Frank Philip Handy, of Florida, to be a Member of the Board of Directors of the National Board for Education Sciences for a term of three years.

Eric Alan Hanushek, of California, to be a Member of the Board of Directors of the National Board for Education Sciences for a term of two years.

Caroline M. Hoxby, of Massachusetts, to be a Member of the Board of Directors of the National Board for Education Sciences for a term of four years.

Roberto Ibarra Lopez, of Texas, to be a Member of the Board of Directors of the National Board for Education Sciences for a term of two years.

Richard James Milgram, of New Mexico, to be a Member of the Board of Directors of the National Board for Education Sciences for a term of three years.

Sally Epstein Shaywitz, of Connecticut, to be a Member of the Board of Directors of the National Board for Education Sciences for a term of three years.

Joseph K. Torgesen, of Florida, to be a Member of the Board of Directors of the National Board for Education Sciences for a term of four years.

Herbert John Walberg, of Illinois, to be a Member of the Board of Directors of the National Board for Education Sciences for a term of three years.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Herman Belz, of Maryland, to be a Member of the National Council on the Humanities for a term expiring January 26, 2010.

Tamar Jacoby, of New Jersey, to be a Member of the National Council on the Humanities for a term expiring January 26, 2010.

Craig Haffner, of California, to be a Member of the National Council on the Humanities for a term expiring January 26, 2010.

James Davidson Hunter, of Virginia, to be a Member of the National Council on the Humanities for a term expiring January 26, 2010.

Harvey Klehr, of Georgia, to be a member of the National Council on the Humanities for a term expiring January 26, 2010.

Thomas K. Lindsay, of Texas, to be a Member of the National Council on the Humanities for a term expiring January 26, 2010.

Iris Love, of Vermont, to be a Member of the National Council on the Humanities for a term expiring January 26, 2010.

Thomas Mallon, of Connecticut, to be a Member of the National Council on the Humanities for a term expiring January 26, 2010.

Ricardo Quinones, of California, to be a Member of the National Council on the Humanities for a term expiring January 26, 2010.

NATIONAL MUSEUM AND LIBRARY SERVICES BOARD

Beverly Allen, of Georgia, to be a Member of the National Museum and Library Services Board for a term expiring December 6, 2008.

Donald Leslie, of Wisconsin, to be a Member of the National Museum and Library Services Board for a term expiring December 6, 2006.

Amy Owen, of Utah, to be a Member of the National Museum and Library Services Board for a term expiring December 6, 2008.

Sandra Pickett, of Texas, to be a Member of the National Museum and Library Services Board for a term expiring December 6, 2005.

Renee Swartz, of New Jersey, to be a Member of the National Museum and Library Services Board for a term expiring December 6, 2007.

Kim Wang, of California, to be a Member of the National Museum and Library Services Board for a term expiring December 6, 2004.

NATIONAL INSTITUTE FOR LITERACY

William T. Hiller, of Ohio, to be a Member of the National Institute for Literacy Advisory Board for a term expiring November 25, 2006.

Richard Kenneth Wagner, of Florida, to be a Member of the National Institute for Literacy Advisory Board for a term expiring November 25, 2006.

Juan R. Olivarez, of Michigan, to be a Member of the National Institute for Literacy Advisory Board for a term expiring November 25, 2006.

UNITED STATES INSTITUTE OF PEACE

Maria Otero, of the District of Columbia, to be a Member of the Board of Directors of the United States Institute of Peace for a term expiring January 19, 2007.

NATIONAL COUNCIL ON DISABILITY

Young Woo Kang, of Indiana, to be a Member of the National Council On Disability for a term expiring September 17, 2006.

DEPARTMENT OF EDUCATION

John H. Hager, of Virginia, to be Assistant Secretary for Special Education and Rehabilitative Services, Department of Education.

NATIONAL SCIENCE FOUNDATION

Arden Bement, Jr., of Indiana, to be Director of the National Science Foundation for a term of six years.

THE JUDICIARY

Raymond L. Finch, of the Virgin Islands, to be Judge for the District Court of the Virgin Islands for a term of ten years. (Reappointment)

Micaela Alvarez, of Texas, to be United States District Judge for the Southern District of Texas.

Keith Starrett, of Mississippi, to be United States District Judge for the Southern District of Mississippi.

DEPARTMENT OF JUSTICE

Lisa Godbey Wood, of Georgia, to be United States Attorney for the Southern District of Georgia for the term of four years.

David E. Nahmias, of Georgia, to be United States Attorney for the Northern District of Georgia for the term of four years.

Richard B. Roper III, of Texas, to be United States Attorney for the Northern District of Texas for the term of four years.

UNITED STATES SENTENCING COMMISSION

Ricardo H. Hinojosa, of Texas, to be Chair of the United States Sentencing Commission.

Michael O'Neill, of Maryland, to be a Member of the United States Sentencing Commission for a term expiring October 31, 2009. (Reappointment)

Ruben Castillo, of Illinois, to be a Member of the United States Sentencing Commission for a term expiring October 31, 2009. (Reappointment)

Christopher A. Boyko, of Ohio, to be United States District Judge for the Northern District of Ohio.

UNITED STATES SENTENCING COMMISSION

Beryl A. Howell, of the District of Columbia, to be a Member of the United States Sentencing Commission for the remainder of the term expiring October 31, 2005.

DEPARTMENT OF VETERANS AFFAIRS

Robert Allen Pittman, of Florida, to be an Assistant Secretary of Veterans Affairs (Human Resources and Administration).

THE JUDICIARY

Robert N. Davis, of Florida, to be a Judge of the United States Court of Appeals for Veterans Claims for the term prescribed by law.

Mary J. Schoelen, of the District of Columbia, to be a Judge of the United States Court of Appeals for Veterans Claims for the term of fifteen years.

William A. Moorman, of Virginia, to be a Judge of the United States Court of Appeals for Veterans Claims for the term of fifteen years.

DEPARTMENT OF STATE

Catherine Todd Bailey, of Kentucky, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Latvia.

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

Douglas Menarchik, of Texas, to be an Assistant Administrator of the United States Agency for International Development.

INTER-AMERICAN DEVELOPMENT BANK

Hector E. Morales, of Texas, to be United States Executive Director of the Inter-American Development Bank for a term of three years.

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

Lloyd O. Pierson, of Virginia, to be an Assistant Administrator of the United States Agency for International Development.

AFRICAN DEVELOPMENT FOUNDATION

Lloyd O. Pierson, an Assistant Administrator of the United States Agency for International Development, to be a Member of the Board of Directors of the African Development Foundation for a term expiring September 22, 2009.

DEPARTMENT OF JUSTICE

Robert Cramer Balfe III, of Arkansas, to be United States Attorney for the Western District of Arkansas for the term of four years.

DEPARTMENT OF THE TREASURY

J. Russell George, of Virginia, to be Inspector General for Tax Administration, Department of the Treasury.

NATIONAL COUNCIL ON DISABILITY

Milton Aponte, of Florida, to be a Member of the National Council On Disability for a term expiring September 17, 2006.

NATIONAL SCIENCE FOUNDATION

Dan Arvizu, of Colorado, to be a Member of the National Science Board, National Science Foundation for a term expiring May 10, 2010.

Steven C. Beering, of Indiana, to be a Member of the National Science Board, National Science Foundation for a term expiring May 10, 2010.

Gerald Wayne Clough, of Georgia, to be a Member of the National Science Board, National Science Foundation for a term expiring May 10, 2010.

Kelvin Kay Droegemeier, of Oklahoma, to be a Member of the National Science Board, National Science Foundation for a term expiring May 10, 2010.

Louis J. Lanzerotti, of New Jersey, to be a Member of the National Science Board, National Science Foundation for a term expiring May 10, 2010.

Alan I. Leshner, of Maryland, to be a Member of the National Science Board, National Science Foundation for a term expiring May 10, 2010.

Jon C. Strauss, of California, to be a Member of the National Science Board, National Science Foundation for a term expiring May 10, 2010.

Kathryn D. Sullivan, of Ohio, to be a Member of the National Science Board, National Science Foundation for a term expiring May 10, 2010.

DEPARTMENT OT THE TREASURY

Anna Escobedo Cabral, of Virginia, to be Treasurer of the United States.

THE JUDICIARY

Gregory E. Jackson, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.

DEPARTMENT OF DEFENSE

Vinicio E. Madrigal, of Louisiana, to be a Member of the Board of Regents of the Uniformed Services University of the Health Sciences for a term expiring June 20, 2009. (Reappointment)

Otis Webb Brawley, Jr., of Georgia, to be a Member of the Board of Regents of the Uniformed Services University of the Health Sciences for a term expiring June 20, 2009. (Reappointment)

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

R. Bruce Matthews, of New Mexico, to be a Member of the Defense Nuclear Facilities Safety Board for a term expiring October 18, 2005.

Joseph F. Bader, of the District of Columbia, to be a Member of the Defense Nuclear Facilities Safety Board for a term expiring October 18, 2007.

DEPARTMENT OF EDUCATION

Eugene Hickok, of Pennsylvania, to be Deputy Secretary of Education.

Edward R. McPherson, of Texas, to be Under Deputy Secretary of Education.

NATIONAL COUNCIL ON DISABILITY

Robert Davila, of New York, to be a Member of the National Council On Disability for a term expiring September 17, 2006. (Reappointment)

Linda Wetters, of Ohio, to be a Member of the National Council On Disability for a term expiring September 17, 2006. (Reappointment)

BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION

Julia L. Wu, of California, to be a Member of the Board of Trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation for a term expiring February 4, 2008, vice James Roger Angel, term expired.

Laurie Stenberg Nichols, of South Dakota, to be a Member of the Board of Trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation for a term expiring March 3, 2010, vice Donna Dearman Smith, term expired.

DEPARTMENT OF EDUCATION

Carol D'Amico, of Indiana, to be a Member of the Board of Directors of the National Board for Education Sciences for a term of two years. (New Position)

DEPARTMENT OF STATE

Yousif B. Ghafari, of Michigan, to be an Alternate Representative of the United States of America to the Fifty-ninth Session of the General Assembly of the United Nations.

Jane Dee Hull, of Arizona, to be a Representative of the United States of America to the Fifty-ninth Sessions of the General Assembly of the United Nations.

Susan L. Moore, of Texas, to be an Alternate Representative of the United States of America to the Fifty-ninth Session of the General Assembly of the United Nations.

CORPORATION FOR PUBLIC BROADCASTING

Gay Hart Gaines, of Florida, to be a Member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring January 31, 2010.

Claudia Puig, of Florida, to be a Member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring January 31, 2008.

Ernest J. Wilson, III, of Maryland, to be a Member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring January 31, 2010. (Reappointment)

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

James S. Simpson, of New York, to be a Member of the Advisory Board of the Saint Lawrence Seaway Development Corporation.

FEDERAL MARITIME COMMISSION

Harold Jennings Creel, Jr., of South Carolina, to be a Federal Maritime Commissioner for the term expiring June 30, 2009.

FEDERAL COMMUNICATIONS COMMISSION

Jonathan Steven Adelstein, of South Dakota, to be a Member of the Federal Communications Commission for a term expiring June 30, 2008.

AIR FORCE

The following named officer for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Col. Guy K. Dahlbeck

The following Air National Guard of the United States officer for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. Brent E. Winget

ARMY

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Robert L. Van Antwerp, Jr.

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brig. Gen. Jason K. Kamiya

The following named officers for appointment in the Reserve of the Army to the grades indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. Keith L. Thurgood

The following named officers for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Colonel Michael J. Lally, III

NOMINATIONS PLACED ON THE SECRETARY'S DESK

COAST GUARD

PN2001 COAST GUARD nominations (154) beginning Gerard P. Achenbach, and ending Elizabeth D. Young, which nominations were received by the Senate and appeared in the Congressional Record of September 23, 2004.

PN2051 COAST GUARD nominations (257) beginning Joel A. Amundson, and ending Joseph M. Zwack, which nominations were received by the Senate and appeared in the Congressional Record of November 16, 2004.

FOREIGN SERVICE

PN2019 FOREIGN SERVICE nominations (148) beginning Ralph L. Boyce Jr., and ending Robert J. Whigham, which nominations were received by the Senate and appeared in the Congressional Record of October 7, 2004.

PN2020 FOREIGN SERVICE nominations (206) beginning Robert M. Clay, and ending Marcia L. Norman, which nominations were received by the Senate and appeared in the Congressional Record of October 7, 2004.

Patricia Cushwa, of Maryland, to be a Commissioner of the United States Parole Commission for a term of six years.

Sharon Tucker, of Georgia, to be a Member of the Board of Trustees of the Harry S Truman Scholarship Foundation for a term expiring December 10, 2005.

Kathleen Martinez, of California, to be a Member of the National Council on Disability for a term expiring September 17, 2006.

William A. Schambra, of Virginia, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term expiring September 14, 2006.

Donna N. Williams, of Texas, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term expiring October 6, 2006.

Leona White Hat, of South Dakota, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term expiring October 6, 2008.

Henry Lozano, of California, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term expiring October 6, 2008.

Mimi Mager, of the District of Columbia, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term expiring December 27, 2007.

Jacob Joseph Lew, of New York, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term expiring October 6, 2008.

Mark D. Gearan, of New York, to be a Member of the Board of Directors of the Corporation for National and Community Services for a term of one year.

Dorothy A. Johnson, of Michigan, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term expiring October 6, 2007.

Cynthia Boich, of California, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term expiring October 6, 2007.

Edward Alton Parrish, of Virginia, to be a Member of the Board of Trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation for a term expiring April 17, 2008.

Raquel Egusquiza, of Michigan, to be a Member of the Board of Trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation for a term expiring October 13, 2005.

Michael J. Harrison, of Connecticut, to be an Assistant Secretary of Agriculture.

Fredrick William Hatfield, of California, to be a Commissioner of the Commodity Futures Trading Commission for a term expiring April 13, 2008.

Sharon Brown-Hruska, of Virginia, to be a Commissioner of the Commodity Futures Trading Commission for the term expiring April 13, 2009.

Michael V. Dunn, of Iowa, to be a Commissioner of the Commodity Futures Trading Commission for the remainder of the term expiring June 19, 2006, vice James E. Newsome, resigned.

Dallas Tonsager, of South Dakota, to be a Member of the Farm Credit Administration Board, Farm Credit Administration, for a term expiring May 21, 2010.

NOMINATION OF KEITH STARRETT

Mr. LEAHY. Mr. President, the nomination of Keith Starrett of Mississippi is strongly supported by Senator LOTT and Senator COCHRAN. Judge Starrett is nominated to a vacancy on the Southern District of Mississippi created when the President ignored the Senate's withholding of its consent and unilaterally appointed Judge Charles Pickering to the Fifth Circuit.

With this nomination, President Bush forfeited another opportunity to

be a uniter and to draw the country together. I understand the concerns of so many African-American organizations and lawyers who continue to ask the President to begin to achieve some diversity on that bench by the nomination and appointment of a qualified African American. The Magnolia Bar Association, a primarily African-American bar association in Mississippi, has written the Senate in connection with this nomination. The Magnolia Bar's president, Crystal Wise Martin, expresses the group's strong opposition to proceeding with Judge Starrett's nomination, not only because it is so late in the session but also because, as she writes: ''[I]t fails to remedy the egregious problem concerning the lack of diversity on Mississippi's federal bench.'' She points out that Mississippi has the highest percentage of African Americans of any State, but that Mississippi has had only one African-American Federal judge. She explains that the Magnolia Bar and the National Bar Association have both made direct requests to the President that he appoint an African American to fill this important vacancy.

During the consideration of Charles Pickering's nomination, reports were that Republicans were indicating that they would advocate for an African-American nominee if some African Americans would support Judge Pickering's elevation to a higher court. The administration has chosen not to fulfill those hopes by proceeding with a qualified African-American nominee for this important judgeship.

This President has shown where his priorities are by nominating more lawyers affiliated with the Federalist Society than qualified African Americans, Hispanics and Asian Americans combined.

I ask unanimous consent that a copy of the letter from the Magnolia Bar Association be printed in the RECORD.

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

MAGNOLIA BAR ASSOCIATION, INC.,
Jackson, MS, September 6, 2004.

Senator ORRIN HATCH,
Chair, Senate Judiciary Committee, Senate Dirksen Office Building, Washington, DC.
Senator PATRICK LEAHY,
Ranking Member, Senate Judiciary Committee, Senate Dirksen Office Building, Washington, DC.

DEAR SENATORS HATCH AND LEAHY: Founded in 1955 by less than ten black lawyers with several purposes including advancing the science of jurisprudence and promoting reform in the law, the Magnolia Bar Association can now boast that it has more than four hundred African-American and white members who practice across Mississippi and many states throughout America. Our members are engaged in every form of practice just as other members of the Mississippi Bar. We are prosecutors, criminal defense attorneys, plaintiff attorneys, defense attorneys, and we are administrative lawyers. Our ranks also include attorneys who specialize in domestic relations and commercial litigation. Simply put, we do it all. We practice in state, federal and tribal courts. The Magnolia Bar is represented on every court in Mississippi except the Fifth Circuit Court of Appeals. We are proud of what we do, and we are committed to our profession. I, Crystal Wise Martin, am indeed honored to serve as its president.

We are strongly opposed to the Senate's consideration of the nomination of Keith Starrett to the Southern District of Mississippi so late in this Administration's term. We understand there is a longstanding and well-respected practice of the Senate Judiciary Committee to withhold consideration of controversial federal judicial nominations by the fall of an election year. We see no reason to deviate from this tradition in the case of the Starrett nomination.

The Starrett nomination is particularly untimely. President Bush only nominated Keith Starrett on July 7 of this year, to fill the seat vacated by Charles Pickering upon his recess appointment to the Fifth Circuit. Consideration of the nomination at this point in an election year is simply inappropriate. In Mississippi, absentee voting in the Presidential election begins on September 20. Holding a hearing on the nomination just twelve days before Mississippians can cast their Presidential votes is simply too late. Moreover, it is doubtful that Mr. Starrett could even proceed through the Judiciary Committee before the voting begins.

