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Senate

The Senate met at 9:32 a.m. and was called to order by the Honorable LAMAR ALEXANDER, a Senator from the State of Tennessee.

PRAYER

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

Let us pray.

Eternal Spirit, who governs the nations with justice, hallowed be Your name. Lord, You cause the Earth to yield its harvest and send blessings to those who fear You. Great and marvelous are Your works.

Today give guidance to our Senators and the representatives of the people of this great land. Enable them to see the stamp of Your image in each person they serve. Remind them that when they lift up the lost and the least, they labor for You. Use them as Your instruments to bring order out of chaos. Bless our military men and women. Save them from calamities and clothe them with the armor of Your righteousness. And, Lord, give traveling mercies to the Senators who will be traveling to the Vatican.

We pray this in Your powerful Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable LAMAR ALEXANDER 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.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 6, 2005.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable LAMAR ALEXANDER, a Senator from the State of Tennessee, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. ALEXANDER thereupon assumed the Chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. FRIST. Mr. President, this morning, following the leader time, we will resume consideration of the State Department authorization. In a moment, we will consider a couple of resolutions that have been cleared, with some brief remarks. Following that, there will be debate time remaining before 10 this morning, to be used for the pending Biden amendment. At 10 a.m., we will vote on the Biden amendment as the agreement provided last night.

Following that vote, the Senate will recess for a joint meeting of the House and Senate to receive an address by Ukrainian President Viktor Yushchenko, which is at 11 o'clock. Therefore, the Senate will proceed to the House of Representatives at approximately 10:30 this morning.

At the conclusion of the joint meeting, we will resume debate on the State Department bill. I expect votes throughout the course of the afternoon and likely into the evening, if necessary, to finish that bill. I hope Members will show some restraint and not feel compelled to offer amendment after amendment to the underlying bill and only those amendments that are substantive and necessary.

Chairman LUGAR and Senator BIDEN are expected to be on the floor throughout the day working on amendments. Senators should notify their respective cloakrooms if they intend to offer an amendment to the State Department bill. We will need to work very efficiently over the course of the day. I ask for all Members' assistance in this process.

UKRAINIAN PRESIDENT VIKTOR YUSHCHENKO

Mr. FRIST. Mr. President, in about an hour and a half we will receive the address by Ukrainian President Viktor Yushchenko.

It all began on November 22—not that long ago. On that icy Ukrainian day, hundreds of thousands of protesters from all over the countryside converged on Kiev's Independence Square to protest the Ukrainian Presidential election. The incumbent favored candidate, Viktor Yanukovych, had been declared the winner already. Meanwhile, nonpartisan, independent exit polling—or series of polls—showed that Viktor Yushchenko, leader of the opposition party, had a clear nine-point lead.

For 17 days, in subzero weather, hundreds of thousands of men and women filled the streets of Independence Square, huddled in tents among strangers, braving the threats of police violence. It was an astonishing emotional display that stunned the world as these images came through our newspapers and across the television. After 17 days of this nonviolent solidarity, the people won. A new election was held. On January 23, Viktor Yushchenko was

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

sworn in as the new President. The ''Orange Revolution'' will be forever emblazoned in the memories of all those who strive for freedom.

On behalf of the Senate, I am privileged to welcome the leader of this historic moment, President Viktor Yushchenko, to our Nation's Capitol.

Today, at 11 a.m. the President will address a joint session of Congress, making him the only leader of a former Soviet republic outside of Russia to do so. We are honored to have him address our highest legislative Chambers. We extend to him our congratulations and to the Ukrainian people our friendship and support. We are grateful for the sacrifices the Ukrainian military made in pursuing the cause of freedom and security in Iraq.

However, much lies ahead. I am heartened by President Yushchenko's commitment to reform. Following his inauguration, the Senate pledged to support the Ukrainian people to establish full democracy, rule of law, respect for human rights, and a free, transparent, and open economy. We firmly support Ukraine's independence and territorial sovereignty and their full integration into the international community of democracies.

The President of the United States has requested resources to support Ukraine's democracy building. It goes without saying that the Senate supports funding Ukraine's efforts.

I look forward to President Yushchenko's historic address to the Congress in a short while. He and the people of Ukraine have inspired the world and have written a new chapter in the story of human freedom.

On that first day the marchers filled Independence Square, they chanted: ''Together we are many. We cannot be defeated.''

Today, on behalf of the American people, I say to the people of Ukraine: Together we are one. Freedom will prevail.