We know of no federal judicial nomination in recent history in which the nomination was made so late in a Presidential term and yet still received a hearing before the Judiciary Committee in the fall of an election year. In the last presidential election year of 2000, there were no hearings whatsoever held in the fall. For example, when President Clinton nominated Ricardo Morado to the district court in Texas on May 11, 2000, Senators objected to the nomination as occurring too late in an election year. Mr. Morado never received a hearing.

Additionally, we strongly object to the Starrett nomination because it fails to remedy the egregious problem concerning the lack of diversity on Mississippi's federal bench. Mississippi has the highest percentage of African Americans of any state in the country. Yet Mississippi has had only one African American federal judge—ever. Judge Henry Wingate, who holds this distinction, was appointed nearly twenty years ago.

Earlier this year, the Magnolia Bar Association made a direct plea to President Bush to rectify this lack of diversity. In a letter dated February 2, we urge President Bush to appoint an African American to the Southern District of Mississippi. We wrote that the ''appointment of an African American . . . is long overdue.'' We set forth the history of the lack of appointments, and concluded there was a ''compelling case'' for the appointment. We noted the existence of hundreds of African American lawyers in the State and the representation we have been able to achieve on our State and local bench. We offered to consult with the President about the numerous candidates who exist for a federal court position. The National Bar Association, the nationwide organization of African American lawyers, made a similar request this year, directed specifically to the vacancy in the Southern District of Mississippi.

Moreover many members of the African American community in Mississippi were led to believe that an African American would receive the nomination to fill Judge Charles Pickering's district court seat. Judge Pickering's supporters, including but not limited to his son, Representative Chip Pickering, were express about their intentions to bring about the nomination of an African American should Judge Pickering be elevated. These representations are well documented in the press. The Washington Post reported that ''Chip Pickering confirmed that he has also been telling prominent African Americans in the state that if his father is promoted to the appeals court, his replacement on the district court will likely be an [African American nominee].'' (''Judge's Fate Could Turn on 1994 Case,'' Washington Post, May 27, 1993). The Clarion-Ledger from Jackson, Mississippi referred to Congressman Pickering's representations in an article entitled, ''Pickering Vows to Push Diversity.'' (Clarion-Ledger, May 28, 2003).

President Bush has refused to heed our requests. Despite having four opportunities, he has not nominated one African American to the federal bench in Mississippi. During his term, President Bush has nominated three persons to the federal district court in Mississippi and one person from Mississippi to the Fifth Circuit Court of Appeals. None are African American. We deplore this Administration's record on diversity in judicial appointments in Mississippi.

The failure to diversify Mississippi's federal bench is just one example of the lack of diversity in this Administration's judicial appointments generally. In four years, President Bush has appointed only 11 African Americans to district court seats anywhere in the country. These 11 appointments constitute only less than seven percent of the total of 162 district court appointments. This stands in stark contrast to the record of President Bush's predecessor. In his first term, President Clinton appointed 33 African Americans out of 170 district court appointments, or almost twenty percent. In his second term, President Clinton appointed 20 African Americans out of 137 district court appointments, or fourteen percent. The Magnolia Bar Association strongly believes we should be advancing in African American representation on the federal bench, not retreating.

For all of these reasons, we urge you to refrain from considering the Starett nomination at this late date. Thank you.

Respectfully yours,
CRYSTAL WISE MARTIN,
President.

NOMINATION OF DAVID NAHMIAS

Mr. LEAHY. Mr. President, after months of stonewalling by this administration, we are still trying to uncover the truth about the abuse of prisoners in U.S. custody overseas. I have long said that somewhere in the upper reaches of the executive branch a process was set in motion that rolled forward until it produced this scandal. To date, senior administration officials have avoided any accountability for these atrocities.

The Senate is today including the nomination of David Nahmias to serve as a U.S. Attorney in Georgia in a final package of confirmations for this Congress. Mr. Nahmias has held senior positions at the Department of Justice where he worked on the legal underpinnings of the President's war against terror. The overbroad assertions of executive power have been rejected by the Supreme Court and other Federal courts.

In speeches, he has unequivocally supported the President's authority as Commander in Chief to designate and detain suspected terrorists, including

American citizens, as enemy combatants without judicial review by an article III court. In the case of the American citizens detained as enemy combatants, argued that there was no reason for judicial review of their detentions because they, ''received the absolute ultimate executive branch process,'' because the ''President of the United States, operating as the Commander-in-Chief, personally reviewed their cases, and personally designated them as enemy combatants.'' The Supreme Court strongly rejected this position this year and held that the detainees in Guantanamo Bay and U.S. citizens being held as enemy combatants have the right to challenge their detentions in Federal courts.

I asked Mr. Nahmias questions about his views on the rights of enemy combatants, his role in investigating, approving, or otherwise reviewing rules, procedures, or guidelines involving the interrogation of individuals held in the custody of the U.S. Government or an agent of the U.S. Government, and his role in the prosecution of domestic terrorism cases. His original answers were largely non-responsive. I sent him further questions to clarify his record and views.

I remain troubled by Mr. Nahmias' answers and uncertain of the extent of his involvement in these matters. During Mr. Nahmias' tenure at the Department, it produced a legal memorandum redefining torture to allow all sorts of brutal treatment—such as mock burial alive, simulated drowning, electrocution, tearing off of fingernails, and other such barbaric treatment—so long as the pain caused is not akin to organ failure, and concluding that, as commander in chief in the war against terror, the President and federal agents are not constrained by anti-terror laws. Since they came to light, these positions have been abandoned by the White House counsel and the administration.

The American people deserve public officials who are fair and will uphold the law. No one is entitled to a high-ranking presidential appointment entrusted with making decisions that affect the lives and futures of millions of Americans. Our freedoms are the fruit of too much sacrifice to give appointments to people who will not fairly interpret the Constitution, enforce Federal protections, and follow previous court rulings on which Americans rely in their daily lives. If there were a separate vote on this nomination, I would oppose it.

NOMINATION OF CHRISTOPHER BOYKO

Mr. President, today the Senate voted on the nomination of Judge Christopher Boyko for a lifetime seat on the U.S. District Court for the Northern District of Ohio. He is strongly supported by both of his home-State Senators.

The Senate has already confirmed four of President Bush's district court nominees and two of his circuit court nominees from Ohio, including some who were problematic. Deborah Cook, now on the Sixth Circuit, is a staunch Republican and Federalist Society member who was one of the Ohio Supreme Court's most prolific and activist dissenters in favor of corporate interests. She was promoted by the Senators from Ohio and was confirmed last year. Another Sixth Circuit confirmation, Jeffrey Sutton, is an active Federalist Society member and one of the most controversial of President Bush's nominees confirmed. Prior to his confirmation to a lifetime appointment on the Nation's second highest court, Judge Sutton sought out opportunities to attack Federal civil rights laws and limit Congress' ability to protect individual rights. He received enough ''negative'' votes for a potential filibuster, but he was not blocked on the floor. The Senate also confirmed four Ohio district court nominees for President Bush, many of whom were active members of the Republican party in Ohio and whose records were somewhat troubling.

We moved forward with those nominations even though two of President Clinton's nominees to Ohio, Kent Markus and Steve Bell, were blocked by Republicans. Neither received a hearing or a vote. Mr. Markus was nominated to the Sixth Circuit in February 2000, but was told it was just too late. Steven Bell was nominated in August 1999 to the district court in Ohio and waited for more than a year without receiving a hearing. The double standards that the Republican majority has adopted obviously depend upon the occupant of the White House.

In 1996, when a Democratic President was seeking re-election, the Republican-controlled Senate held only one hearing to consider one district court nominee after the August recess, and then never allowed that nominee to have a Committee or Senate vote. Indeed, that nominee, Judge Ann Aiken of Oregon, was obstructed so severely by the Republican majority that she was not confirmed to her position until nearly a year and a half later.

In September 2000, when the vacancy rate on the Federal courts was around 7 percent, Republicans refused to proceed with hearings on nominees so late in the presidential election year. After the August recess work on judicial nominations came to a halt. Although there were over 30 nominees pending, after July 25, 2000, no more judicial nominees were scheduled for hearings or considered by the committee. This year, with the vacancy rate at around 3 percent, less than half what it was in 2000, we expedited consideration of nominees by a Republican President.

In both 1996 and 2000, not a single individual nominated after July 21 was confirmed to the Federal courts—even for seats that were already vacant. When Kent Markus of Ohio was nominated in February 2000 to the Sixth Circuit, he was told by Republicans that it was just too late. Judge Boyko was nominated on July 22, 2004 to fill a district court seat that will not even be vacant until December 31, 2004.

That said, I note that since 1996, Judge Boyko has served on the Court of Common Pleas for Cuyahoga County. Unlike many of this President's nominees, Judge Boyko has a reputation for fairness. He is being confirmed today for a future vacancy. I congratulate him and his family on his confirmation.

NOMINATION OF KEITH STARRETT

Mr LOTT. Mr. President, I am delighted that the Senate has approved Judge Keith Starrett's nomination today to be a U.S. District Court Judge for the Southern District of Mississippi. I was pleased when the President nominated Judge Starrett to be a U.S. District Court Judge because he is one of the most experienced and respected trial court judges in the Mississippi State court system. I know that his lovely wife Barbara and his entire family are very proud of Judge Starrett as he marks this important milestone in his career and prepares to serve our state and nation in this new role.

Judge Starrett is a bright light in the Mississippi legal community. He holds an undergraduate degree from Mississippi State University and a J.D. degree from the University of Mississippi School of Law. Additionally, as a sitting trial court judge he has completed a number of courses at the National Judicial College which have added to the knowledge base which he will bring to the federal bench.

Judge Starrett engaged in the general practice of law for 17 years in Pike County and also served as an Assistant District Attorney, gaining broad experience in the law that such practice areas provide. He was appointed to a vacant State circuit court judgeship in 1992, and he was elected to continue in this position in 1994, 1998, and 2002. During his 12 years on the bench, Judge Starrett has earned a strong reputation as a fair and outstanding trial judge presiding over both civil and criminal cases.

One of Judge Starrett's most important accomplishments in his judicial career is the leadership he provided in establishing the first felony level drug court in Mississippi in his State judicial district. This court was used as a model for the creation of other drug courts in the State. Judge Starrett's expertise and involvement in this area has been a key driving force as Mississippi works to implement a drug court system for the entire State, and he has written and spoken extensively on this topic. These special courts are better able to address the issues of justice and rehabilitation for those charged with crimes involving drugs, and I commend Judge Starrett for the groundbreaking work he has done in this area.

Judge Starrett has also found time to serve his community and profession in many other ways. He helped to found

Mission Pike County, a racial and denominational reconciliation organization and Southwest Mississippi Child Protection, a child advocacy group in Lincoln and Pike Counties. He is a leader in his church and the legal community in Mississippi, and he has been recognized with awards such as the 2003 Judicial Excellence Award given by the Mississippi Bar Association.

It is no surprise that the American Bar Association's Standing Committee on the Federal Judiciary has unanimously found Judge Keith Starrett to be Well-Qualified to serve as a U.S. District Court Judge. The vacant seat which Judge Starrett has been confirmed to fill has been designated a judicial emergency, and I am pleased that the Senate has acted to prevent justice from being delayed any further for the parties whose cases are pending in the Southern District of Mississippi. I congratulate Judge Starrett on his confirmation, and I look forward to his serving as a federal judge for many years to come.

Mr. LEAHY. Mr. President, during the past 4 years, the Senate has confirmed more than 200 of President Bush's choices for the only lifetime jobs in our system of government. Including the judicial nominees scheduled to be confirmed today, Democrats and Republicans in the Senate have confirmed 204 circuit, district and trade court nominees in the past four years. That is more Federal judges than were confirmed for President Reagan during his first term, more than in President George H.W. Bush's presidency, and more than in either of President Clinton's terms. The first 100 were confirmed in the 17 months of Democratic Senate leadership. In the other 31 months, Republicans have led the Senate to confirm another 104.

With this historic number of confirmations, we are at the lowest number of vacant seats on the Federal courts in 16 years. There are more Federal judges serving today than at any time in American history. With today's confirmations, there will be only 26 empty seats on the Federal courts. If retirements and confirmations were to continue at the current pace, President Bush would be poised to name more than 400 lifetime judges on the Federal bench, which contains 879 judges. That would mean he would have appointed more judges than any President in our history.

Democrats in the Senate have taken as bipartisan approach as possible while still preserving the Senate's independence to act as a check against extreme or unfit appointments to these lifetime positions. Some of the nominees this President nominated to appellate courts have been among the most controversial ever proposed. A handful of them, those with records that do not demonstrate that they will be fair judges who will fully enforce our constitutional rights have been denied the consent of the Senate. The Federal courts should not become the arm of the Republican Party or the Democratic Party. To preserve the independence of the judiciary, the Senate has served its time honored roll as a check on the presidential appointment power. The Constitution says advice and consent, not rubber stamp.

Ours has been a good record of both cooperation and independence by the Senate. Even with this historic level of bipartisan cooperation and despite the high number of divisive nominees this President has sent to the Senate, partisans continue to claim that nothing short of 100 percent approval is acceptable. No President has seen 100 percent of his judicial nominees approved. Not even George Washington got all of his appointments confirmed. Shortly after the Judiciary Committee was created, nominees of President James Madison were defeated in the Committee. More recently Republicans defeated the nominations of more than 60 of President Clinton's judicial nominees and more than 200 of his executive branch nominees in Senate committees.

President Bush refused to address the unfair way President Clinton's nominees were treated by Senate Republicans through anonymous holds and other tactics. Objection from even one Republican Senator was allowed to defeat President Clinton's judicial nominees. Republicans worked to preserve vacancies in the Clinton years, especially vacancies on the circuit courts like the 6th Circuit and the D.C. Circuit. Two dozen circuit court nominees and more than 40 district court nominees were denied Senate votes of any kind. They are now exploiting their success. Unfortunately, President Bush decided in his first term to seek confrontation and politicization of the process rather than consensus. There were opportunities to find common ground that were squandered.

During the Clinton administration, leading Republicans claimed that as many as 100 vacant seats in the Federal courts did not create any crisis. Some even boasted that they allowed too many judges to be confirmed. There was a dramatic shift when a Republican moved into the White House when suddenly any number of vacancies became a crisis to them. The rules and Senate procedures Republicans used to stall President Clinton's nominees were no longer acceptable to them and were jettisoned with a Republican in the White House.

When I became chairman of the Judiciary Committee and the Committee was reorganized back in July 2001, we inherited 110 vacant seats in the federal courts. During my 17 months as chairman, we evaluated the President's nominees, and confirmed 100 judges. That represented a tremendous effort in that short time, especially amid the dramatic crises facing our nation in the wake of the September I 1 attacks and the anthrax attacks directed at Senate Democrats. Rather than adopt Republican methods by which they blocked scores of mainstream nominees by President Clinton, we made the process fairer and more open while preserving the longstanding rules and precedents of the Judiciary Committee and the Senate.

Over 17 months, we proceeded to give hearings to 103 of President Bush's judicial nominees, some of whom proved to be quite controversial and divisive, even though the President had promised the American people that he was a ''uniter not a divider.'' The President's controversial nominations divided us by politicizing the federal courts. They included nominees with records of extremism and in an effort to stack the courts unfairly.

In this the 108th Congress, Republicans assumed Senate leadership and proceeded to bend, break or reinterpret the rules and precedents in their efforts to ram through the Senate every nominee and turn the Senate into a rubber stamp for lifetime appointments.

It was in the face of these partisan actions that the only option left to the Senate to protect the independence and fairness of the courts was extended debate. Democrats acted sparingly to withhold consent from the most extreme choices of this President and the most egregious partisan acts of Senate Republicans. I will not restate the specific concerns with each of those nominees. Those reasons are stated publicly in the RECORD during debate by many Senators. Unlike Republican obstruction which took place most often in secret and without open and honest debate, when we oppose a nominee we said so and explained why in public.

Republicans have held hearings for 120 judicial nominees in the past 2 years, including hearings for 33 circuit court nominees. Republicans doubled the pace they were willing to maintain from 1997 through 2000 when it took them 4 years to hold hearings for 33 of President Clinton's circuit court nominees, despite the fact that President Bush's nominees have been much more controversial.

Two weeks after the session began in January 2003, Republicans insisted on holding a hearing for three controversial circuit court nominees on a single panel. This hearing was noticed in less than the time required under the rules and in spite of a bipartisan written agreement that had been adhered to since 1987 that only one controversial judicial nominee would be scheduled at a time. Over the objections of several Members of the Judiciary Committee, that hearing proceeded on the nominations of Jeffrey Sutton, Deborah Cook, and John Roberts to three circuit courts that had been held hostage by Republicans during President Clinton's second term.

The day after that unprecedented hearing in violation of the Thurmond-Biden guideline, Republicans forced a vote on the nomination of Miguel Estrada, even though he had failed to answer the questions of many members of the Committee and the White House

had refused to honor past precedent for information sharing. Republican partisans then took to calling Senate Democrats anti-Hispanic. Such false claims marked a new low. Despite the efforts of some, like Senator BENNETT of Utah, to reach a compromise to allow the Senate to review the work of the nominee, the White House refused. No reasonable employer would hire someone who refused to answer basic questions or provide needed documents. Republicans demanded the Senate proceed with regard to a lifetime appointment without such information.

Republicans began to list judicial nominees for committee consideration even before they had answered the written questions of Senators, let alone answered them responsively. With President Clinton, Republicans refused to list a judicial nominee for a committee vote for weeks and often months and sometimes forever. Suddenly, with a Republican in the White House, Republicans decided that Senators did not really need their questions answered before scheduling a vote. Republican effort to limit the time and quality of the review of these lifetime appointees was disappointing and wrong. Editorial cartoons noted that the Committee was becoming nothing more than a rubber stamp at a conveyor belt factory for judges. This approach undermined advice and consent.

In the final Judiciary Committee meeting in February, Republicans broke another longstanding rule of the Judiciary Committee, rule IV, which had been respected for nearly a quarter of a century. Rule IV requires a member of the minority of the Judiciary Committee to consent to end debate in order to force a vote on a nomination or any other matter. Without consent, Republicans called debate at an end. The claim that the Senate Parliamentarian approved this reading of the rule was undercut when the Parliamentarian advised that his position was that he had no authority to enforce committee rules. The committee that should respect the rule of law chose instead to do away with any rule or precedent Republicans found inconvenient.

In March, Republicans began claiming that filibusters of nominees were ''unprecedented'' and argued that it was unconstitutional to deny a nominee a vote. These claims were another reversal from the party that had blocked votes on more than 60 of President Clinton's judicial nominees and more than 200 of his executive nominees through a variety of procedures. Republicans not only ignored their own recent history in which they unsuccessfully filibustered the nominations of Judge Rosemary Barkett and Judge H. Lee Sarokin, and successfully filibustered the nominations of Dr. Henry Foster and Sam Brown, they sought to rewrite the history of the filibuster of the nomination of Abe Fortas to be Chief Justice of the Supreme Court. The Senate's cloture rule is a departure not from majority rule but from the unanimous consent that has been essential to the character of the Senate. Now that they are in the majority, Republicans have no use for rules protecting the minority or for the historic role of the Senate.

Republicans turned their practices upside down when the very people who insisted on recognition of their prerogatives as home State Senators with regard to judicial nominees chose with a Republican in the White House to disregard the lack of home State Senator support and proceed with hearings and Committee consideration of the nominations of Carolyn Kuhl, Janice Rogers Brown, Henry Saad, Richard Griffin, David McKeague, and Susan Nielson.

Requiring home State Senator support can and often has led to consultation and cooperation between the Senate and the White House. This White House and Senate Republicans who insisted on it without exception during the Clinton years, dispensed with it when it became inconvenient to their goal of stacking the courts and moving them sharply in one direction. To do so, they proceeded in the face of opposition from both home State Senators.

When Republicans were being asked to considering the, nominations of a Democratic President, one negative blue slip from just one home State Senator was enough to doom a nomination and prevent a hearing on that nomination. This included all nominations, including those to the circuit courts. How else to explain the failure to schedule hearings for such qualified and noncontroversial nominees such as James Beatty and James Wynn, African American nominees from North Carolina? What other reason could plausibly be found for what happened to the nominations of Enrique Moreno and Jorge Rangel—both Latino, both Harvard graduates, both highly rated by the ABA, both denied hearings in the Judiciary Committee? Republicans used to excuse their refusal to proceed on President Clinton's nominees because of the absence of home State Senator support. Indeed, in those days, so long as a Republican Senator had an objection, it appeared to be honored, whether that was Senator Helms objecting to an African American nominee from Virginia or Senator Gorton objecting to nominees from California.

Republicans continued to hold hearings on controversial judicial nominees following the party nominating conventions and with the Presidential election just weeks away. Whether they acknowledge it as the Thurmond Rule, or something else, it is a well established practice that in Presidential election years there comes a point when judicial confirmation hearings are not continued without agreement. Republicans used to insist that absent the consent of the minority, we await the results of the election and the inauguration of a new President before moving additional nominees. Republicans lived by this precedent when they ran this Committee in 1996 and later, in 2000. In 1996, when a Democratic President was seeking re-election, the Republican-controlled committee held only one hearing to consider one district court nominee after the August recess, and then never allowed that nominee to have a committee vote. In 2000, the Republican-controlled committee followed the Thurmond Rule to the letter. After the August recess work on judicial nominations came to a halt. Although there were over 30 nominees pending, after July 25 2000, no more judicial nominees were scheduled for hearings or considered by the committee.

Republicans have gone so far as to reverse their practice with President Clinton by holding hearings for nominees for positions in the courts that would not even become vacancies until after the Presidential election. As with everything else, there appears to be one rule for Democrats and no rules or precedents for Republicans.

Little did we know that through most of the time, Republican staff had been stealing Democratic computer files and using them for partisan purposes. When The Wall Street Journal and The Washington Times wrote that they were furnished internal documents, the investigation began. The Capitol Police seized the Judiciary computer hard drives and servers and the Senate Sergeant at Arms began an internal investigation. Staff of the Republican leader and the chairman of the Judiciary Committee resigned and confirmed their involvement. This year, the Sergeant at Arms reported that thousands of files had been stolen over a period of years and found that this partisan spying and stealing may have violated numerous criminal laws. It is a shameful chapter in the history of the Judiciary Committee and the Senate. A Federal criminal investigation is ongoing into this matter, and I look forward to the Justice Department completing that inquiry in the coming year.

The President took the unprecedented steps of renominating controversial nominees on whom the Judiciary Committee had withheld consent and then recess appointed controversial nominees on whom the Senate had withheld its consent. This President has utilized the constitutional recess appointment power as an end-run around the Constitution's advice and consent requirement. This undermines the Senate's institutional role as a check on unfit or unfair nominees to our independent court system. Just as Senate Republicans viewed longstanding rules and precedent as inconvenient, the President treated the Constitution's requirement of Senate consent as an inconvenience and an opportunity for partisan political gain. The President went so far as to try to steal a circuit seat from one State and over objection to award it to another by

nominating a Virginian to fill a traditional Maryland vacancy on the Fourth Circuit.

Most regrettably as well, the White House fanned the flames and refused to tamp down hateful and unfounded claims that amounted to religious McCarthyism. Senate Democrats refused to be cowed by Republican's false charges that they were anti-Hispanic, anti-African American, anti-Christian, antiwoman or antiman. We were none of these things. The fact of the matter is that Democrats were antijudicial zealot, period. Democrats stood up for the independence of the Federal courts and fair, nonpartisan judges for the American people.

These past 2 years we have witnessed the Senate Judiciary Committee and the Senate break with longstanding precedent and Senate tradition. With the Senate and the White House under control of the same political party we have witnessed rule after rule broken or misinterpreted away. The Framer's of the Constitution warned against the dangers of such factionalism, undermining the structural separations of power. Republicans in the Senate have failed to defend the institutional role of this branch as a check on the President in the area of nominations. It weakens our Constitution to have such collusion and forfeits the strength and protections of our separation of powers that was designed to protect all Americans.

From the way that home State Senators are treated to the way hearings are scheduled, to the way the Committee questionnaire was altered unilaterally, to the way our Committee's historic protection of the minority by Committee Rule IV has been violated, to the theft of computer files, Republicans destroyed virtually every rule, precedent, custom and courtesy that used to help create and enforce cooperation and civility in the confirmation process. Their approach to our rules and precedents follows their own partisan version of the golden rule, which is that ''he with the gold, rules.'' It is as if those currently in power believe that they are above our constitutional checks and balances and that they can reinterpret any treaty, law, rule, custom or practice they do not like or they find inconvenient.

Some of these interpretations are so contrary to well-established understandings that it is like we have fallen down the rabbit hole in Alice in Wonderland. I am reminded that the imperious Queen of Hearts rebuked Alice for having insufficient imagination to believe contradictory things, saying that some days she had believed six impossible things before breakfast. I have seen things I thought impossible on the Judiciary Committee and in the Senate, things impossible to square with the past practices of Committee and the history of the Senate.

Under our Constitution, the Senate has a vital role in the selection of our judiciary. The brilliant design of our Founders established that the first two branches of government would work together to equip the third branch to serve as an independent arbiter of justice. The structure of our Constitution and our own Senate rules of self-governance are designed to protect minority rights and to encourage consensus. Despite the razor-thin margin of recent elections, Republicans are not acting in a measured way but in complete disregard for the traditions of bipartisanship that are the hallmark of the Senate. Theirs is a practice of might makes right is wrong. One of the great strengths of the Senate is its role as a continuing body with continuing rules that have, until the 108th Congress, been respected and followed under either Democratic leadership or Republican control. Our rules must not change to give whoever is in the majority the power to jerry rig whatever result is desired.

As the Rev. Martin Luther King wrote in his famous Letter from a Birmingham Jail, ''Let us consider a more concrete example of just and unjust laws. An unjust law is a code that a numerical or power majority group compels a minority group to obey but does not make binding on itself. This is difference made legal. By the same token, a just law is a code that a majority compels a minority to follow and that it is willing to follow itself. This is sameness made legal.''

Fair process is a fundamental component of the American system of law. If we cannot have a fair process in these halls or in our courts, how will the resulting decisions be viewed? If the rule of law is to mean anything it must mean that it applies to all equally.

No man and no party should be above the law. That has been one of the strengths of our democracy. Our country was born in reaction to the autocracy and corruption of King George, and we must not forget our roots as a nation of both law and liberty. The best guarantee of liberty is the rule of law, meaning that the decisions of government are not arbitrary and that rules are not discretionary or enforced to help one side and then ignored to aid another. James Madison, one of the Framers of our Constitution, warned in Federalist No. 47 of the very danger that has threatened our great nation during the 108th Congress, a threat to our freedoms from within: ''[The] accumulation of all powers legislative, executive and judiciary in the same hands . . . may justly be pronounced the very definition of tyranny.''

The American people deserve better governance than we have seen with the destruction of rule after rule by a majority willing to sacrifice the power and precedents of the Senate. Our freedoms as Americans are the fruit of too much sacrifice to have the rules ignored in the United States Senate by partisans colluding with the White House to try to appoint unfit loyalists to courts who have been chosen with the hope that they will re-interpret our great precedents and overturn the very laws that have protected our most fundamental rights as Americans.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

INTERNATIONAL GRANT PROGRAM

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to immediate consideration of Calendar No. 818, S. 2635.

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

The assistant bill clerk read as follows:

A bill (S. 2635) to establish an intergovernmental grant program to identify and develop homeland security information, equipment, capabilities, technologies, and services to further the homeland security needs of the United States and to address the homeland security needs of Federal, State, and local governments.

There being no objection, the Senate proceeded to consider the bill which was reported from the Committee on Governmental Affair with an amendment.

(Strike the parts shown in black brackets and insert the part printed in italic.)

S. 2635

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

[SECTION 1. TECHNOLOGY CLEARINGHOUSE.

[Section 430 of the Homeland Security Act of 2002 (6 U.S.C. 238) is amended—

[(1) in subsection (c)—

[(A) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively; and

[(B) by inserting after paragraph (6) the following:

[''(7) establishing a program to identify, develop, or modify existing or near term homeland security information, equipment, capabilities, technologies, and services to further the homeland security of the United States and to address the homeland security needs of Federal, State, and local governments;'';

[(2) by redesignating subsection (d) as subsection (e); and

[(3) by inserting after subsection (c) the following:

[''(d) HOMELAND SECURITY INFORMATION, EQUIPMENT, CAPABILITIES, TECHNOLOGIES, AND SERVICES GRANT PROGRAM.—

[''(1) IN GENERAL.—In developing the program established under subsection (c)(7), the Secretary, acting through the Director of the Office for Domestic Preparedness and in consultation with the Under Secretary for Science and Technology, shall—

[''(A) conduct a needs assessment of Federal, State, and local governments and first responders to identify—

[''(i) the homeland security needs of Federal, State, and local governments and first responders; and

[''(ii) areas where specific homeland security information, equipment, capabilities, technologies, and services could address those needs;

[''(B) survey near term and existing homeland security information, equipment, capabilities, technologies, and services developed

within the United States and within other countries that—

[''(i) are highly focused on homeland security issues; and

[''(ii) have demonstrated the capability for fruitful cooperation with the United States in the area of counterterrorism; and

[''(C) provide grants, directly or through a nonprofit, nongovernmental organization, to eligible applicants to develop new, or modify existing, homeland security information, equipment, capabilities, technologies, and services to address the needs identified in subparagraph (A).

[''(2) ELIGIBLE APPLICANTS.—An applicant is eligible to receive a grant under this subsection if the applicant—

[''(A) addresses 1 or more needs of Federal, State, and local governments and first responders, as identified through the assessment conducted under paragraph (1)(A);

[''(B) is a joint venture between—

[''(i) a for profit business entity, academic institution, or non–profit entity; and

[''(ii) another entity that has demonstrated capability in the area of counterterrorism or homeland security; and

[''(C) meets any other qualifications that the Secretary may reasonably require.

[''(3) PRIORITY.—The Secretary shall give priority to those applicants who propose to provide the homeland security information, equipment, technologies, or services developed or modified with grant funds to Federal, State, and local governments and first responders.

[''(4) MATCHING REQUIREMENT.—The Secretary may require a recipient of a grant under this subsection to make available non-Federal matching contributions in an amount equal to up to 50 percent of the total proposed cost of the project for which the grant was awarded.

[''(5) GRANT REPAYMENT.—The Secretary may require a recipient of a grant under this subsection to repay to the Secretary the amount of the grant, interest at an appropriate rate, and such charges for administration of the grant as the Secretary determines appropriate. The Secretary may not require that such repayment be more than 150 percent of the amount of the grant, adjusted for inflation on the basis of the Consumer Price Index.

[''(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $25,000,000 for fiscal year 2005 to carry out the grant program established under this subsection.''.

[SEC. 2. HOMELAND SECURITY INFORMATION, EQUIPMENT, CAPABILITIES, TECHNOLOGIES, AND SERVICES GRANT PROGRAM.

[Section 313 of the Homeland Security Act of 2002 (6 U.S.C. 193) is amended—

[(1) by redesignating subsection (c) as subsection (d); and

[(2) by inserting after subsection (b) the following:

[''(c) HOMELAND SECURITY INFORMATION, EQUIPMENT, CAPABILITIES, TECHNOLOGIES, AND SERVICES GRANT PROGRAM.—In developing the program described in section 430(d), the Under Secretary for Science and Technology shall assist the Director of the Office for Domestic Preparedness by reviewing, testing, and evaluating applications or proposals.''.]

SECTION 1. FINDINGS.

Congress finds the following:

(1) The development and implementation of technology is a crucial component of combating terrorism and implementing homeland security strategies.

(2) The Government of Israel and companies in Israel have extensive experience with matters pertaining to homeland security generally, and antiterrorism specifically, including expertise in the fields of border integrity, transportation security, first responder equipment, and civil defense planning.

(3) The United States and Israel have an extensive history of working cooperatively and successfully to assist with the development of agricultural, defense, telecommunications, and other technologies that are mutually beneficial to each country, as exemplified by the success of the Binational Industrial Research and Development Foundation (referred to in this section as the ''BIRD Foundation'').

(4) Initiated in 1977 as a grant program, funded equally by the Governments of the United States and Israel in support of joint ventures between businesses in the United States and in Israel, the BIRD Foundation has invested $180,000,000 in 600 projects over the past 27 years and has realized $7,000,000,000 in sales and the development of a number of important technologies.

(5) The establishment of a similar binational program, or the expansion of the BIRD Foundation, to support the development of technologies and services applicable to homeland security would be beneficial to the security of the United States and Israel and would strengthen the economic ties between the two countries.

SEC. 2. UNITED STATES-ISRAEL HOMELAND SECURITY GRANT PROGRAM.

(a) ESTABLISHMENT.—There is established a program between the United States and Israel to identify, develop, or modify existing or near term homeland security information, equipment, capabilities, technologies, and services to further the homeland security of the United States and to address the homeland security needs of Federal, State, and local governments.

(b) HOMELAND SECURITY NEEDS ASSESSMENT.—In carrying out the program established under subsection (a), the Secretary of Homeland Security shall—

(1) conduct a needs assessment of Federal, State, and local governments and first responders to identify—

(A) the homeland security needs of Federal, State, and local governments and first responders; and

(B) areas where specific homeland security information, equipment, capabilities, technologies, and services could address those needs;

(2) survey near term and existing homeland security information, equipment, capabilities, technologies, and services developed within the United States and Israel; and

(3) provide grants, directly or through a nonprofit, nongovernmental organization, to eligible applicants to develop, manufacture, sell, or otherwise provide homeland security information, equipment, capabilities, technologies, and services to address the needs identified under paragraph (1).

(c) ELIGIBLE APPLICANTS.—An applicant is eligible to receive a grant under this section if the applicant—

(1) addresses one or more needs of Federal, State, and local governments and first responders, as identified through the assessment conducted under subsection (b)(1) or homeland security needs otherwise identified by the Department of Homeland Security;

(2) is a joint venture between—

(A) a for profit business entity, academic institution, or non-profit entity in the United States and a for profit business entity, academic institution, or non-profit entity in Israel; or

(B) the government of the United States and the government of Israel; and

(3) meets any other qualifications that the Secretary may reasonably require.

(d) APPLICATION.—Each eligible applicant seeking a grant under this section shall submit to the Secretary of Homeland Security, or the head of a nonprofit, nongovernmental organization authorized by the Secretary to award such grants, an application that contains—

(1) the identification of the joint venture applying for the grant and the identity of each entity participating in the joint venture;

(2) a description of the product or service with applications related to homeland security that the applicant is developing, manufacturing, or selling;

(3) the development, manufacturing, sales, or other activities related to such product or service that the applicant is seeking to carry out with grant funds;

(4) a detailed capital budget for such product or service, including the manner in which the grant funds will be allocated and expended; and

(5) such other information as the Secretary of Homeland Security may reasonably require.

(e) ADVISORY BOARD.—

(1) ESTABLISHMENT.—If the Secretary of Homeland Security makes funds available to a nonprofit, nongovernmental organization to award grants to eligible applicants, the Secretary shall establish an advisory board to monitor how such grants are awarded.

(2) MEMBERSHIP.—The advisory board shall be comprised of—

(A) an appropriate representative of the Government of the United States, as designated by the Secretary of Homeland Security; and

(B) an official designated by the Government of Israel.

(f) ADDITIONAL CONDITION.—

(1) IN GENERAL.—The Secretary of Homeland Security may impose a condition that the Government of Israel contribute an amount that the Secretary determines to be appropriate toward a project to be funded by a grant under this section before the disbursement of proceeds of such grant.

(2) LIMITATION.—The Secretary may not prescribe a condition that requires a contribution toward the project from the Government of Israel of an amount in excess of the amount of the grant awarded under this section for such project.

(g) PRIORITY.—The Secretary of Homeland Security shall give priority to those applicants who propose to market the homeland security information, equipment, technologies, or services developed or modified with grant funds to Federal, State, and local governments and first responders.

(h) MATCHING REQUIREMENT.—The Secretary of Homeland Security may require a recipient of a grant under this section to make available non-Federal matching contributions in an amount equal to up to 50 percent of the total proposed cost of the project for which the grant was awarded.