COMMENDING THE NORTH CAROLINA TAR HEELS MEN'S BASKETBALL TEAM FOR WINNING THE 2005 NATIONAL CHAMPIONSHIP

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 98, which was submitted earlier today.

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

The legislative clerk read as follows:

A resolution (S. Res. 98) commending the University of North Carolina Men's basketball team for winning the 2005 National Collegiate Athletic Association Division I Men's Basketball Championship.

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, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 98) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 98

Whereas on April 4, 2005, the North Carolina Tar Heels defeated the Illinois Fighting Illini 75–70 in the finals of the National Collegiate Athletic Association (''NCAA'') Division I Men's Basketball Tournament in St. Louis, Missouri;

Whereas the Tar Heels now hold 5 men's basketball titles, including 4 NCAA tournament titles—the fourth-most in NCAA history;

Whereas the Tar Heels' men's team has won championships in 1924, 1957, 1982, 1993, and 2005;

Whereas Tar Heels head coach and Asheville, North Carolina, native Roy Williams won his first NCAA title in just his second year coaching the team, improving to 470–116 in 17 seasons as a head coach, and has the best record of any active coach in men's basketball;

Whereas seniors Jawad Williams, Jackie Manuel, Melvin Scott, Charlie Everett, and C.J. Hooker celebrated 4 years at North Carolina with a ''Final Four'' win;

Whereas Sean May was named Most Outstanding Player of the tournament, scoring 26 points and collecting 10 rebounds in the final game;

Whereas Tar Heels Raymond Felton and Rashad McCants joined Sean May on the All-Tournament Team, along with Illini players Luther Head and Deron Williams;

Whereas the North Carolina Tar Heels finished the 2004–2005 season with 33 wins and just 4 losses, and won the championship by defeating an Illinois team that tied an NCAA record for wins in a season at 37;

Whereas freshman Tar Heel Marvin Williams helped seal the victory with a tip-in with 1 minute and 26 seconds left to play;

Whereas the Tar Heel defense held Illinois to 27 percent from the field in the first half and prevented the Illini from scoring during the last 2 minutes and 37 seconds;

Whereas North Carolina defeated Michigan State 87–71 to earn a spot in the final contest;

Whereas the Tar Heels defeated Oakland and Iowa State in Charlotte, North Carolina, then Villanova and Wisconsin in Syracuse, New York, to advance to the ''Final Four'';

Whereas Albemarle, North Carolina, native Woody Durham has been the radio play-by-play voice of North Carolina's basketball programs since 1971, and this was his 11th ''Final Four'' with the Tar Heels and third national championship call;

Whereas the Tar Heel team members are excellent representatives of a fine university that is a leader in higher education, producing 38 Rhodes scholars, as well as many fine student-athletes and other leaders;

Whereas each player, coach, trainer, manager, and staff member dedicated this season and their efforts to ensure the North Carolina Tar Heels reached the summit of college basketball;

Whereas the Tar Heels showed tremendous dedication to each other, appreciation to their fans, sportsmanship to their opponents, and respect for the game of basketball throughout the 2005 season; and

Whereas residents of the Old North State and North Carolina fans worldwide are to be commended for their long-standing support, perseverance and pride in the team: Now, therefore, be it

Resolved, That the Senate—

(1) commends the champion North Carolina Tar Heels for their historic win in the 2005 National Collegiate Athletic Association Division I Men's Basketball Tournament;

(2) recognizes the achievements of the players, coaches, students, and support staff who were instrumental in helping the University of North Carolina Tar Heels win the tournament; and

(3) directs the Secretary of the Senate to transmit a copy of this resolution to University of North Carolina Chancellor James Moeser and head coach Roy Williams for appropriate display.

COMMENDING PAT SUMMITT, HEAD COACH OF THE UNIVERSITY OF TENNESSEE WOMEN'S BASKETBALL TEAM

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 97, which was submitted earlier today.

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

The legislative clerk read as follows:

A resolution (S. Res. 97) commending Patricia Sue Head Summitt, head women's basketball coach of the University of Tennessee, for three decades of excellence as a proven leader, motivated teacher, and established champion.