(i) GRANT REPAYMENT.—The Secretary of Homeland Security may, as appropriate, require a recipient of a grant under this section to repay to the Secretary, or the nonprofit, nongovernmental entity designated by the Secretary, the amount of the grant, interest at an appropriate rate, and such charges for administration of the grant as the Secretary determines appropriate. The Secretary may not require that such repayment be more than 150 percent of the amount of the grant, adjusted for inflation on the basis of the Consumer Price Index.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Homeland Security to carry out the grant program established under this section—

(1) $25,000,000 for fiscal year 2005; and

(2) such sums as may be necessary for fiscal year 2006.

Mr. FRIST. Mr. President, I ask unanimous consent that the amendment at the desk be agreed to, the committee substitute amendment, as amended, be agreed to, the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 4077) was agreed to, as follows:

On page 9, line 10, after ''institution,'' insert ''Department of Energy national laboratory,''.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 2635), as amended, was read a third time and passed, as follows:

S. 2635

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

SECTION 1. FINDINGS.

Congress finds the following:

(1) The development and implementation of technology is a crucial component of combating terrorism and implementing homeland security strategies.

(2) The Government of Israel and companies in Israel have extensive experience with matters pertaining to homeland security generally, and antiterrorism specifically, including expertise in the fields of border integrity, transportation security, first responder equipment, and civil defense planning.

(3) The United States and Israel have an extensive history of working cooperatively and successfully to assist with the development of agricultural, defense, telecommunications, and other technologies that are mutually beneficial to each country, as exemplified by the success of the Binational Industrial Research and Development Foundation (referred to in this section as the ''BIRD Foundation'').

(4) Initiated in 1977 as a grant program, funded equally by the Governments of the United States and Israel in support of joint ventures between businesses in the United States and in Israel, the BIRD Foundation has invested $180,000,000 in 600 projects over the past 27 years and has realized $7,000,000,000 in sales and the development of a number of important technologies.

(5) The establishment of a similar binational program, or the expansion of the BIRD Foundation, to support the development of technologies and services applicable to homeland security would be beneficial to the security of the United States and Israel and would strengthen the economic ties between the two countries.

SEC. 2. UNITED STATES-ISRAEL HOMELAND SECURITY GRANT PROGRAM.

(a) ESTABLISHMENT.—There is established a program between the United States and Israel to identify, develop, or modify existing or near term homeland security information, equipment, capabilities, technologies, and services to further the homeland security of the United States and to address the homeland security needs of Federal, State, and local governments.

(b) HOMELAND SECURITY NEEDS ASSESSMENT.—In carrying out the program established under subsection (a), the Secretary of Homeland Security shall—

(1) conduct a needs assessment of Federal, State, and local governments and first responders to identify—

(A) the homeland security needs of Federal, State, and local governments and first responders; and

(B) areas where specific homeland security information, equipment, capabilities, technologies, and services could address those needs;

(2) survey near term and existing homeland security information, equipment, capabilities, technologies, and services developed within the United States and Israel; and

(3) provide grants, directly or through a nonprofit, nongovernmental organization, to eligible applicants to develop, manufacture, sell, or otherwise provide homeland security information, equipment, capabilities, technologies, and services to address the needs identified under paragraph (1).

(c) ELIGIBLE APPLICANTS.—An applicant is eligible to receive a grant under this section if the applicant—

(1) addresses one or more needs of Federal, State, and local governments and first responders, as identified through the assessment conducted under subsection (b)(1) or homeland security needs otherwise identified by the Department of Homeland Security;

(2) is a joint venture between—

(A) a for profit business entity, academic institution, Department of Energy national laboratory, or non-profit entity in the United States and a for profit business entity, academic institution, or non-profit entity in Israel; or

(B) the government of the United States and the government of Israel; and

(3) meets any other qualifications that the Secretary may reasonably require.

(d) APPLICATION.—Each eligible applicant seeking a grant under this section shall submit to the Secretary of Homeland Security, or the head of a nonprofit, nongovernmental organization authorized by the Secretary to award such grants, an application that contains—

(1) the identification of the joint venture applying for the grant and the identity of each entity participating in the joint venture;

(2) a description of the product or service with applications related to homeland security that the applicant is developing, manufacturing, or selling;

(3) the development, manufacturing, sales, or other activities related to such product or service that the applicant is seeking to carry out with grant funds;

(4) a detailed capital budget for such product or service, including the manner in which the grant funds will be allocated and expended; and

(5) such other information as the Secretary of Homeland Security may reasonably require.

(e) ADVISORY BOARD.—

(1) ESTABLISHMENT.—If the Secretary of Homeland Security makes funds available to a nonprofit, nongovernmental organization to award grants to eligible applicants, the Secretary shall establish an advisory board to monitor how such grants are awarded.

(2) MEMBERSHIP.—The advisory board shall be comprised of—

(A) an appropriate representative of the Government of the United States, as designated by the Secretary of Homeland Security; and

(B) an official designated by the Government of Israel.

(f) ADDITIONAL CONDITION.—

(1) IN GENERAL.—The Secretary of Homeland Security may impose a condition that the Government of Israel contribute an amount that the Secretary determines to be appropriate toward a project to be funded by a grant under this section before the disbursement of proceeds of such grant.

(2) LIMITATION.—The Secretary may not prescribe a condition that requires a contribution toward the project from the Government of Israel of an amount in excess of the amount of the grant awarded under this section for such project.

(g) PRIORITY.—The Secretary of Homeland Security shall give priority to those applicants who propose to market the homeland security information, equipment, technologies, or services developed or modified with grant funds to Federal, State, and local governments and first responders.

(h) MATCHING REQUIREMENT.—The Secretary of Homeland Security may require a recipient of a grant under this section to make available non-Federal matching contributions in an amount equal to up to 50 percent of the total proposed cost of the project for which the grant was awarded.

(i) GRANT REPAYMENT.—The Secretary of Homeland Security may, as appropriate, require a recipient of a grant under this section to repay to the Secretary, or the nonprofit, nongovernmental entity designated by the Secretary, the amount of the grant, interest at an appropriate rate, and such charges for administration of the grant as the Secretary determines appropriate. The Secretary may not require that such repayment be more than 150 percent of the amount of the grant, adjusted for inflation on the basis of the Consumer Price Index.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Homeland Security to carry out the grant program established under this section—

(1) $25,000,000 for fiscal year 2005; and

(2) such sums as may be necessary for fiscal year 2006.

SENATE NATIONAL SECURITY WORKING GROUP

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 480, which was introduced by Senator FRIST earlier today.

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

The assistant legislative clerk read as follows:

A resolution (S. Res. 480) extending the authority for the Senate National Security Working Group.

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

Mr. FRIST. 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 resolution (S. Res. 480) was agreed to, as follows:

S. RES. 480

Resolved, That Senate Resolution 105 of the One Hundred First Congress, 1st session (agreed to on April 13, 1989), as amended by Senate Resolution 149 of the One Hundred Third Congress, 1st session (agreed to on October 5, 1993), as further amended by Senate Resolution 75 of the One Hundred Sixth Congress, 1st session (agreed to on March 25, 1999), as further amended by Senate Resolution 383 of the One Hundred Sixth Congress, 2d session (agreed to on October 27, 2000), and as further amended by Senate Resolution 355 of the One Hundred Seventh Congress, 2d session (agreed to on November 13, 2002), is further amended—

(1) in section (1)(a)(3)—

(A) by striking subparagraph (B);

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting after subparagraph (A) the following new subparagraphs:

''(B) The Working Group may also study any issues related to national security that

the Majority Leader and Minority Leader jointly determine appropriate.

''(C) In addition, the Working Group is encouraged to consult with parliamentarians and legislators of foreign nations and to participate in international forums and institutions regarding the matters described in subparagraphs (A) and (B).'';

(2) by striking each section designated as section 4; and

(3) by adding at the end the following new section:

''SEC. 4. The provisions of this resolution shall remain in effect until December 31, 2006.''.

COMMENDING RICHARD WINTERS AND THE MEN OF EASY COMPANY, 101ST AIRBORNE DIVISION

Mr. FRIST. Mr. President, I ask unanimous consent the Senate proceed to the consideration of S. Res. 481 submitted by Senator SANTORUM earlier today.

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

The assistant legislative clerk read as follows:

A resolution (S. Res. 481) expressing the gratitude and appreciation of the Senate for the acts of heroism and military achievement of Major Richard D. Winters (Ret.) during World War II, and commending him for leadership and valor in leading the men of Easy Company.

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

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble 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 resolution (S. Res. 481) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 481

Whereas historians have written that World War II began on September 1, 1939, when Nazi Germany, without a declaration of war, invaded Poland; and following Poland's surrender, the Nazis quickly moved to invade and occupy Denmark, Norway, Luxembourg, the Netherlands, and Belgium;

Whereas following the Japanese sneak attack on the United States at Pearl Harbor, Hawaii on December 7, 1941, the United States declared war on Japan and entered the conflict on the side of freedom and democracy;

Whereas when the fate of the free world was in jeopardy as a direct result of Adolf Hitler and the Nazi regime's desire for world conquest, the ''greatest generation ever'' took up the task of ridding the world of Nazi and Fascist regimes;

Whereas in 1944 the military forces of the United States, the United Kingdom, and Canada landed at 5 beaches (Utah Beach, Omaha Beach, Gold Beach, Juno Beach, and Sword Beach) in Normandy, France with the goal of liberating Europe from the Nazi forces;

Whereas according to military historians, in preparation for the amphibious invasion at Normandy, Allied planes pounded the Nazi defenders and dropped thousands of paratroopers behind German lines the night before the seaborne landings;

Whereas Major Richard D. Winters (Ret.), a native of Lancaster, Pennsylvania and a graduate of Franklin & Marshall College, served the United States honorably and with great distinction as 1st Lieutenant, Company E, 2nd Battalion, 506th Parachute Infantry Regiment, 101st Airborne Division;

Whereas landing at the town of Ste. Mere-Eglise on June 6, 1944, Lieutenant Winters took command of ''Easy Company'' following the death of the company commander in the airborne drop, and received orders to destroy a four-gun battery of German 105mm howitzers at a French farmhouse named ''Brecourt Manor'', 3 kilometers from Ste. Marie-du-Mont;

Whereas Lieutenant Winters, with only 12 men, proceeded to assault this enemy battery which was directing heavy fire against the 4th Infantry Division as they landed on Utah Beach;

Whereas against great odds, and through extraordinary bravery, Lieutenant Winters and his men were able to overcome a platoon of 50 elite German soldiers guarding the battery;

Whereas Lieutenant Winters personally led the attack and repeatedly exposed himself directly to enemy fire while performing his military duties;

Whereas this gallant action by Lieutenant Winters and his men, 4 of whom gave their lives, and 2 of whom were wounded, saved countless lives among the soldiers of the 4th Infantry Division; and

Whereas Lieutenant Richard D. Winters received the Distinguished Service Cross in recognition of his outstanding military service and achievement during the Normandy campaign: Now, therefore, be it

Resolved, That the Senate—

(1) salutes the accomplishments of Lieutenant Richard D. Winters and the men of ''Easy Company'' for their actions to ensure control over Utah Beach at Normandy;

(2) commends the heroism and bravery shown by Lieutenant Richard D. Winters in the face of death and severe hardship to accomplish his mission and save the lives of Allied Forces landing at Utah Beach;

(3) acknowledges the historical achievements of Lieutenant Richard D. Winters and the men of ''Easy Company'' in assuring the success of the Allied Normandy campaign, begun on June 6, 1944; and

(4) expresses its gratitude for the selfless service of Lieutenant Richard D. Winters, the men of ''Easy Company,'' and all veterans who served in World War II in restoring freedom to the world and for defeating the elements of evil and oppression.

CONGRATULATING THE BOSTON RED SOX ON WINNING THE 2004 WORLD SERIES

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 482, submitted earlier today by Senators Kennedy, Reed, Kerry, and others.

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

The assistant legislative clerk read as follows:

A resolution (S. Res. 482) congratulating the Boston Red Sox on winning the 2004 World Series.

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

Mr. KENNEDY. Mr. President, it is a long awaited—long, long, long awaited—privilege to have this opportunity on the Senate floor this morning to do something that no Member has been able to do for 86 years—congratulate the Boston Red Sox on winning-the World Series.

Red Sox nation is still celebrating.

What a year for sports in Boston, first the New England Patriots win the Super Bowl in football and now the Boston Red Sox are the World Champions in baseball. This feat of the same city winning both the Super Bowl and the World Series in the same year is also rare. It last happened in 1979, when the Pittsburgh Steelers won the Super Bowl and the Pittsburgh Pirates won the World Series. Boston truly is the city of champions. My only regret is that we didn't also manage to win the National Championship this year in the other famed contact sport—American politics.

But my purpose now is to urge my colleagues to support this resolution praising the victory of the Red Sox. That victory was celebrated not only in Boston but in the entire Nation, since Red Sox nation has fans in all 50 States. Fans across the Nation traveled to Boston on October 30 to be part of the 3 million fans who persevered through cold and wet weather to honor the team that they grew up watching and be part of the dramatic victory parade.

The Curse of the Bambino, as it was called, was finally lifted after 86 long years, and we had a World Series victory to celebrate at long last. It was far from an easy victory, but the Sox met the challenges with their never-give-up attitude. They came back from a three games to none deficit and won four straight games to defeat the Yankees and won the American League Pennant, 4 games to 3. The magical ride continued through the World Series that followed, and the Red Sox won another four straight games to defeat the St. Louis Cardinals and won the victory that has escaped us since 1918. And in doing so, winning eight straight playoff games, the Red Sox set a separate major league baseball record as well.

So I welcome this opportunity to salute each of these gifted and dedicated athletes as the modern Red Sox heroes, they are—Mark Bellhorn, Orlando Cabrera, Johnny Damon, Alan Embree, Keith Foulke, Derek Lowe, Pedro Martinez, Kevin Millar, Bill Mueller, Trot Nixon, David Ortiz, Manny Ramirez, Dave Roberts, Curt Schilling, Jason Varitek, and Tim Wakefield.

Red Sox Manager Terry Francona deserves immense credit for guiding the team to this new height, and inspiring all the players to rise to the challenges when the going seemed bleakest against the Yankees in the playoffs last month. They remind me of one of the famous slogans of the Army Air

Corps in World War II—''The difficult we do immediately—the impossible takes a little longer.''

I also congratulate, the president and CEO of the Red Sox, Larry Lucchino, and the team's general manager, Theo Epstein, who were indispensable in building this team of champions.

The owners of the Red Sox, John Henry and Tom Werner, never wavered from their goal of ending the curse and winning the World Series.

My grandfather, John Fitzgerald was Ma or of Boston when Fenway Park first opened in April, 1914, and it was easy to see how much he loved the team in all the years when I was growing up. I am sure he is smiling down now on this year's team as well, and I am delighted that my own grandchildren could savor this year's victory.

For the amazing feat the Boston Red Sox accomplished this year, we are eternally grateful. And this resolution is a way of expressing the gratitude of fans in Boston and across the country for this extraordinary achievement.

Mr. FRIST. 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 intervening action or debate.

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

The resolution (S. Res. 482) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 482

Whereas on October 27, 2004, the Boston Red Sox won their first World Series title in 86 years in a four-game sweep of the St. Louis Cardinals;

Whereas the Red Sox won their sixth world title in the 104-year history of the storied franchise;

Whereas the 2004 Red Sox World Champion team epitomized sportsmanship, selfless play, team spirit, determination, and heart in the course of winning 98 games in the regular season and clinching the American League Wild Card playoff berth;

Whereas the 2004 Red Sox World Champion team honored the careers of all former Red Sox legends, including Joe Cronin, Bobby Doerr, Carlton Fisk, Jimmie Foxx, Carl Yastrzemski, Cy Young, Johnny Pesky, Dom DiMaggio, Jim Rice, and Ted Williams;

Whereas the 2004 postseason produced new Red Sox legends, including Derek Lowe, Pedro Martinez, Curt Schilling, Tim Wakefield, Jason Varitek, Keith Foulke, Manny Ramirez, David Ortiz, Johnny Damon, Trot Nixon, Orlando Cabrera, Kevin Millar, Mike Timlin, Alan Embree, Mark Bellhorn, Bill Mueller, and Dave Roberts;

Whereas Red Sox Manager Terry Francona brought fresh leadership to the clubhouse this year, and brought together a self-proclaimed ''band of idiots'' and made them into one of the greatest Red Sox teams of all time;

Whereas Red Sox owners John Henry and Tom Werner and Red Sox President and Chief Executive Officer Larry Lucchino never wavered from their goal of bringing a World Series Championship to Boston;

Whereas Red Sox General Manager Theo Epstein assembled a team with strong pitching, a crushing offense, and most important, the heart and soul of a champion;

Whereas the Red Sox never trailed in any of the 36 innings of the World Series;

Whereas the Red Sox set a new major league record by winning eight consecutive games in the postseason;

Whereas Derek Lowe, Pedro Martinez, and Curt Schilling delivered gutsy pitching performances in the postseason worthy of their status as some of the best pitchers in Red Sox history;

Whereas the Red Sox starting pitching in Games 2, 3, and 4 of the World Series had a combined earned run average of 0.00;

Whereas Manny Ramirez won the 2004 World Series Most Valuable Player award in the World Series after batting .350 in the postseason with two home runs and 11 runs batted in;

Whereas the Red Sox staged the greatest comeback in baseball history in the American League Championship Series against their rivals, the New York Yankees, by winning four consecutive games after losing the first three games of the series;

Whereas the Red Sox prevailed in four consecutive American League Championship Series games, while producing some of the most memorable moments in sports history, including Dave Roberts stealing second base in the bottom of the ninth inning of Game 4, David Ortiz securing a walk-off home run in the 12th inning of Game 4, David Ortiz singling in the winning run in the bottom of the 14th inning in Game 5, and Johnny Damon making a grand slam in Game 7;

Whereas the entire Red Sox organization has a strong commitment to charitable causes in New England, demonstrated by the team's 51-year support of the Dana-Farber Cancer Institute's Jimmy Fund in the fight against childhood cancers;

Whereas fans of the Red Sox do not live only in Boston or New England, but all across the country and the world, and a grateful ''Red Sox Nation'' thanks the team for bringing a World Championship home to Boston;

Whereas the 2004 Boston Red Sox and their loyal fans believed; and

Whereas this IS next year: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates—

(A) the Boston Red Sox for winning the 2004 Major League Baseball World Series and for their incredible performance during the 2004 Major League Baseball season; and

(B) the eight Major League Baseball teams that played in the postseason;

(2) recognizes the achievements of the Boston Red Sox players, manager, coaches, and support staff whose hard work, dedication, and spirit made this all possible;

(3) commends—

(A) the St. Louis Cardinals for a valiant performance during the 2004 season and the World Series; and

(B) the fans and management of the St. Louis Cardinals for allowing the Red Sox fans from Boston and around the Nation to celebrate their first title in 86 years at their home field; and

(4) directs the Enrolling Clerk of the Senate to transmit an enrolled copy of this resolution to—

(A) the 2004 Boston Red Sox team;

(B) Red Sox Manager Terry Francona;

(C) Red Sox General Manager Theo Epstein;

(D) Red Sox President and Chief Executive Officer Larry Lucchino;

(E) Red Sox Principal Owner John Henry; and

(F) Red Sox Chairman Tom Werner.