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, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 97) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 97

Whereas Pat Summitt, in her 31st year as head coach of the Lady Volunteers (the ''Lady Vols''), has become the Nation's all-time winningest NCAA basketball coach (men's or women's) with her 880th career victory, surpassing the legendary coach Dean Smith of the University of North Carolina;

Whereas Pat Summitt, at the age of 22, took over the women's program at Tennessee in 1974, when there were no scholarships and she had to wash the uniforms and drive the team van;

Whereas Pat Summitt won her first game on January 10, 1975, and continued to win games as she became the youngest coach in the nation to reach 300 wins (34 years old), 400 wins (37 years old), 500 wins (41 years old), 600 wins (44 years old), 700 wins (47 years old), and 800 wins (50 years old);

Whereas Pat Summitt has coached the Lady Vols to 15 30-plus win seasons, including a perfect season of 39–0, 13 Southeastern Conference (SEC) regular-season titles, and 11 SEC tournament championships;

Whereas Pat Summitt has appeared in more NCAA tournament games (107), and has won more tournament games (89), than any other collegiate coach, including a record of 36–0 in the first two rounds, 16 NCAA Final Four appearances, and 6 NCAA Championship Titles, including the NCAA's first back-to-back-to-back women's titles in 1996, 1997, and 1998;

Whereas Pat Summitt played on the 1976 United States Olympic team and later

coached the United States women's basketball team to its first Olympic gold medal in 1984;

Whereas Pat Summitt has been named SEC coach of the year 6 times and national coach of the year by several associations, including the Sporting News Coach of the Year, the Naismith Coach of the Year, and the Associated Press Coach of the Year;

Whereas Pat Summitt and the Lady Vols were selected by ESPN as the ''Team of the Decade'' (1990s), sharing the honor with the Florida State University Seminole's football team, and Summitt became the first female coach to appear on the cover of Sports Illustrated;

Whereas Pat Summitt was officially accepted to the Women's Basketball Hall of Fame in 1999, and was then inducted to the Basketball Hall of Fame on October 13, 2000, as only the 4th women's basketball coach to earn Hall of Fame honors;

Whereas Pat Summitt's Lady Vols have a remarkable graduation rate, as each student-athlete who has completed her eligibility at Tennessee has received her degree or is in the process of completing all of the requirements; and

Whereas Pat Summitt has recently been honored by the University of Tennessee, as the court at Thompson-Boling Arena will be named ''The Summitt'': Now, therefore, be it

Resolved, That the Senate commends the University of Tennessee women's basketball coach, Patricia Sue Head Summitt, for three decades of excellence as a proven leader, motivated teacher, and established champion.

Mr. FRIST. Mr. President, I rise to speak to the resolution that was just passed, along with my fellow Lady Vol fan and colleague, Senator LAMAR ALEXANDER, who is currently occupying the Chair.

This is a resolution honoring our friend Pat Summitt, head coach for the University of Tennessee women's basketball team, as one of the greatest coaches in NCAA basketball history.

For 31 seasons, Pat Summitt has served as the head coach of the Tennessee Lady Volunteer basketball team. When she first took the position in 1974 as a 22-year-old graduate teaching assistant, her team consisted of non-scholarship players who depended on her to wash their uniforms and drive the team's van. Only 53 fans witnessed Coach Summitt's first win that season. But from that day forth, Coach Pat Summitt and the Lady Vols started what is now an unprecedented winning tradition.

This season, Pat became the Nation's all-time winningest NCAA basketball coach, men's or women's, with her 880th career victory, surpassing the legendary Coach Dean Smith of the University of North Carolina. Along the way, Pat Summitt has achieved unparalleled results on the court, elevating the Lady Vols to one of the elite programs in all of sports.

Her resume consists of 15 30-plus win seasons, including one undefeated season record of 39 to 0. Pat has coached her team to six national titles, including back-to-back-to-back championships in 1996, 1997 and 1998. The Lady Vols played in their 16th Final Four this past Sunday as Pat Summitt set a new all-time record for Final Four appearances.

Following her remarkable run in the 1990s, the Lady Vols were named ''Team of the Decade'' by ESPN, tying with the Florida State football team, and on October 13, 2000, Coach Summitt became only the fourth women's coach inducted into the Basketball Hall of Fame. The University of Tennessee has recently honored Pat Summitt by renaming the court at Thompson-Boling Arena ''The Summitt.''

Today I join together with the many Lady Vols fans in acknowledging Coach Pat Summitt for her service to her team, the University of Tennessee, and the game of basketball. Her dedication to excellence over the past 31 years has been exemplary and has made her a role model for future generations of students, players, and coaches.

Congratulations, Pat Summitt.

I yield the floor.

The PRESIDING OFFICER (Mr. VITTER). The Senator from Tennessee is recognized.

Mr. ALEXANDER. Mr. President, I join my colleague, the majority leader, in saying a word about Pat Summitt.

I am delighted the majority leader scheduled time for this discussion of Pat Summitt and submitted the resolution, which I am proud to cosponsor.

There are a great many superlatives one could offer about Coach Summitt. Perhaps the most obvious is sustained excellence over such a long period of time—as the majority leader said, 16 Final Four appearances, three back-to-back national titles, 107 NCAA tournament games, virtually undefeated on the floor of the Thompson-Boling Arena, which is now renamed The Summitt in her honor, always playing the toughest schedule, always high expectations.

I was president of the University of Tennessee for nearly 3 years. I remember going to a year-end Lady Vols basketball banquet because I remember the team had won the Southeastern Conference Championship and did not make the Final Four. Pat Summitt congratulated the players, but I remember the atmosphere was more like a funeral than a celebration because, obviously, the team did not meet the expectations Coach Summitt had for her players.

We live in a society of televised images in which we meet a steady stream of people who are at the top of their game for 15 minutes or for a few months or for a few years. But for Pat Summitt, it has been 31 years at the top of her game, and there is no end in sight.

There are a couple of other less obvious superlatives about Coach Summitt. One of these is unselfishness. The coaches whom she regularly defeats will tell you, to a woman or a man, that no one has done more to build the game of women's basketball than Pat Summitt. When she started, there were three girls at each end of the court playing in an empty gym. Today it is my favorite game to watch on television because of the skill of the players, because of the team play, because of the good coaching, and now because of the parity of the sport.

There are a lot of good teams, a lot of good coaches, and many of them are former assistants to Pat Summitt. It seems she always has a good word to say about this program or that program, this opponent or that opponent. Her objective is to build the game up as much as it is to win the game.

The final superlative is Pat Summitt's emphasis on academic achievement. Every young woman who has ever played for her over 31 years has either graduated or is working today on the requirements for graduation. That is almost as difficult as winning back-to-back NCAA championships. It certainly sets the right tone for college sports.

I know how proud I was as a university president to have that most visible symbol of our university have such high values. It is mentioned at all the games, people see it all the time. It is a superlative achievement.

This past year, Nicky Anosike, one of eight children of a mother from Nigeria now living in the United States, became a sudden star at the University of Tennessee as a freshman. There were six great recruits said to be the best recruiting class ever in the history of this country. Four of them were hurt. Nicky Anosike was not hurt, and she suddenly became a starter on the team and one of its best starters. Some people say she is a female Scottie Pippen at the top of his game.

As I suspect happens with many of Pat's freshman students, Nicky Anosike called home the next few weeks discussing with her mother how difficult it was to play for Pat Summitt because she demanded so much. Her mother said: What does she expect of you that I did not expect of you? That is the reason why I believe parents and young women want those young women to go to the University of Tennessee to play for Pat Summitt when they might be admitted to any school in the country. It is that for 31 years, Pat Summitt has brought out the best in those young women.

VIKTOR YUSHCHENKO

Mr. ALEXANDER. Mr. President, I wish to comment on the majority leader's remarks about Viktor Yushchenko, who will be addressing a joint meeting at 11 o'clock.

Two weeks ago, I had the privilege, with the Democratic leader, of visiting with Mr. Yushchenko for an hour. We also were in Georgia, Iraq, Palestine, and Israel. We saw emerging democracies across the country.

One of the most vivid impressions I had was after meeting with Mr. Yushchenko, we met with students in Ukraine. Senator REID asked them how long before they expected results. These were the ones who Senator FRIST described as being among the hundreds of thousands in November and December waiting outside in the bitter cold

causing this change. Some of the students said a year. Others disagreed and said 9 months.

It seems to me one of the greatest dangers we have with these emerging democracies is reminding them that there is no such thing as an instant democracy in Ukraine or anywhere else. So I said to the students with respect: In the United States, it took us 12 years to write a constitution after the Declaration of Independence, and we had to lock the press out to do it. It took us 130 years to give women the right to vote. It took us 200 years before African Americans could vote in every part of our country.

So in Iraq, in Georgia, in Ukraine, in emerging democracies, patience is important, and that is one of the examples we have.

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 2006 AND 2007

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 600, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 600) to authorize appropriations for the Department of State and international broadcasting activities for fiscal years 2006 and 2007, for the Peace Corps for fiscal years 2006 and 2007, for foreign assistance programs for fiscal years 2006 and 2007, and for other purposes.