MICROENTERPRISE RESULTS AND ACCOUNTABILITY ACT OF 2004

Mr. FRIST. I ask unanimous consent the Senate proceed to the immediate consideration of S. 3027, introduced earlier today by Senator DEWINE.

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

The assistant legislative clerk read as follows:

A bill (S. 3027) to amend the Foreign Assistance Act of 1961 to improve the results and accountability of microenterprise development assistance programs, and for other purposes.

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

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

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

The bill (S. 3027) was read the third time and passed, as follows:

S. 3027

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 ''Microenterprise Results and Accountability Act of 2004''.

SEC. 2. FINDINGS AND POLICY.

Congress finds and declares the following:

(1) Congress has demonstrated its support for microenterprise development assistance programs through the enactment of two comprehensive microenterprise laws:

(A) The Microenterprise for Self-Reliance Act of 2000 (title I of Public Law 106–309; 114 Stat. 1082).

(B) Public Law 108–31 (an Act entitled ''An Act to amend the Microenterprise for Self-Reliance Act of 2000 and the Foreign Assistance Act of 1961 to increase assistance for the poorest people in developing countries under microenterprise assistance program under those Acts, and for other purposes'', approved June 17, 2003).

(2) The report on the effectiveness of the United States Agency for International Development's microfinance program, prepared by the Consultative Group to Assist the Poor, rated the Agency in the top tier of the 17 donors in this field.

(3) The Comptroller General, in a report dated November 2003, found that the United States Agency for International Development has met some, but not all, of the key objectives of such microenterprise development assistance programs.

(4) The Comptroller General's report found, among other things, the following:

(A) Microenterprise development assistance generally can help alleviate some impacts of poverty, improve income levels and quality of life for borrowers and provide poor individuals, workers, and their families with an important coping mechanism.

(B) Microenterprise development assistance programs of the United States Agency for International Development have encouraged women's participation in microfinance projects and, according to data of the Agency, women have comprised two-thirds or more of the micro-loan clients in Agency-funded microenterprise projects since 1997.

(5)(A) The Comptroller General's report recommends that the Administrator of the

United States Agency for International Development review the Agency's ''microenterprise results reporting'' system with the goal of ensuring that its annual reporting is complete and accurate.

(B) Specifically, the Administrator should review and reconsider the methodologies used for the collection, analysis, and reporting of data on annual spending targets, outreach to the very poor, sustainability of microfinance institutions, and the contribution of Agency's funding to the institutions it supports.

SEC. 3. MICROENTERPRISE DEVELOPMENT ASSISTANCE.

Chapter 2 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2166 et seq.) is amended by inserting after title V the following new title:

''TITLE VI—MICROENTERPRISE DEVELOPMENT ASSISTANCE

''SEC. 251. FINDINGS AND POLICY.

''Congress finds and declares the following:

''(1) Access to financial services and the development of microenterprise are vital factors in the stable growth of developing countries and in the development of free, open, and equitable international economic systems.

''(2) It is therefore in the best interest of the United States to facilitate access to financial services and assist the development of microenterprise in developing countries.

''(3) Access to financial services and the development of microenterprises can be supported by programs providing credit, savings, training, technical assistance, business development services, and other financial services.

''(4) Given the relatively high percentage of populations living in rural areas of developing countries, and the combined high incidence of poverty in rural areas and growing income inequality between rural and urban markets, microenterprise programs should target both rural and urban poor.

''(5) Microenterprise programs have been successful and should continue to empower vulnerable women in the developing world. The Agency should work to ensure that recipients of microenterprise and microfinance development assistance under this title communicate and work with nongovernmental organizations and government organizations to identify and assist victims of trafficking as provided for in section 106(a)(1) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104(a)(1); Public Law 106–386) and women who are victims of or susceptible to other forms of exploitation and violence.

''(6) Given that microenterprise programs have been successful in empowering disenfranchised groups such as women, microenterprise programs should also target populations disenfranchised due to race or ethnicity in countries where a strong relationship between poverty and race or ethnicity has been demonstrated, such as countries in Latin America.

''SEC. 252. AUTHORIZATION; IMPLEMENTATION; TARGETED ASSISTANCE.

''(a) AUTHORIZATION.—The President is authorized to provide assistance on a non-reimbursable basis for programs in developing countries to increase the availability of credit, savings, and other services to microfinance and microenterprise clients lacking full access to capital, training, technical assistance, and business development services, through—

''(1) assistance for the purpose of expanding the availability of credit, savings, and other financial and non-financial services to microfinance and microenterprise clients;

''(2) assistance for the purpose of training, technical assistance, and business development services for microenterprises to enable them to make better use of credit, to better manage their enterprises, to conduct market analysis and product development for expanding domestic and international sales, particularly to United States markets, and to increase their income and build their assets;

''(3) capacity-building for microfinance and microenterprise institutions in order to enable them to better meet the credit, savings, and training needs of microfinance and microenterprise clients; and

''(4) policy, regulatory programs, and research at the country level that improve the environment for microfinance and microenterprise clients and institutions that serve the poor and very poor.

''(b) IMPLEMENTATION.—

''(1) OFFICE OF MICROENTERPRISE DEVELOPMENT.—There is established within the Agency an office of microenterprise development, which shall be headed by a Director who shall be appointed by the Administrator and who should possess technical expertise and ability to offer leadership in the field of microenterprise development.

''(2) ADDITIONAL PROVISIONS.—

''(A) USE OF IMPLEMENTING PARTNER ORGANIZATIONS.—Assistance under this section shall emphasize the use of implementing partner organizations that best meet the requirements of subparagraph (C).

''(B) USE OF CENTRAL FUNDING MECHANISMS.—

''(i) PROGRAM.—In order to ensure that assistance under this title is distributed effectively and efficiently, the office shall also seek to implement a program of central funding under which assistance is administered directly by the office, including through targeted core support for microfinance and microenterprise networks and other practitioners.

''(ii) FUNDING.—Of the amount made available to carry out this subtitle for a fiscal year, not less than $25,000,000 should be made available to carry out clause (i).

''(C) EFFICIENCY AND COST-EFFECTIVENESS.—Assistance under this section shall meet high standards of efficiency, cost-effectiveness, and sustainability and shall especially provide the greatest possible resources to the poor and very poor. When administering assistance under this section, the Administrator shall—

''(i) take into consideration the percentage of funds a provider of assistance intends to expend on administrative costs;

''(ii) take all appropriate steps to ensure that the provider of assistance keeps administrative costs as low as practicable to ensure the maximum amount of funds are used for directly assisting microfinance and microenterprise clients, for establishing sustainable microfinance and microenterprise institutions, or for advancing the microenterprise development field; and

''(iii) give preference to proposals from providers of assistance that are the most technically competitive and have a reasonable allocation to overhead and administrative costs.

''(3) APPROVAL OF STRATEGIC PLANS.—With respect to assistance provided under this section, the office shall be responsible for concurring in the microenterprise development components of strategic plans of missions, bureaus, and other offices of the Agency and providing technical support to field missions to help the missions prepare such components.

''(c) TARGETED ASSISTANCE.—In carrying out sustainable poverty-focused programs under subsection (a), 50 percent of all microenterprise resources shall be targeted to clients who are very poor. Specifically, until September 30, 2006, such resources shall be used for—

''(1) support of programs under this section through practitioner institutions that—

''(A) provide credit and other financial services to clients who are very poor, with loans in 1995 United States dollars of—

''(i) $1,000 or less in the Europe and Eurasia region;

''(ii) $400 or less in the Latin America region; and

''(iii) $300 or less in the rest of the world; and

''(B) can cover their costs in a reasonable time period; or

''(2) demand-driven business development programs that achieve reasonable cost recovery that are provided to clients holding poverty loans (as defined by the regional poverty loan limitations in paragraph (1)(A)), whether they are provided by microfinance institutions or by specialized business development services providers.

''SEC. 253. MONITORING SYSTEM.

''(a) IN GENERAL.—In order to maximize the sustainable development impact of assistance authorized under section 252(a), the Administrator of the Agency, acting through the Director of the office, shall strengthen its monitoring system to meet the requirements of subsection (b).

''(b) REQUIREMENTS.—The requirements referred to in subsection (a) are the following:

''(1) The monitoring system shall include performance goals for the assistance and expresses such goals in an objective and quantifiable form, to the extent feasible.

''(2) The monitoring system shall include performance indicators to be used in measuring or assessing the achievement of the performance goals described in paragraph (1) and the objectives of the assistance authorized under section 252.

''(3) The monitoring system provides a basis for recommendations for adjustments to the assistance to enhance the sustainability and the impact of the assistance, particularly the impact of such assistance on the very poor, particularly poor women.

''(4) The monitoring system adopts the widespread use of proven and effective poverty assessment tools to successfully identify the very poor and ensure that they receive adequate access to microenterprise loans, savings, and assistance.

''SEC. 254. DEVELOPMENT AND CERTIFICATION OF POVERTY MEASUREMENT METHODS; APPLICATION OF METHODS.

''(a) DEVELOPMENT AND CERTIFICATION.—

''(1) IN GENERAL.—The Administrator of the Agency, in consultation with microenterprise institutions and other appropriate organizations, shall develop no fewer than two low-cost methods for implementing partner organizations to use to assess the poverty levels of their current incoming or prospective clients. The Administrator shall develop poverty indicators that correlate with the circumstances of the very poor.

''(2) FIELD TESTING.—The Administrator shall field-test the methods developed under paragraph (1). As part of the testing, institutions and programs may use the methods on a voluntary basis to demonstrate their ability to reach the very poor.

''(3) CERTIFICATION.—Not later than April 1, 2005, the Administrator shall, from among the low-cost poverty measurement methods developed under paragraph (1), certify no fewer than two such methods as approved methods for measuring the poverty levels of current, incoming, or prospective clients of microenterprise institutions for purposes of assistance under section 252.

''(b) APPLICATION.—The Administrator shall require that, with reasonable exceptions, all implementing partner organizations applying for microenterprise assistance under this title use one of the certified methods, beginning not later than October 1, 2006,

to determine and report the poverty levels of current, incoming, or prospective clients.

"SEC. 255. AVAILABILITY OF FUNDS; ADDITIONAL AUTHORITIES.

''(2) Notwithstanding any other provision of law, amounts made available for assistance for microenterprise development assistance under any provision of law other than this title may be provided to further the purposes of this title. To the extent assistance described in the preceding sentence is provided in accordance with such sentence, the Administrator of the Agency shall include, as part of the report required under section 258, a detailed description of such assistance and, to the extent applicable, the information required by paragraphs (1) through (11) of subsection (b) of such section with respect to such assistance.''.

SEC. 4. MICROENTERPRISE DEVELOPMENT CREDITS.

(a) TRANSFER.—Section 108 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151f) is hereby—

(1) transferred from chapter 1 of part I of the Foreign Assistance Act of 1961 to title VI of chapter 2 of part I of such Act (as added by section 3 of this Act); and

(2) inserted after section 255 of the Foreign Assistance Act of 1961.

(b) REDESIGNATION.—Title VI of chapter 2 of part I of the Foreign Assistance Act of 1961 is amended by redesignating section 108 (as added by subsection (a)) as section 256.

(c) CONFORMING AMENDMENTS.—Title VI of chapter 2 of part I of the Foreign Assistance Act of 1961 is amended—

(1) by inserting after the title heading the following:

''Subtitle A—Grant Assistance'';

(2) by inserting after section 255 the following:

''Subtitle B—Credit Assistance''; and

(3) in section 256 (as redesignated by subsection (b))—

(A) in the matter preceding paragraph (1) of subsection (c), by striking ''Administrator of the agency primarily responsible for administering this part'' and inserting ''Administrator of the Agency''; and

(B) in subsection (f)(1)—

(i) by striking ''section 131'' and inserting ''this part''; and

(ii) by striking ''for each of fiscal years 2001 through 2004'' and inserting ''for fiscal year 2005 and such sums as may be necessary for each of the fiscal years 2006 through 2009''.

SEC. 5. UNITED STATES MICROFINANCE LOAN FACILITY.

(a) TRANSFER.—Section 132 of the Foreign Assistance Act of 1961 (22 U.S.C. 2152b) is hereby—

(1) transferred from chapter 1 of part I of the Foreign Assistance Act of 1961 to title VI of chapter 2 of part I of such Act (as added by section 3 of this Act); and

(2) inserted after section 256 of the Foreign Assistance Act of 1961 (as added by section 4 of this Act).

(b) REDESIGNATION.—Title VI of chapter 2 of part I of the Foreign Assistance Act of 1961 is amended by redesignating section 132 (as added by subsection (a)) as section 257.

(c) CONFORMING AMENDMENTS.—Title VI of chapter 2 of part I of the Foreign Assistance Act of 1961 is amended—

(1) by inserting after section 256 the following:

''Subtitle C—United States Microfinance Loan Facility''; and

(2) in section 257 (as redesignated by subsection (b))—

(A) in subsection (b)(3), by striking ''2001 and 2002'' and inserting ''2005 through 2009'';

(B) in the matter preceding subparagraph (A) of subsection (d)(1), by striking ''this part for the fiscal year 2001, up to $5,000,000'' and inserting ''this part, up to $5,000,000 for fiscal year 2005 and such sums as may be necessary for each of the fiscal years 2006 through 2009,''; and

(C) by striking subsection (e).

SEC. 6. MISCELLANEOUS PROVISIONS.

Title VI of chapter 2 of part I of the Foreign Assistance Act of 1961 (as added by section 3 of this Act and amended by sections 4 and 5 of this Act) is further amended by adding at the end the following new subtitle:

''Subtitle D—Miscellaneous Provisions

"SEC. 258. REPORT.

''(a) IN GENERAL.—Not later than June 30, 2006, and each June 30 thereafter, the Administrator of the Agency, acting through the Director of the office, shall submit to the appropriate congressional committees a report that contains a detailed description of the implementation of this title for the previous fiscal year.

''(b) CONTENTS.—The report shall contain the following:

''(1) The number of grants, cooperative agreements, contracts, contributions, or other form of assistance provided under section 252, with a listing of—

''(A) the amount of each grant, cooperative agreement, contract, contribution, or other form of assistance;

''(B) the name of each recipient and each developing country with respect to which projects or activities under the grant, cooperative agreement, contract, contribution, or other form of assistance were carried out; and

''(C) a listing of the number of countries receiving assistance authorized by section 252.

''(2) The results of the monitoring system required under section 253.

''(3) The process of developing and applying poverty assessment procedures required under section 254.

''(4) The percentage of assistance furnished under section 252 that was allocated to the very poor based on the data collected using the certified methods required by section 254.

''(5) The estimated number of the very poor reached with assistance provided under section 252.

''(6) The amount of assistance provided under section 252 through central mechanisms.

''(7) The name of each country that receives assistance under section 256 and the amount of such assistance.

''(8) Information on the efforts of the Agency to ensure that recipients of United States microenterprise and microfinance development assistance work closely with nongovernmental organizations and foreign governments to identify and assist victims or potential victims of severe forms of trafficking in persons and women who are victims of or susceptible to other forms of exploitation and violence.

''(9) Any additional information relating to the provision of assistance authorized by this title, including the use of the poverty measurement tools required by section 254, or additional information on assistance provided by the United States to support microenterprise development under this title or any other provision of law.

''(10) An estimate of the percentage of beneficiaries of assistance under this title in countries where a strong relationship between poverty and race or ethnicity has been demonstrated.

''(11) The level of funding provided through contracts, the level of funding provided through grants, contracts, and cooperative agreements that is estimated to be subgranted or subcontracted, as the case may be, to direct service providers, and an analysis of the comparative cost-effectiveness and sustainability of projects carried out under these mechanisms.

''(c) AVAILABILITY TO PUBLIC.—The report required by this section shall be made available to the public on the Internet website of the Agency.

"SEC. 259. DEFINITIONS.

'' In this title:

''(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Agency.

''(2) AGENCY.—The term 'Agency' means the United States Agency for International Development.

''(3) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

''(4) BUSINESS DEVELOPMENT SERVICES.—The term 'business development services' means support for the growth of microenterprises through training, technical assistance, marketing assistance, improved production technologies, and other related services.

''(5) DIRECTOR.—The term 'Director' means the Director of the office.

''(6) IMPLEMENTING PARTNER ORGANIZATION.—The term 'implementing partner organization' means an entity eligible to receive assistance under this title which is—

''(A) a United States or an indigenous private voluntary organization;

''(B) a United States or an indigenous credit union;

''(C) a United States or an indigenous cooperative organization;

''(D) an indigenous governmental or nongovernmental organization;

''(E) a microenterprise institution;

''(F) a microfinance institution; or

''(G) a practitioner institution.

''(7) MICROENTERPRISE INSTITUTION.—The term 'microenterprise institution' means a not-for-profit entity that provides services, including microfinance, training, or business development services, for microenterprise clients in foreign countries.

''(8) MICROFINANCE INSTITUTION.—The term 'microfinance institution' means a not-for-profit entity or a regulated financial intermediary that directly provides, or works to expand, the availability of credit, savings, and other financial services to microfinance and microenterprise clients in foreign countries.