Pending:

Lugar amendment No. 266, to strike the amendment to the limitation on the United States share of assessments for the United Nations Peacekeeping operations.

McCain/DeWine amendment No. 267, to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Ukraine.

Baucus amendment No. 281, to facilitate the sale of United States agricultural products to Cuba, as authorized by the Trade Sanctions Reform and Export Enhancement Act of 200.

Craig/Roberts amendment No. 282 (to amendment No. 281), to clarify the payment terms under the Trade Sanctions Reform and Export Enhancement Act of 2000.

Dodd amendment No. 283, to express the sense of the Senate concerning recent provocative actions by the People's Republic of China.

Dorgan/Wyden amendment No. 284, to prohibit funds from being used for television broadcasting to Cuba.

Biden amendment No. 286 (in lieu of the language proposed to be stricken by Lugar amendment No. 266), relative to the United States share of assessment for United Nations Peacekeeping operations.

The PRESIDING OFFICER. Under the previous order, the time until 10 a.m. will be equally divided between the chairman and ranking member.

The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I suggest the absence of a quorum and ask that the time be equally charged.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 286

Mr. LUGAR. Mr. President, I ask Senators to oppose the Biden amendment. I appreciate the perspective of Senators who want to preserve the 27-percent cap, as well as those who want the cap to be reduced to the 25-percent level in accordance with the Helms-Biden legislation.

In offering this amendment, I am attempting to represent the views of those Senators who believe that forthcoming discussions on U.N. reform should include additional consideration of U.S. financial obligations for peacekeeping. This is a reasonable expectation given the reform context at the United Nations. Since our committee marked up this bill, John Bolton has been announced as the President's nominee to be Ambassador to the U.N., and Secretary General Kofi Annan has put forward a sweeping U.N. reform plan.

Clearly, U.N. reform is going to be high on the agenda. The Helms-Biden legislation anticipates that the U.S. share of peacekeeping dues would decline to 25 percent of the world total. This remains a goal of U.S. policy toward the United Nations. I believe we should give the U.S. negotiators the most leverage possible to attain U.S. goals.

It has been suggested that the 27-percent agreement struck subsequent to the Helms-Biden legislation is the best we can do. Many Senators assert this is true, particularly since we are entering a period when substantial reform negotiations will take place at the U.N. But in the coming weeks, Congress will have further opportunities to work with President Bush to craft the most efficient means possible of reducing the U.S. share of peacekeeping assessments.

I believe defeating the Biden amendment at this time will facilitate these consultations and strengthen the hand of our negotiators.

I reserve the remainder of my time, Mr. President.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

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

The PRESIDING OFFICER. The Senator has 3 minutes.

Mr. BIDEN. Mr. President, this amendment implements what President Bush is requesting. Specifically, the President requested that for the next 2 years we keep our assessment at 27 percent.

Mr. President, 10,000 forces are being sent to the Sudan under the auspices of the United Nations. They are responding as we are asking them to respond. We are in the process of making genuine progress. The last thing we need to do is start to build up arrearages again; it took years to work ourselves out of the hole, both politically and financially.

If my colleague from Indiana is correct that the administration wants room to negotiate, the President is going to be President for 3½ more years, God willing and the creek not rising, as my grandpop used to say. The truth is, this lasts for 2 years. It gives all the negotiating room possible. To now go ahead and change the deal in the minds of every Ambassador to the United Nations—here they go again—at the very time we are sending the worst person we can possibly send, not in terms of morality but in terms of his attitude to the U.N.—the double whammy of sending Bolton to the United Nations and cutting our commitment that we have kept to for the past years, and over the request of the President we cut by 2 percent our commitment, would be a very serious problem.

I strongly urge my colleagues to support the Biden amendment. I fully appreciate the position of my friend from Indiana, but I think he is mistaken on this point. We do not often disagree that much, but on this one we do disagree.

I urge my colleagues to vote yes on the Biden amendment to keep the President's request in this legislation.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. FRIST. Mr. President, I rise in opposition to the Biden amendment and to second Chairman LUGAR's remarks. The chairman is looking to the future of the United Nations and not to the past. The negotiations at the U.N. regarding U.N. reform and the lowering of U.N. peacekeeping dues are underway. Let us ensure that our next Ambassador to the United Nations has an opportunity to go to New York and to work on this issue.

Our Ambassador will be working to lower U.S. dues. By adopting Senator BIDEN's amendment, we will make that job more difficult by conceding our willingness to live with the status quo. We have an opportunity to lower the U.S. rate to serve the U.S. taxpayers better and to make the U.N. more efficient if Congress does not send mixed signals to the U.N.

Next week, the Foreign Relations Committee will have its hearing on John Bolton to be Ambassador to the U.N. We will have the opportunity to discuss this issue at length with him. Do we want to make his job that much harder by adopting this amendment? If we adopt this amendment, we undercut him before he gets there.

It is time for real reform at the U.N. Achieving a sustainable level for peacekeeping assessments is an important first step.

The Congress has spoken to this issue in the past. Let us give our Ambassador to the U.N. an opportunity to get up there and to lower our rates. Let us also not let this issue be the one item that threatens passage of this important legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Does the Senator from Delaware have any time remaining?

The PRESIDING OFFICER. The Senator from Delaware has 58 seconds remaining.

Mr. BIDEN. Mr. President, the leader has much better access to the President than I do, but to the best of my knowledge there is no negotiation, has been no negotiation, no discussion, no comment whatsoever about changing the U.S. provision from 27 percent to 25 percent. I know of nothing. The State Department has never said anything to me. The Defense Department, the White House, Kofi Annan, nobody has raised this, except my friends on the conservative right in the Republican Party.

If we do not want to send a mixed signal, do not vote against the President. The President of the United States, not our conservative friends on the right side of the aisle, says 27 percent. Do not undercut the President and send a mixed signal.

I yield whatever time I have remaining, and I ask for the yeas and nays.

The PRESIDING OFFICER. All time has expired. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to amendment No. 286.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Idaho (Mr. CRAPO).

Mr. DURBIN. I announce that the Senator from Minnesota (Mr. DAYTON) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

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

The result was announced—yeas 40, nays 57, as follows:

[Rollcall Vote No. 84 Leg.]

YEAS—40

Akaka	Feinstein	Mikulski
Bayh	Harkin	Murray
Biden	Inouye	Nelson (FL)
Bingaman	Jeffords	Obama
Boxer	Johnson	Pryor
Cantwell	Kennedy	Reed
Carper	Kerry	Reid
Clinton	Kohl	Salazar
Conrad	Landrieu	Sarbanes
Corzine	Lautenberg	Schumer
Dodd	Leahy	Stabenow
Dorgan	Levin	Wyden
Durbin	Lieberman	
Feingold	Lincoln	

NAYS—57

Alexander	Coburn	Graham
Allard	Cochran	Grassley
Allen	Coleman	Gregg
Baucus	Collins	Hagel
Bennett	Cornyn	Hatch
Bond	Craig	Hutchison
Brownback	DeMint	Inhofe
Bunning	DeWine	Isakson
Burns	Dole	Kyl
Burr	Domenici	Lott
Byrd	Ensign	Lugar
Chafee	Enzi	Martinez
Chambliss	Frist	McCain
McConnell	Shelby	Talent
Murkowski	Smith	Thomas
Nelson (NE)	Snowe	Thune
Roberts	Specter	Vitter
Santorum	Stevens	Voinovich
Sessions	Sununu	Warner

NOT VOTING—3

Crapo	Dayton	Rockefeller

The amendment (No. 286) was rejected.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 266

The PRESIDING OFFICER. The question is on agreeing to the Lugar amendment No. 266.

The amendment (No. 266) was agreed to.

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

The motion to lay on the table was agreed to.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 12 noon.

Thereupon, the Senate, at 10:38 a.m., recessed until 12 noon and reassembled when called to order by the Presiding Officer (Mr. MURKOWSKI).

FOREIGN AFFAIRS AUTHORIZATION ACT, FISCAL YEARS 2006 and 2007

The PRESIDING OFFICER. The Senator from Colorado.

Mr. SALAZAR. I ask unanimous consent to lay aside the pending amendment.

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

AMENDMENT NO. 308

Mr. SALAZAR. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. SALAZAR] proposes an amendment numbered 308.

Mr. SALAZAR. I ask unanimous consent further reading be dispensed with.

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

The amendment is as follows:

(Purpose: To increase the accountability and effectiveness of international police training)

At the end of title VIII, insert the following:

SEC. 812. INTERNATIONAL POLICE TRAINING.