''(9) MICROFINANCE NETWORK.—The term 'microfinance network' means an affiliated group of practitioner institutions that provides services to its members, including financing, technical assistance, and accreditation, for the purpose of promoting the financial sustainability and societal impact of microenterprise assistance.

''(10) OFFICE.—The term 'office' means the office of microenterprise development established under section 252(b)(1).

''(11) PRACTITIONER INSTITUTION.—The term 'practitioner institution' means a not-for-profit entity or a regulated financial intermediary, including a microfinance network, that provides services, including microfinance, training, or business development services, for microfinance and microenterprise clients, or provides assistance to microenterprise institutions in foreign countries.

''(12) PRIVATE VOLUNTARY ORGANIZATION.—The term 'private voluntary organization' means a not-for-profit entity that—

''(A) engages in and supports activities of an economic or social development or humanitarian nature for citizens in foreign countries; and

''(B) is incorporated as such under the laws of the United States, including any of its

states, territories or the District of Columbia, or of a foreign country.

''(13) UNITED STATES-SUPPORTED MICROFINANCE INSTITUTION.—The term 'United States-supported microfinance institution' means a financial intermediary that has received funds made available under this part for fiscal year 1980 or any subsequent fiscal year.

''(14) VERY POOR.—The term 'very poor' means those individuals—

''(A) living in the bottom 50 percent below the poverty line established by the national government of the country in which those individuals live; or

''(B) living on less than the equivalent of $1 per day (as calculated using the purchasing power parity (PPP) exchange rate method).''.

SEC. 7. SENSE OF CONGRESS.

It is the sense of Congress that, in carrying out title VI of chapter 2 of part I of the Foreign Assistance Act of 1961 (as added by section 3 of this Act and amended by sections 4 through 6 of this Act), the Administrator of the United States Agency for International Development—

(1) where applicable, should ensure that microenterprise development assistance provided under such title is matched by recipients with an equal amount of assistance from non-United States Government sources, including private donations, multilateral funding, commercial and concessional borrowing, savings, and program income;

(2) should include in the report required by section 258 of the Foreign Assistance Act of 1961 (as added by section 6 of this Act) a description of all matching assistance (as described in paragraph (1)) provided for the prior year by recipients of microenterprise development assistance under such title;

(3) should ensure that recipients of microenterprise development assistance under such title do not expend an unreasonably large percentage of such assistance on administrative costs;

(4) should not use recipients of microenterprise development assistance under such title to carry out critical management functions of the Agency, including functions such as strategy development or overall management of programs in a country; and

(5) should consult with the appropriate congressional committees with respect to the implementation of title VI of chapter 2 of part I of the Foreign Assistance Act of 1961 not later than 90 days after the date of the enactment of this Act.

SEC. 8. REPEALS.

(a) FOREIGN ASSISTANCE ACT OF 1961.—Section 131 of the Foreign Assistance Act of 1961 (22 U.S.C. 2152a) is hereby repealed.

(b) PUBLIC LAW 108–31.—

(1) IN GENERAL.—Section 4 of Public Law 108–31 (22 U.S.C. 2151f note) is amended by striking subsection (b).

(2) CONFORMING AMENDMENT.—Section 4 of Public Law 108–31 is amended by striking ''(a)'' and all that follows through ''Not later'' and inserting ''Not later''.

SEC. 9. REFERENCES.

Any reference in a law, regulation, agreement, or other document of the United States to section 108, 131, or 132 of the Foreign Assistance Act of 1961 shall be deemed to be a reference to subtitle B of title VI of chapter 2 of part I of the Foreign Assistance Act of 1961, subtitle A of title VI of chapter 2 of part I of such Act, or subtitle C of title VI of chapter 2 of part I of such Act, respectively.

COMMODITY ASSESSMENT, PROTECTION, AND REFORM ACT

Mr. FRIST. I ask unanimous consent to proceed to the immediate consideration of Calendar No. 752, S. 2866.

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

The assistant legislative clerk read as follows:

A bill (S. 2866) to amend the Farm Security and Rural Investment Act of 2002 to clarify the authority of the Secretary of Agriculture and the Commodity Credit Corporation to enter into memorandums of understanding with a State regarding the collection of approved State commodity assessments on behalf of the State from the proceeds of marketing assistance loans.

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

Mr. FRIST. I ask unanimous consent the bill be read the third time and passed, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

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

The bill (S. 2866) was read the third time and passed, as follows:

S. 2866

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 ''Commodity Assessment, Protection, and Reform Act''.

SEC. 2. COLLECTION OF COMMODITY ASSESSMENTS.

Subtitle B of title I of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7931 et seq.) is amended by adding at the end the following:

''SEC. 1210. COLLECTION OF COMMODITY ASSESSMENTS.

''(a) DEFINITION OF ASSESSMENT.—In this section, the term 'assessment' means funds that are—

''(1) collected with respect to a specific commodity in accordance with this Act;

''(2) paid by the first purchaser of the commodity in accordance with a State law or this title; and

''(3) not collected through a tax or other revenue collection activity of a State.

''(b) AUTHORITY TO COLLECT COMMODITY ASSESSMENTS FROM MARKETING ASSISTANCE LOANS.—The Secretary may collect commodity assessments from the proceeds of a marketing assistance loan made under this subtitle in accordance with an agreement between the Secretary and the State.''.

HIPAA RECREATIONAL INJURY TECHNICAL CORRECTION ACT

Mr. FRIST. I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 779, S. 423.

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

The assistant legislative clerk read as follows:

A bill (S. 423) a bill to promote health care coverage parity for individuals participating in legal recreational activities or legal transportation activities.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Health, Education, Labor, and Pensions, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 423

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 ''Health Care Parity for Legal Transportation and Recreational Activities Act''.

[SEC. 2. COVERAGE AMENDMENTS.

[(a) ERISA.—Section 702(a)(2)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182(a)(2)(B)) is amended by inserting before the period the following: '', except that a plan or issuer may not deny benefits otherwise provided for the treatment of an injury solely because such injury resulted from participation of the participant or beneficiary in an activity such as motorcycling, snowmobiling, all-terrain vehicle riding, horseback riding, skiing or other similar legal activity''.

[(b) PHSA.—Section 2702(a)(2)(B) of the Public Health Service Act (42 U.S.C. 300gg–1(a)(2)(B)) is amended by inserting before the period the following: '', except that a plan or issuer may not deny benefits otherwise provided for the treatment of an injury solely because such injury resulted from participation of the enrollee in an activity such as motorcycling, snowmobiling, all-terrain vehicle riding, horseback riding, skiing or other similar legal activity''.

[(c) INTERNAL REVENUE CODE.—Section 9802(a)(2)(B) of the Internal Revenue Code of 1986 is amended by inserting before the period the following: '', except that a plan or issuer may not deny benefits otherwise provided for the treatment of an injury solely because such injury resulted from participation of the enrollee in an activity such as motorcycling, snowmobiling, all-terrain vehicle riding, horseback riding, skiing or other similar legal activity''.]

SECTION 1. SHORT TITLE.

This Act may be cited as the ''HIPAA Recreational Injury Technical Correction Act''.

SEC. 2. COVERAGE AMENDMENTS.

(a) ERISA.—Section 702(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182(a)(3)) is amended—

(1) by striking ''CONSTRUCTION.—For'' and inserting the following: ''SCOPE.—

''(A) WAITING PERIODS.—For''; and

(2) by adding at the end the following:

''(B) LIMITATION ON DENIAL OF BENEFITS.—For purposes of paragraph (2), a group health plan, or a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not deny benefits otherwise provided under the plan or coverage for the treatment of an injury solely because such injury resulted from the participation of the individual in a legal mode of transportation or a legal recreational activity.''.

(b) PHSA.—Section 2702(a)(3) of the Public Health Service Act (42 U.S.C. 300gg–1(a)(3)) is amended—

(1) by striking ''CONSTRUCTION.—For'' and inserting the following: ''SCOPE.—

''(A) WAITING PERIODS.—For''; and

(2) by adding at the end the following:

''(B) LIMITATION ON DENIAL OF BENEFITS.—For purposes of paragraph (2), a group health plan, or a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not deny benefits otherwise provided under the plan or coverage for the treatment of an injury solely because such injury resulted from the participation of the individual in a legal mode of transportation or a legal recreational activity.''.

(c) INTERNAL REVENUE CODE.—Section 9802(a)(3) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''CONSTRUCTION.—For'' and inserting the following: ''SCOPE.—

''(A) WAITING PERIODS.—For''; and

(2) by adding at the end the following:

''(B) LIMITATION ON DENIAL OF BENEFITS.—For purposes of paragraph (2), a group health plan may not deny benefits otherwise provided under the plan for the treatment of an injury solely because such injury resulted from the participation of the individual in a legal mode of transportation or a legal recreational activity.''.

Mr. FRIST. I ask unanimous consent the committee amendment be agreed to, the bill, as amended, be read the third time and passed, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

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

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 423), as amended, was read the third time and passed.

PROVIDING FOR A CONDITIONAL ADJOURNMENT OR RECESS OF BOTH HOUSES

Mr. FRIST. I ask unanimous consent the Senate proceed to the adjournment resolution which is at the desk, provided further that the resolution be amended with the amendment at the desk, and that the resolution be agreed to, as amended, and the motion to reconsider be laid upon the table.

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

The amendment (No. 4079) was agreed to, as follows:

On page 1, line 2, strike from ''that'' through the end of page 2, line 9 and insert in lieu thereof the following:

''When the House adjourns on Wednesday, November 24, 2004, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stands adjourned until 2 p.m. on Monday, December 6, 2004, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and when the Senate recesses or adjourns from Saturday, November 20, 2004, through Wednesday, November 24, 2004, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stands recessed or adjourned until noon on Monday, December 6, 2004, or Tuesday, December 7, 2004, or until such other time as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until the time of reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.''

The concurrent resolution (H. Con. Res. 529), as amended, was agreed to, as follows:

H. CON. RES. 529

Resolved, That the resolution from the House of Representatives (H. Con. Res. 529) entitled ''Concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.'', do pass with the following amendment:

On page 1, line 2, strike from ''That'' through the end of page 2, line 9 and insert in lieu thereof the following:

when the House adjourns on Wednesday, November 24, 2004, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stands adjourned until 2:00 p.m. on Monday, December 6, 2004, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and when the Senate recesses or adjourns from Saturday, November 20, 2004, through Wednesday, November 24, 2004, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stands recessed or adjourned until noon on Monday, December 6, 2004, or Tuesday, December 7, 2004, or until such other time as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until the time of reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

MARINE DEBRIS RESEARCH AND REDUCTION ACT

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 792, S. 2488.

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

The assistant legislative clerk read as follows:

A bill (S. 2488) to establish a program within the National Oceanic and Atmospheric Administration and the United States Coast Guard to help identify, assess, reduce, and prevent marine debris and its adverse impacts on the marine environment and navigation safety, in coordination with non-Federal entities, and for other purposes.

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

Mr. FRIST. Mr. President, I ask unanimous consent that an Inouye substitute amendment, which is at the desk, be agreed to, the bill, as amended, be read a third time and passed, the title amendment be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 4078) was agreed to.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The bill (S. 2488), as amended, was read the third time and passed.

The title was amended so as to read: ''A bill to establish a program within the National Oceanic and Atmospheric Administration and the United States Coast Guard to help identify, determine sources of, assess, reduce, and prevent marine debris and its adverse impacts on the marine environment and navigation safety, in coordination with non-Federal entities, and for other purposes.''

CONTROLLED SUBSTANCES EXPORT REFORM ACT OF 2004

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 3028, which was introduced earlier today.

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

The assistant legislative clerk read as follows:

A bill (S. 3028) to amend the Controlled Substances Import and Export Act to provide authority for the Attorney General to authorize the export of controlled substances from the United States to another country for subsequent export from that country to a second country, if certain conditions and safeguards are satisfied.

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

Mr. HATCH. Mr. President, I rise to introduce with my colleague, Senator BIDEN, the Controlled Substances Export Reform Act of 2004. This bill would make a minor, but long overdue, change to the Controlled Substances Act to reflect the reality of commerce in the 21st Century and to protect high-paying American jobs, while maintaining strong safeguards on exports.

Before I discuss this bill, I want to thank Senator BIDEN for working with me on this important legislation. Senator BIDEN has long been recognized as a national leader on drug-related measures, and we have a history of working together on a bipartisan basis to enact sensible reforms in this area, as evidenced by the recent enactment of our steroid precursor bill. I respect his thoughtful collaboration, and I thank him for his work on the proposal we are introducing today.

In sum, this proposed legislation will amend the Controlled Substances Act of 1970 providing greater parity for U.S. manufacturers, who wish to export their products while retaining full DEA authority over U.S. exports.

Current law places severe restrictions on exports of certain drug products from the United States. The Controlled Substances Export Reform Act proposes to amend that law to correct one small, but onerous provision that is unnecessarily threatening American jobs. This change is entirely consistent with the long-established regulatory scheme pursuant to the Federal Food, Drug and Cosmetic Act.

At present U.S. pharmaceutical manufacturers are permitted to export most controlled substances only to the immediate country where the products will be consumed. Shipments to centralized sites for further distribution across national boundaries are prohibited. This contrasts with the freedom of pharmaceutical manufacturers throughout the rest of the world to readily move approved medical products among and between international drug control treaty countries without limitation or restriction.

The unique prohibitions imposed on domestic manufacturers disadvantage U.S. businesses by requiring smaller, more frequent and costly shipments to each country of use without any demonstrable benefit to public health or safety. By imposing significant logistical challenges and financial burdens on U.S. companies, the law creates a strong incentive for domestic pharmaceutical manufacturers to move production operations overseas, threatening high-wage American jobs.

The Controlled Substances Act of 1970 permits U.S. manufacturers of Schedule I and II substances and

Schedule III and IV narcotics to export their products from U.S. manufacturing sites only to the receiving country where the drug will be used. The law prohibits export of these products if the drugs are to be distributed outside the country to which they are initially sent. The effect of this restriction is to prevent American businesses from using cost-effective, centralized foreign distribution facilities. In addition, under the current regime, unexpected cross-border demands or surges in patient needs cannot be met. Likewise, complex and time-sensitive export licensing procedures prevent the shipment of pharmaceuticals on a real time basis.

European drug manufacturers face no such constraints. They are able to freely move their exported products from one nation to another while complying with host country laws. This is entirely consistent with the scheme of regulation imposed by international drug control treaties. Only the United States imposes the additional limitation of prohibiting the further transfer of controlled substances.

Thus, while a French or British company can ship its products to a central warehouse in Germany for subsequent distribution across the European Union, an American company must incur the added costs of shipping its products separately to each individual country.

The Controlled Substances Export Reform Act would correct this imbalance and permit the highly regulated transshipment of exported pharmaceuticals placing American businesses on an equal footing with the rest of the world. Importantly, however, DEA's authority to control U.S. exports would not be diminished.

The legislation authorizes the Attorney General, or his designee, the DEA, to permit the re-export of Schedule I and II substances and Schedule III and IV narcotics to countries that are parties to the Single Convention on Narcotic Drugs and the Convention on Psychotropic Substances under tightly controlled circumstances: First, each country is required to have an established system of controls deemed adequate by the DEA. Next, only permit or license holders in those countries may receive regulated products. Third, re-exports are limited to one single cross-border transfer. Then the DEA must be satisfied by substantial evidence that the exported substance will be used to meet an actual medical, scientific or other legitimate need, and that the second country of receipt will hold or issue appropriate import licenses or permits. Fifth, in addition, the exporter must notify the DEA in writing within 30 days of a re-export. And finally, an export permit must have been issued by the DEA.

These safeguards are rigorous but fair, and represent a much-needed modernization of the law. The current restrictions on U.S. pharmaceutical exports have remained essentially unchanged for more than thirty years. In that time, the global economy has changed dramatically. For those among us who express concerns about the outsourcing of American jobs and the competitiveness of U.S. companies, this modest change represents an opportunity to address such problems head-on.

The Controlled Substance Act's limitation on U.S. pharmaceutical exports imposes unique, unnecessary, and significant logistical and financial burdens on American businesses. The effect of this outdated policy is to create a strong incentive for domestic pharmaceutical companies to move production overseas, threatening American jobs and eliminating DEA jurisdiction over the manufacture and shipment of their products. The Controlled Substances Export Reform Act removes this unwarranted barrier to U.S. manufacturers' use of cost-effective distribution techniques while retaining full DEA control of U.S. exports and re-exports. Accordingly, I urge my colleagues to join Senator BIDEN and myself in support of this bill.

SECTION 1003

I appreciate the distinguished Senator from Delaware's work on this legislation and am pleased to join with him in correcting this small, but important provision of law.

Section 1003 of the Controlled Substances Import and Export Act currently permits U.S. pharmaceutical manufacturers to export schedule I and II drugs and schedule III and IV narcotics only to the exact country where the products will be used. While American companies are prohibited from using centralized foreign distribution facilities, our international competitors face no similar restrictions and can freely ship medicines for cross-border distribution between all international drug control treaty countries.

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

Mr. HATCH. Yes.

Mr. BIDEN. Isn't it true that the disadvantage to U.S. businesses of requiring smaller, more frequent shipments to each country of use is substantial? When a foreign entity seeks to import a schedule I or II drug, or a schedule III or IV narcotic from the United States, they must first secure an import permit that is shared with the U.S. manufacturer and DEA. Our companies then have 60 days in which to obtain independent safety and quality testing on each separate product batch to be shipped. Upon completion of that testing, the manufacturer submits a highly detailed export permit application for DEA's approval. If DEA fails to issue the permit within 60 days, the entire process must be restarted. Because independent testing is expensive and the export process is highly paper intensive, it is not unusual for companies to struggle against the 60–day deadline only to have to begin again. Unfortunately, while we engage in this burdensome process, patients suffer without their drugs and foreign physicians seek out substitutes to unreliable U.S. supplies.

This process was put in place long before the adoption of our international drug control treaties and the anti-diversion protections they provide. It is now outdated and unnecessary.