(a) REQUIREMENTS FOR INSTRUCTORS.—Prior to carrying out any program of training for police or security forces through the Bureau that begins after the date of the enactment of this Act, the Secretary shall ensure that—

(1) such training is provided by instructors who have proven records of experience in training law enforcement or security personnel;

(2) the Bureau has established procedures to ensure that the individuals who receive such training—

(A) do not have a criminal background;

(B) are not connected to any criminal or insurgent group;

(C) are not connected to drug traffickers; and

(D) meet the minimum age and experience standards set out in appropriate international agreements; and

(3) the Bureau has established procedures that—

(A) clearly establish the standards an individual who will receive such training must meet;

(B) clearly establish the training courses that will permit the individual to meet such standards; and

(C) provide for certification of an individual who meets such standards.

(b) ADVISORY BOARD.—The Secretary shall establish an advisory board of 10 experts to advise the Bureau on issues related to cost efficiency and professional efficacy of police and security training programs. The board shall have not less than 5 members who are experienced United States law enforcement personnel.

(c) BUREAU DEFINED.—In this section, the term ''Bureau'' means the Bureau of International Narcotics and Law Enforcement Affairs of the Department of State.

(d) ANNUAL REPORT.—Not later than September 30 of each fiscal year, the Secretary shall submit to Congress a report on the training for international police or security forces conducted by the Bureau. Such report shall include the attrition rates of the instructors of such training and indicators of job performance of such instructors.

Mr. SALAZAR. Madam President, I rise in support of this amendment to document the importance of making sure we have the right standards and certifications with respect to training law enforcement and security officers on missions around the world.

I speak to this amendment based on my experience as Colorado attorney general where I sat as chairman of the peace officers standards and training board for a period of 6 years. Working with my colleagues in law enforcement, we developed a set of standards that made sure the people we were recruiting into our police forces in the State of Colorado were people who had been checked for criminal backgrounds and would be able to serve. We also developed a set of standards with respect to the training of these law enforcement officers. This amendment creates those same standards and background checks with respect to people being recruited into security forces to help with our efforts around the world.

I understand the amendment I have offered will be considered by Senator LUGAR and others as we return to the Senate.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

AMENDMENT NO. 284

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

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

Mr. DORGAN. Madam President, yesterday I offered an amendment on behalf of myself and Senator WYDEN from

Oregon. I will now describe that amendment in some greater detail. I know others, including my colleague from Oregon, will be here.

It is an amendment to terminate something called TV Martí, Television Martí. It is spending money on something that does not work, spending money we do not have on something that is not needed. Even waste, of course, has a constituency in this town, so there will be those who will oppose this amendment. I will describe why this is a tragic waste of the American taxpayers' money.

This is a picture of an aerostat balloon called Fat Albert. Fat Albert has a great history. Fat Albert has been used for a number of things. At one point we had an aerostat balloon, Fat Albert, that got loose of its mooring in Florida. Eventually, it lifted fishing boats from the sea. They had to shoot it down. The Air Force had to shoot down Fat Albert.

This is the aerostat balloon, along with a 20,000-foot tether cable that broadcasts television signals into the country of Cuba to tell the Cubans how good life is in America and to give the Cubans a straight story.

We have spent $189 million on this program over a number of years since 1989. Over 16 years we have spent nearly $200 million.

We have another program called Radio Martí. I don't propose that we terminate funding for that because by and large the Cubans are receiving signals from Radio Martí. Radio Martí is beneficial. I have been to Cuba and talked to the Cubans. They can listen to commercial stations from Miami, as well, and do. But Radio Martí gets its signals to the Cuban people.

TV Martí, by contrast, has cost the American taxpayer since 1989 $189 million to broadcast television signals into Cuba that the Cuban people cannot see because the Castro Government routinely jammed those signals. In fact, for much of its existence, Television Martí was broadcasting signals from 3 a.m. until 8 in the morning—again, broadcasting signals the Cuban people could not see.

That, of course, is no barrier in this country. The 20,000-foot tether on the aerostat balloon called Fat Albert sits up there in the sky with the technicians. By the way, since they had to shoot one down and since another one got loose and went over to the Everglades and they had to round up this aerostat balloon and figure out a way to catch it, since then they now have three different ways of communicating with and controlling Fat Albert which I am sure is of great comfort to the people who might be in the way of an aerostat balloon that gets loose in this country.

Fat Albert is up there every day on the case, broadcasting television signals to the Cuban people. And every day, the Cuban people see this—this is a television screen in Cuba—they see snow, because Castro jams the signals. So we have a program we pay for that doesn't work, that is not needed, and we keep doing it year after year.

And this year, guess what. The President wants to double the funding. Yes, that is true, a program that does not work, is unneeded, is wasting the taxpayers' money, and the President's budget says, let's double the funding.