Mr. HATCH. Yes, the Senator is correct. In addition to the burden imposed on U.S. manufacturing exporters, the advent of the European Union has created a situation that places our foreign distributors in violation of European law. Member countries of the EU are considered borderless in terms of trade. Products introduced into the European Union are required to be available for transport and shipment among and between all member countries under their law. However, because we don't recognize the European Union as a single entity and cross-border transfers are prohibited, our distributors are placed in the position of violating European law in being forced to deny inter-country distribution of U.S. drugs.

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

Mr. HATCH. Yes.

Mr. BIDEN. While the Controlled Substances Act restrictions made sense when they were adopted over 30 years ago, would you agree that changes in the way international pharmaceutical markets work, and in the way controlled substances are tracked, and have since rendered the requirements unnecessary? Our legislation was developed in cooperation with the Drug Enforcement Administration to ensure that all necessary anti-diversion controls remain.

Under our bill, each country is required to have an established system of controls deemed adequate by the DEA. Only DEA permit or license holders in those countries may receive regulated products. Re-exports are limited to one single cross-border transfer. The DEA must be satisfied by substantial evidence that the exported substance will be used to meet an actual medical, scientific or other legitimate need and that the second country of receipt will hold or issue appropriate import licenses or permits. The exporter must notify the DEA in writing within 30 days of a re-export, and an export permit must have been issued by the DEA.

The legislation specifically retains the Drug Enforcement Administration's authority to deny a request to export or re-export a controlled substance. A company seeking to export a drug for subsequent transfer must provide the DEA with exhaustive information on both the country of initial export and the countries to which the controlled substances would ultimately be destined. In addition, DEA must be provided follow-up notification of any cross border shipment within 30 days of that transfer. The U.S. Government will know where all drugs are being shipped and for what purpose. Without that information, U.S. pharmaceuticals will never leave our soil.

Mr. HATCH. That it is correct. The purpose and intent of this legislation is to place U.S. pharmaceutical companies on equal footing with their international competitors. Moreover, this change is entirely consistent with the long-established regulatory scheme pursuant to the Federal Food, Drug and Cosmetic Act. Eliminating the need for multiple, small shipments and the associated wasteful, small batch testing, will save U.S. companies nearly 80 percent over current export distribution costs, savings that will result in more American jobs and stronger international markets for U.S. products.

As the Senator noted, the bill has been crafted with the assistance of the Drug Enforcement Administration to ensure all necessary controls will remain in place while creating a level playing field for American business. It is simply a commonsense update to an outdated law, and I urge its passage.

Mr. FRIST. 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 regarding this matter be printed in the RECORD.

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

The bill (S. 3028) was read the third time and passed, as follows:

S. 3028

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

SECTION 1. REEXPORTATION OF CONTROLLED SUBSTANCES.

(a) SHORT TITLE.—This Act may be cited as the ''Controlled Substances Export Reform Act of 2004''.

(b) IN GENERAL.—Section 1003 of the Controlled Substances Import and Export Act (21 U.S.C. 953) is amended by adding at the end the following:

''(f) Notwithstanding subsections (a)(4) and (c)(3), the Attorney General may authorize any controlled substance that is in schedule I or II or is a narcotic drug in schedule III or IV to be exported from the United States to a country for subsequent export from that country to another country, if each of the following conditions is met:

''(1) Both the country to which the controlled substance is exported from the United States (referred to in this subsection as the 'first country') and the country to which the controlled substance is exported from the first country (referred to in this subsection as the 'second country') are parties to the Single Convention on Narcotic Drugs, 1961, and the Convention on Psychotropic Substances, 1971.

''(2) The first country and the second country have each instituted and maintain, in conformity with such Conventions, a system of controls of imports of controlled substances which the Attorney General deems adequate.

''(3) With respect to the first country, the controlled substance is consigned to a holder of such permits or licenses as may be required under the laws of such country, and a permit or license to import the controlled substance has been issued by the country.

''(4) With respect to the second country, substantial evidence is furnished to the Attorney General by the person who will export the controlled substance from the United States that—

''(A) the controlled substance is to be consigned to a holder of such permits or licenses as may be required under the laws of such country, and a permit or license to import the controlled substance is to be issued by the country; and

''(B) the controlled substance is to be applied exclusively to medical, scientific, or other legitimate uses within the country.

''(5) The controlled substance will not be exported from the second country.

''(6) Within 30 days after the controlled substance is exported from the first country to the second country, the person who exported the controlled substance from the United States delivers to the Attorney General documentation certifying that such export from the first country has occurred.

''(7) A permit to export the controlled substance from the United States has been issued by the Attorney General.''.

AUTHORIZATION TO SIGN DULY ENROLLED BILLS OR JOINT RESOLUTIONS

Mr. FRIST. Mr. President, I ask unanimous consent that during this adjournment of the Senate, the majority leader, the assistant majority leader, and the senior Senator from Virginia be authorized to sign duly enrolled bills or joint resolutions.

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

APPOINTMENTS AUTHORITY

Mr. FRIST. Mr. President, I ask unanimous consent that notwithstanding the upcoming recess or adjournment of the Senate, the President of the Senate, the President pro tempore, and the majority and minority leaders be authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two houses or by order of the Senate.

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

ORDERS FOR NOVEMBER 24, 2004 AND DECEMBER 7, 2004

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 5 p.m. on Wednesday, November 24, 2004, unless the Senate receives a message from the House that the House has agreed to the amendment of the Senate to H. Con. Res. 529, in which case the Senate shall stand adjourned until 9:30 a.m., December 7, 2004, under the provisions of H. Con. Res. 529.

I further ask that following the prayer and pledge, the morning hour be deemed to have expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and there then be a period of morning business until the hour of 12:30, with Senators speaking for up to 10 minutes each.

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

PROGRAM

Mr. FRIST. Mr. President, in a moment we will be adjourning until early December. When we return on Tuesday, December 7, we will be in morning business throughout the day. It is my hope that the intelligence reform conference report will be ready for consideration that afternoon.

Finally, I thank my colleagues on both sides of the aisle. We have had a challenging few days as we worked through the issues remaining before us. Just moments ago, we were able to confirm a very large number of nominations, which have been waiting for Senate action for a long period of time. I thank the Democratic leadership, in particular, for their cooperation and efforts. It took persistence from both sides of the aisle, but it was very important that neither side gave up and the Senate was able to work its will on these nominations.

I wish everybody a happy and safe Thanksgiving.

ADJOURNMENT UNTIL WEDNESDAY, NOVEMBER 24, 2004, AT 5 P.M., OR TUESDAY, DECEMBER 7, 2004, AT 9:30 A.M.

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the provisions of H. Con. Res. 529.

The PRESIDING OFFICER. Without objection, the Senate is adjourned until Wednesday, November 24, 2004, at 5 p.m., unless the Senate receives a message from the House agreeing to the amendment of the Senate to H. Con. Res. 529, in which case the Senate will reconvene on Tuesday, December 7, 2004, at 9:30 a.m.

There being no objection, the Senate, at 12:31 p.m., adjourned until Wednesday, November 24, 2004 at 5 p.m. or until Tuesday, December 7, 2004, at 9:30 a.m.

DISCHARGED NOMINATIONS

The Senate Committee on Health, Education, Labor, and Pensions was discharged from further consideration of the following nominations and the nominations were confirmed:

WILLIAM A. SCHAMBRA, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING SEPTEMBER 14, 2006.

DONNA N. WILLIAMS, OF TEXAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING OCTOBER 6, 2006.

CYNTHIA BOICH, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING OCTOBER 6, 2007.

DOROTHY A. JOHNSON, OF MICHIGAN, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING OCTOBER 6, 2007, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

HENRY LOZANO, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING OCTOBER 6, 2008.

RAQUEL EGUSQUIZA, OF MICHIGAN, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM EXPIRING OCTOBER 13, 2005.

MARK D. GEARAN, OF NEW YORK, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR

NATIONAL AND COMMUNITY SERVICES FOR A TERM OF ONE YEAR.

LEONA WHITE HAT, OF SOUTH DAKOTA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING OCTOBER 6, 2008.

KATHLEEN MARTINEZ, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2006.

SHARON TUCKER, OF GEORGIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE HARRY S TRUMAN SCHOLARSHIP FOUNDATION FOR A TERM EXPIRING DECEMBER 10, 2005.

EDWARD ALTON PARRISH, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM EXPIRING APRIL 17, 2008.

MIMI MAGER, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING DECEMBER 27, 2007.

JACOB JOSEPH LEW, OF NEW YORK, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING OCTOBER 6, 2008.

The Senate Committee on Agriculture, Nutrition, and Forestry was discharged from further consideration of the following nominations and the nominations were confirmed:

SHARON BROWN-HRUSKA, OF VIRGINIA, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR THE TERM EXPIRING APRIL 13, 2009.

MICHAEL J. HARRISON, OF CONNECTICUT, TO BE AN ASSISTANT SECRETARY OF AGRICULTURE.

FREDERICK WILLIAM HATFIELD, OF CALIFORNIA, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR A TERM EXPIRING APRIL 13, 2008.

DALLAS TONSAGER, OF SOUTH DAKOTA, TO BE A MEMBER OF THE FARM CREDIT ADMINISTRATION BOARD, FARM CREDIT ADMINISTRATION, FOR A TERM EXPIRING MAY 21, 2010.

MICHAEL V. DUNN, OF IOWA, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING JUNE 19, 2006.

The Senate Committee on the Judiciary was discharged from further consideration of the following nomination and the nomination was confirmed:

PATRICIA CUSHWA, OF MARYLAND, TO BE A COMMISSIONER OF THE UNITED STATES PAROLE COMMISSION FOR A TERM OF SIX YEARS.

CONFIRMATIONS

Executive nominations confirmed by the Senate November 20, 2004:

UNITED STATES INTERNATIONAL TRADE COMMISSION

DANIEL PEARSON, OF MINNESOTA, TO BE A MEMBER OF THE UNITED STATES INTERNATIONAL TRADE COMMISSION FOR THE TERM EXPIRING JUNE 16, 2011.

CHARLOTTE A. LANE, OF WEST VIRGINIA, TO BE A MEMBER OF THE UNITED STATES INTERNATIONAL TRADE COMMISSION FOR A TERM EXPIRING DECEMBER 16, 2009.

DEPARTMENT OF COMMERCE

MICHAEL D. GALLAGHER, OF WASHINGTON, TO BE ASSISTANT SECRETARY OF COMMERCE FOR COMMUNICATIONS AND INFORMATION.

EXPORT-IMPORT BANK OF THE UNITED STATES

LINDA MYSLIWY CONLIN, OF NEW JERSEY, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR A TERM EXPIRING JANUARY 20, 2007.

DEPARTMENT OF THE INTERIOR

SUE ELLEN WOOLDRIDGE, OF VIRGINIA, TO BE SOLICITOR OF THE DEPARTMENT OF THE INTERIOR.

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

GARY LEE VISSCHER, OF MARYLAND, TO BE A MEMBER OF THE CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD FOR A TERM OF FIVE YEARS.

ENVIRONMENTAL PROTECTION AGENCY

STEPHEN L. JOHNSON, OF MARYLAND, TO BE DEPUTY ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY.

CHARLES JOHNSON, OF UTAH, TO BE CHIEF FINANCIAL OFFICER, ENVIRONMENTAL PROTECTION AGENCY.

ANN R. KLEE, OF VIRGINIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY.

BENJAMIN GRUMBLES, OF VIRGINIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY.

DEPARTMENT OF COMMERCE

THEODORE WILLIAM KASSINGER, OF MARYLAND, TO BE DEPUTY SECRETARY OF COMMERCE.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

JACK EDWIN MCGREGOR, OF CONNECTICUT, TO BE A MEMBER OF THE ADVISORY BOARD OF THE SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION.

DEPARTMENT OF LABOR

LISA KRUSKA, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF LABOR.

DEPARTMENT OF EDUCATION

EDWARD R. MCPHERSON, OF TEXAS, TO BE UNDER SECRETARY OF EDUCATION.

JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION

DAVID WESLEY FLEMING, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION FOR A TERM EXPIRING MAY 29, 2007.

JAY PHILLIP GREENE, OF FLORIDA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION FOR A TERM EXPIRING NOVEMBER 17, 2005.

JOHN RICHARD PETROCIK, OF MISSOURI, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION FOR A TERM EXPIRING SEPTEMBER 27, 2008.

HARRY S TRUMAN SCHOLARSHIP FOUNDATION

PATRICK LLOYD MCCRORY, OF NORTH CAROLINA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE HARRY S TRUMAN SCHOLARSHIP FOUNDATION FOR A TERM EXPIRING DECEMBER 10, 2005.

JUANITA ALICIA VASQUEZ-GARDNER, OF TEXAS, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE HARRY S TRUMAN SCHOLARSHIP FOUNDATION FOR A TERM EXPIRING DECEMBER 10, 2009.

DEPARTMENT OF EDUCATION

ROBERT C. GRANGER, OF NEW JERSEY, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL BOARD FOR EDUCATION SCIENCES FOR A TERM OF FOUR YEARS.

GERALD LEE, OF PENNSYLVANIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL BOARD FOR EDUCATION SCIENCES FOR A TERM OF FOUR YEARS.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CATHY M. MACFARLANE, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

DENNIS C. SHEA, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

ROMOLO A. BERNARDI, OF NEW YORK, TO BE DEPUTY SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

AFRICAN DEVELOPMENT FOUNDATION

CONSTANCE BERRY NEWMAN, ASSISTANT SECRETARY OF STATE (AFRICAN AFFAIRS), TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE AFRICAN DEVELOPMENT FOUNDATION FOR A TERM EXPIRING SEPTEMBER 27, 2009.

SELECTIVE SERVICE SYSTEM

WILLIAM A. CHATFIELD, OF TEXAS, TO BE DIRECTOR OF SELECTIVE SERVICE.

DEPARTMENT OF DEFENSE

MARK FALCOFF, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL SECURITY EDUCATION BOARD FOR A TERM OF FOUR YEARS.

DEPARTMENT OF VETERANS AFFAIRS

PAMELA M. IOVINO, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF VETERANS AFFAIRS (CONGRESSIONAL AFFAIRS).

EXECUTIVE OFFICE OF THE PRESIDENT

DAVID SAFAVIAN, OF MICHIGAN, TO BE ADMINISTRATOR FOR FEDERAL PROCUREMENT POLICY.

UNITED STATES POSTAL SERVICE

JAMES C. MILLER III, OF VIRGINIA, TO BE A GOVERNOR OF THE UNITED STATES POSTAL SERVICE FOR THE TERM EXPIRING DECEMBER 8, 2010.

POSTAL RATE COMMISSION

DAWN A. TISDALE, OF TEXAS, TO BE A COMMISSIONER OF THE POSTAL RATE COMMISSION FOR A TERM EXPIRING NOVEMBER 22, 2006.

FEDERAL ENERGY REGULATORY COMMISSION

SUEDEEN G. KELLY, OF NEW MEXICO, TO BE A MEMBER OF THE FEDERAL ENERGY REGULATORY COMMISSION FOR THE TERM EXPIRING JUNE 30, 2009.

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

JAMES R. KUNDER, OF VIRGINIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT.

AFRICAN DEVELOPMENT FOUNDATION

EDWARD BREHM, OF MINNESOTA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE AFRICAN DEVELOPMENT FOUNDATION FOR A TERM EXPIRING NOVEMBER 13, 2007.

EXECUTIVE OFFICE OF THE PRESIDENT

ADAM MARC LINDEMANN, OF NEW YORK, TO BE MEMBER OF THE ADVISORY BOARD FOR CUBA BROADCASTING FOR A TERM EXPIRING OCTOBER 27, 2005.

DEPARTMENT OF STATE

ANN M. CORKERY, OF VIRGINIA, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FIFTY-EIGHTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

WALID MAALOUF, OF VIRGINIA, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FIFTY-EIGHTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

JOHN D. ROOD, OF FLORIDA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE COMMONWEALTH OF THE BAHAMAS.

CHARLES GRAVES UNTERMEYER, OF TEXAS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE STATE OF QATAR.

ALDONA WOS, OF NORTH CAROLINA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ESTONIA.

DEPARTMENT OF THE TREASURY

TIMOTHY S. BITSBERGER, OF MASSACHUSETTS, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

PAUL JONES, OF COLORADO, TO BE A MEMBER OF THE INTERNAL REVENUE SERVICE OVERSIGHT BOARD FOR A TERM EXPIRING SEPTEMBER 14, 2008.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CARIN M. BARTH, OF TEXAS, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

MERIT SYSTEMS PROTECTION BOARD

NEIL MCPHIE, OF VIRGINIA, TO BE CHAIRMAN OF THE MERIT SYSTEMS PROTECTION BOARD.

BARBARA J. SAPIN, OF MARYLAND, TO BE A MEMBER OF THE MERIT SYSTEMS PROTECTION BOARD FOR THE TERM OF SEVEN YEARS EXPIRING MARCH 1, 2007.

DEPARTMENT OF COMMERCE

BENJAMIN H. WU, OF MARYLAND, TO BE ASSISTANT SECRETARY OF COMMERCE FOR TECHNOLOGY POLICY.

BRETT T. PALMER, OF NEW YORK, TO BE AN ASSISTANT SECRETARY OF COMMERCE.

ALBERT A. FRINK, JR., OF CALIFORNIA, TO BE AN ASSISTANT SECRETARY OF COMMERCE.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

SCOTT KEVIN WALKER, OF WISCONSIN, TO BE A MEMBER OF THE ADVISORY BOARD OF THE SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION.

FEDERAL TRADE COMMISSION

JON D. LEIBOWITZ, OF MARYLAND, TO BE A FEDERAL TRADE COMMISSIONER FOR A TERM OF SEVEN YEARS FROM SEPTEMBER 26, 2003.

DEBORAH P. MAJORAS, OF VIRGINIA, TO BE A FEDERAL TRADE COMMISSIONER FOR THE UNEXPIRED TERM OF SEVEN YEARS FROM SEPTEMBER 26, 2001.

NATIONAL COUNCIL ON THE ARTS

GERARD SCHWARZ, OF WASHINGTON, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR THE REMAINDER OF THE TERM EXPIRING SEPTEMBER 3, 2006.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

JAMES BALLINGER, OF ARIZONA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 2010.

TERENCE ALAN TEACHOUT, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 2010.

DEPARTMENT OF EDUCATION

JONATHAN BARON, OF MARYLAND, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL BOARD FOR EDUCATION SCIENCES FOR A TERM OF THREE YEARS.

ELIZABETH ANN BRYAN, OF TEXAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL BOARD FOR EDUCATION SCIENCES FOR A TERM OF FOUR YEARS.

JAMES R. DAVIS, OF MISSISSIPPI, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL BOARD FOR EDUCATION SCIENCES FOR A TERM OF TWO YEARS.

FRANK PHILIP HANDY, OF FLORIDA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL BOARD FOR EDUCATION SCIENCES FOR A TERM OF THREE YEARS.

ERIC ALAN HANUSHEK, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL BOARD FOR EDUCATION SCIENCES FOR A TERM OF TWO YEARS.

CAROLINE M. HOXBY, OF MASSACHUSETTS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL BOARD FOR EDUCATION SCIENCES FOR A TERM OF FOUR YEARS.

ROBERTO IBARRA LOPEZ, OF TEXAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL BOARD FOR EDUCATION SCIENCES FOR A TERM OF TWO YEARS.

RICHARD JAMES MILGRAM, OF NEW MEXICO, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL BOARD FOR EDUCATION SCIENCES FOR A TERM OF THREE YEARS.

SALLY EPSTEIN SHAYWITZ, OF CONNECTICUT, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL BOARD FOR EDUCATION SCIENCES FOR A TERM OF THREE YEARS.

JOSEPH K. TORGESEN, OF FLORIDA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL BOARD FOR EDUCATION SCIENCES FOR A TERM OF FOUR YEARS.

HERBERT JOHN WALBERG, OF ILLINOIS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL BOARD FOR EDUCATION SCIENCES FOR A TERM OF THREE YEARS.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

HERMAN BELZ, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2010.

TAMAR JACOBY, OF NEW JERSEY, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2010.

CRAIG HAFFNER, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2010.

JAMES DAVIDSON HUNTER, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2010.

HARVEY KLEHR, OF GEORGIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2010.

THOMAS K. LINDSAY, OF TEXAS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2010.

IRIS LOVE, OF VERMONT, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2010.

THOMAS MALLON, OF CONNECTICUT, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2010.

RICARDO QUINONES, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2010.

NATIONAL MUSEUM AND LIBRARY SERVICES BOARD

BEVERLY ALLEN, OF GEORGIA, TO BE A MEMBER OF THE NATIONAL MUSEUM AND LIBRARY SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2008.

GAIL DALY, OF TEXAS, TO BE A MEMBER OF THE NATIONAL MUSEUM AND LIBRARY SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2008.

DONALD LESLIE, OF WISCONSIN, TO BE A MEMBER OF THE NATIONAL MUSEUM AND LIBRARY SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2006.

AMY OWEN, OF UTAH, TO BE A MEMBER OF THE NATIONAL MUSEUM AND LIBRARY SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2008.

SANDRA PICKETT, OF TEXAS, TO BE A MEMBER OF THE NATIONAL MUSEUM AND LIBRARY SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2005.

RENEE SWARTZ, OF NEW JERSEY, TO BE A MEMBER OF THE NATIONAL MUSEUM AND LIBRARY SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2007.

KIM WANG, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL MUSEUM AND LIBRARY SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2004.

NATIONAL INSTITUTE FOR LITERACY

WILLIAM T. HILLER, OF OHIO, TO BE A MEMBER OF THE NATIONAL INSTITUTE FOR LITERACY ADVISORY BOARD FOR A TERM EXPIRING NOVEMBER 25, 2006.

RICHARD KENNETH WAGNER, OF FLORIDA, TO BE A MEMBER OF THE NATIONAL INSTITUTE FOR LITERACY ADVISORY BOARD FOR A TERM EXPIRING NOVEMBER 25, 2006.

JUAN R. OLIVAREZ, OF MICHIGAN, TO BE A MEMBER OF THE NATIONAL INSTITUTE FOR LITERACY ADVISORY BOARD FOR A TERM EXPIRING NOVEMBER 25, 2006.

UNITED STATES INSTITUTE OF PEACE

MARIA OTERO, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES INSTITUTE OF PEACE FOR A TERM EXPIRING JANUARY 19, 2007.

NATIONAL COUNCIL ON DISABILITY

YOUNG WOO KANG, OF INDIANA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2006.

DEPARTMENT OF EDUCATION

JOHN H. HAGER, OF VIRGINIA, TO BE ASSISTANT SECRETARY FOR SPECIAL EDUCATION AND REHABILITATIVE SERVICES, DEPARTMENT OF EDUCATION.

NATIONAL SCIENCE FOUNDATION

ARDEN BEMENT, JR., OF INDIANA, TO BE DIRECTOR OF THE NATIONAL SCIENCE FOUNDATION FOR A TERM OF SIX YEARS.

DEPARTMENT OF VETERANS AFFAIRS

ROBERT ALLEN PITTMAN, OF FLORIDA, TO BE AN ASSISTANT SECRETARY OF VETERANS AFFAIRS (HUMAN RESOURCES AND ADMINISTRATION).

DEPARTMENT OF STATE

CATHERINE TODD BAILEY, OF KENTUCKY, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF LATVIA.

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

DOUGLAS MENARCHIK, OF TEXAS, TO BE AN ASSISTANT ADMINISTRATOR OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT.

INTER-AMERICAN DEVELOPMENT BANK

HECTOR E. MORALES, OF TEXAS, TO BE UNITED STATES EXECUTIVE DIRECTOR OF THE INTER-AMERICAN DEVELOPMENT BANK FOR A TERM OF THREE YEARS.

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

LLOYD O. PIERSON, OF VIRGINIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT.

AFRICAN DEVELOPMENT FOUNDATION

LLOYD O. PIERSON, AN ASSISTANT ADMINISTRATOR OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE AFRICAN DEVELOPMENT FOUNDATION FOR A TERM EXPIRING SEPTEMBER 22, 2009.

DEPARTMENT OF DEFENSE

VINICIO E. MADRIGAL, OF LOUISIANA, TO BE A MEMBER OF THE BOARD OF REGENTS OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES FOR A TERM EXPIRING JUNE 20, 2009.

OTIS WEBB BRAWLEY, JR., OF GEORGIA, TO BE A MEMBER OF THE BOARD OF REGENTS OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES FOR A TERM EXPIRING JUNE 20, 2009.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

R. BRUCE MATTHEWS, OF NEW MEXICO, TO BE A MEMBER OF THE DEFENSE NUCLEAR FACILITIES SAFETY BOARD FOR A TERM EXPIRING OCTOBER 18, 2005.

JOSEPH F. BADER, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE DEFENSE NUCLEAR FACILITIES SAFETY BOARD FOR A TERM EXPIRING OCTOBER 18, 2007.

CORPORATION FOR PUBLIC BROADCASTING

GAY HART GAINES, OF FLORIDA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR PUBLIC BROADCASTING FOR A TERM EXPIRING JANUARY 31, 2010.

CLAUDIA PUIG, OF FLORIDA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR PUBLIC BROADCASTING FOR A TERM EXPIRING JANUARY 31, 2008.

ERNEST J. WILSON III, OF MARYLAND, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR PUBLIC BROADCASTING FOR A TERM EXPIRING JANUARY 31, 2010.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

JAMES S. SIMPSON, OF NEW YORK, TO BE A MEMBER OF THE ADVISORY BOARD OF THE SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION.

FEDERAL MARITIME COMMISSION

HAROLD JENNINGS CREEL, JR., OF SOUTH CAROLINA, TO BE A FEDERAL MARITIME COMMISSIONER FOR THE TERM EXPIRING JUNE 30, 2009.

FEDERAL COMMUNICATIONS COMMISSION

JONATHAN STEVEN ADELSTEIN, OF SOUTH DAKOTA, TO BE A MEMBER OF THE FEDERAL COMMUNICATIONS COMMISSION FOR A TERM EXPIRING JUNE 30, 2008.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

BARRY GOLDWATER SCHOLARSHIP & EXCELLENCE IN EDUCATION FOUNDATION

EDWARD ALTON PARRISH, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM EXPIRING APRIL 17, 2008.

BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION

RAQUEL EGUSQUIZA, OF MICHIGAN, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM EXPIRING OCTOBER 13 , 2005.

COMMODITY FUTURES TRADING COMMISSION

SHARON BROWN-HRUSKA, OF VIRGINIA, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR THE TERM EXPIRING APRIL 13, 2009.

FREDERICK WILLIAM HATFIELD, OF CALIFORNIA, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR A TERM EXPIRING APRIL 13, 2008.

MICHAEL V. DUNN, OF IOWA, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING JUNE 19, 2006.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

WILLIAM A. SCHAMBRA, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING SEPTEMBER 14, 2006.

DONNA N. WILLIAMS, OF TEXAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING OCTOBER 6, 2006.

CYNTHIA BOICH, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING OCTOBER 6, 2007.

DOROTHY A. JOHNSON, OF MICHIGAN, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING OCTOBER 6, 2007, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

HENRY LOZANO, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING OCTOBER 6, 2008.

MARK D. GEARAN, OF NEW YORK, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICES FOR A TERM OF ONE YEAR.

LEONA WHITE HAT, OF SOUTH DAKOTA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING OCTOBER 6, 2008.

MIMI MAGER, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING DECEMBER 27, 2007.

JACOB JOSEPH LEW, OF NEW YORK, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING OCTOBER 6, 2008.

DEPARTMENT OF AGRICULTURE

MICHAEL J. HARRISON, OF CONNECTICUT, TO BE AN ASSISTANT SECRETARY OF AGRICULTURE.

DEPARTMENT OF JUSTICE

PATRICIA CUSHWA, OF MARYLAND, TO BE A COMMISSIONER OF THE UNITED STATES PAROLE COMMISSION FOR A TERM OF SIX YEARS.

FARM CREDIT ADMINISTRATION

DALLAS TONSAGER, OF SOUTH DAKOTA, TO BE A MEMBER OF THE FARM CREDIT ADMINISTRATION BOARD, FARM CREDIT ADMINISTRATION, FOR A TERM EXPIRING MAY 21, 2010.

HARRY S TRUMAN SCHOLARSHIP FOUNDATION

SHARON TUCKER, OF GEORGIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE HARRY S TRUMAN SCHOLARSHIP FOUNDATION FOR A TERM EXPIRING DECEMBER 10, 2005.

NATIONAL COUNCIL ON DISABILITY

KATHLEEN MARTINEZ, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2006.

DEPARTMENT OF JUSTICE

DEBORAH ANN SPAGNOLI, OF CALIFORNIA, TO BE A COMMISSIONER OF THE UNITED STATES PAROLE COMMISSION FOR A TERM OF SIX YEARS.

THE JUDICIARY

ALAN G. LANCE, SR., OF IDAHO, TO BE A JUDGE OF THE UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS FOR THE TERM PRESCRIBED BY LAW.

CURTIS V. GOMEZ, OF VIRGIN ISLANDS, TO BE JUDGE FOR THE DISTRICT COURT OF THE VIRGIN ISLANDS FOR A TERM OF TEN YEARS.

DEPARTMENT OF COMMERCE

JONATHAN W. DUDAS, OF VIRGINIA, TO BE UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE.

UNITED STATES PAROLE COMMISSION

ISAAC FULWOOD, JR., OF THE DISTRICT OF COLUMBIA, TO BE A COMMISSIONER OF THE UNITED STATES PAROLE COMMISSION FOR A TERM OF SIX YEARS.

SOCIAL SECURITY ADMINISTRATION

PATRICK P. O'CARROLL, JR., OF MARYLAND, TO BE INSPECTOR GENERAL, SOCIAL SECURITY ADMINISTRATION.

MERIT SYSTEMS PROTECTION BOARD

NEIL MCPHIE, OF VIRGINIA, TO BE A MEMBER OF THE MERIT SYSTEMS PROTECTION BOARD FOR THE TERM OF SEVEN YEARS EXPIRING MARCH 1, 2009.

THE JUDICIARY

RAYMOND L. FINCH, OF THE VIRGIN ISLANDS, TO BE JUDGE FOR THE DISTRICT COURT OF THE VIRGIN ISLANDS FOR A TERM OF TEN YEARS.

MICAELA ALVAREZ, OF TEXAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF TEXAS.

KEITH STARRETT, OF MISSISSIPPI, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF MISSISSIPPI.

DEPARTMENT OF JUSTICE

LISA GODBEY WOOD, OF GEORGIA, TO BE UNITED STATES ATTORNEY FOR THE SOUTHERN DISTRICT OF GEORGIA FOR THE TERM OF FOUR YEARS.

DAVID E. NAHMIAS, OF GEORGIA, TO BE UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF GEORGIA FOR THE TERM OF FOUR YEARS.

RICHARD B. ROPER III, OF TEXAS, TO BE UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF TEXAS FOR THE TERM OF FOUR YEARS.

UNITED STATES SENTENCING COMMISSION

RICARDO H. HINOJOSA, OF TEXAS, TO BE CHAIR OF THE UNITED STATES SENTENCING COMMISSION.

MICHAEL O'NEILL, OF MARYLAND, TO BE A MEMBER OF THE UNITED STATES SENTENCING COMMISSION FOR A TERM EXPIRING OCTOBER 31, 2009.

RUBEN CASTILLO, OF ILLINOIS, TO BE A MEMBER OF THE UNITED STATES SENTENCING COMMISSION FOR A TERM EXPIRING OCTOBER 31, 2009.

THE JUDICIARY

CHRISTOPHER A. BOYKO, OF OHIO, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF OHIO.

UNITED STATES SENTENCING COMMISSION

BERYL A. HOWELL, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE UNITED STATES SENTENCING COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING OCTOBER 31, 2005.

THE JUDICIARY

ROBERT N. DAVIS, OF FLORIDA, TO BE A JUDGE OF THE UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS FOR THE TERM PRESCRIBED BY LAW.

MARY J. SCHOELEN, OF THE DISTRICT OF COLUMBIA, TO BE A JUDGE OF THE UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS FOR THE TERM OF FIFTEEN YEARS.

WILLIAM A. MOORMAN, OF VIRGINIA, TO BE A JUDGE OF THE UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS FOR THE TERM OF FIFTEEN YEARS.

DEPARTMENT OF JUSTICE

ROBERT CRAMER BALFE III, OF ARKANSAS, TO BE UNITED STATES ATTORNEY FOR THE WESTERN DISTRICT OF ARKANSAS FOR THE TERM OF FOUR YEARS.

DEPARTMENT OF THE TREASURY

J. RUSSELL GEORGE, OF VIRGINIA, TO BE INSPECTOR GENERAL FOR TAX ADMINISTRATION, DEPARTMENT OF THE TREASURY.

NATIONAL COUNCIL ON DISABILITY

MILTON APONTE, OF FLORIDA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2006.

NATIONAL SCIENCE FOUNDATION

DAN ARVIZU, OF COLORADO, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION FOR A TERM EXPIRING MAY 10, 2010.

STEVEN C. BEERING, OF INDIANA, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION FOR A TERM EXPIRING MAY 10, 2010.

GERALD WAYNE CLOUGH, OF GEORGIA, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION FOR A TERM EXPIRING MAY 10, 2010.

KELVIN KAY DROEGEMEIER, OF OKLAHOMA, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION FOR A TERM EXPIRING MAY 10, 2010.

LOUIS J. LANZEROTTI, OF NEW JERSEY, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION FOR A TERM EXPIRING MAY 10, 2010.

ALAN I. LESHNER, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION FOR A TERM EXPIRING MAY 10, 2010.

JON C. STRAUSS, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION FOR A TERM EXPIRING MAY 10, 2010.

KATHRYN D. SULLIVAN, OF OHIO, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION FOR A TERM EXPIRING MAY 10, 2010.

DEPARTMENT OF THE TREASURY

ANNA ESCOBEDO CABRAL, OF VIRGINIA, TO BE TREASURER OF THE UNITED STATES.

THE JUDICIARY

GREGORY E. JACKSON, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF FIFTEEN YEARS.

DEPARTMENT OF EDUCATION

EUGENE HICKOK, OF PENNSYLVANIA, TO BE DEPUTY SECRETARY OF EDUCATION.

EDWARD R. MCPHERSON, OF TEXAS, TO BE UNDER SECRETARY OF EDUCATION.

NATIONAL COUNCIL ON DISABILITY

ROBERT DAVILA, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2006.

LINDA WETTERS, OF OHIO, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2006.

BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION

JULIA L. WU, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM EXPIRING FEBRUARY 4, 2008.

BARRY GOLDWATER SCHOLARSHIP & EXCELLENCE IN EDUCATION FOUNDATION

LAURIE STENBERG NICHOLS, OF SOUTH DAKOTA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM EXPIRING MARCH 3, 2010.

DEPARTMENT OF EDUCATION

CAROL D'AMICO, OF INDIANA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL BOARD FOR EDUCATION SCIENCES FOR A TERM OF TWO YEARS.

DEPARTMENT OF STATE

YOUSIF B. GHAFARI, OF MICHIGAN, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FIFTY-NINTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

JANE DEE HULL, OF ARIZONA, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FIFTY-NINTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

SUSAN L. MOORE, OF TEXAS, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FIFTY-NINTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. GUY K. DAHLBECK

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. BRENT E. WINGET

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. ROBERT L. VAN ANTWERP, JR.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. JASON K. KAMIYA

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. KEITH L. THURGOOD

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COLONEL MICHAEL J. LALLY III

COAST GUARD NOMINATIONS BEGINNING GERARD P ACHENBACH AND ENDING ELIZABETH D YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 23, 2004.

COAST GUARD NOMINATIONS BEGINNING JOEL A. AMUNDSON AND ENDING JOSEPH M. ZWACK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 16, 2004.

FOREIGN SERVICE NOMINATIONS BEGINNING RALPH L. BOYCE, JR. AND ENDING ROBERT J. WHIGHAM, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 7, 2004

FOREIGN SERVICE NOMINATIONS BEGINNING ROBERT M. CLAY AND ENDING MARCIA L. NORMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 7, 2004.