Let me tell you what they did after they had this introduction of Fat Albert. Fat Albert gets loose, goes over to the Everglades, it is kind of a problem, and everyone is embarrassed about it. It is a worthless program that sends signals no one can receive to the Cuban people, and then they lose a balloon and they have all these embarrassing anecdotes of the fact that they are spending money to broadcast a television signal no one can receive, and so they decide they will do something different.

October 10, 2003, in the Rose Garden, the administration announced new ''get tough'' measures with Cuba which, among other things, said we will stop using Fat Albert; we are not going to use an aerostat balloon anymore. Now we are going to take Commando Solo, a C–130 Air National Guard plane, special operations C–130 airplane called Commando Solo. They are going to now broadcast television signals from Commando Solo.

The broadcast of TV Martí from Commando Solo commenced once a week for a 4½ hour broadcast. They use the same technology the current Fat Albert blimp uses. It broadcasts a signal from a high altitude which then is jammed by the Castro Government. The Commando Solo cannot overcome jammers in Havana, either. It can only reach areas if there are areas where the Castro Government is not jamming.

Commando Solo is operated by the 193rd Special Operations Wing of the Pennsylvania National Guard. It was designed for psychological warfare in military situations. It has been used to broadcast television messages in Panama, Desert Shield, Grenada, Desert Storm, Afghanistan, and Iraq, largely areas where there has been combat that has occurred. There are half a dozen of these airplanes that exist. They are a precious military resource that is being used for what is now a nonmilitary operation. So now instead of Fat Albert, or in addition to Fat Albert, we have Commando Solo. There is no evidence, of course, that the Cubans can receive a signal from Commando Solo, but we are still pumping taxpayers' money into this folly.

The President's budget says we are spending $10 million a year. We have been doing that for 16 years, and we understand this is a program we do not need, a program that does not work, but we still want to keep funding it and we want to actually enhance it. Now what we want to do is go purchase a new airplane, go buy a new airplane for $8 million so that it becomes the TV Martí airplane to broadcast signals the Castro Government will jam and that the Cuban people cannot see.

If you sat around a smalltown café and talked about this, you would not get one person in a million who would say, well, if we have something that doesn't work, let's keep doing it; in fact, let's double it. Let's do more of it. Almost everyone would say: Are you out of your mind? What are you thinking about, funding something that does not work? If it is clear it does not work, why does it take you 16 years to decide it does not work? And if it does not work, why on Earth would you suggest doubling the funding? Yet that is exactly what we have.

Now, we have people who will, I am sure, defend this, and they will say: Well, do you know something? There are some Cubans who say they have seen it. We have 19 million people in Cuba, somewhere in that neighborhood. I think when the State Department talks about this, they say: We have 250 sitings of people who actually have seen Television Martí.

What they were doing is, they were interviewing people off the boats coming from Cuba in order to see if they could get some evidence that somebody was actually able to see something more than the snow on this screen. They got such an embarrassingly small amount of testimony from people who have said they could see this, they finally stopped asking people. So now there are no surveys because it was too embarrassing to get a survey completed that said this is a tragic, complete, total, thorough waste of taxpayer money.

What we have is a bill on the floor of the Senate that promotes the President's budget that says we will double funding for this program that is a total waste from $10.3 million to $21.1 million in fiscal year 2006. And the $10 million increase would go toward buying an airplane that would transmit 4 hours of TV broadcast to Cuba each day that would be jammed by the Castro Government and that would not be able to be received by the Cuban people.

TV Martí says it could operate a secondhand, modest twin engine plane for about $8 million. They would buy it for $8 million, and spend $2 million a year on the plane. There is not a shred of evidence—not a shred of evidence—anywhere that this would put us in a different position than now exists. The desire to use, for 16 years, an aerostat balloon called Fat Albert, and then the desire to expropriate military assets to send a highly specialized military plane, designed for psychological warfare, up in the air to broadcast for 4 hours a week signals the Cuban people cannot see—it is unbelievable.

It is one of these things that leads me to say, as I have from time to time, that even waste has a strong constituency here in the Congress. But from time to time you can see waste for what it is. This is evident. It is clear. It is not about Republicans or Democrats. It is about whether we want to spend money on something that does not

work. Do we want to continue to do that?

My colleague, Senator WYDEN, and I say absolutely not. Let's finally, finally, finally—after 16 years—have the courage to shut down a program that is a total waste of the American taxpayers' money.

My colleague from New York wishes to, I think at this time, set aside and offer his own amendment; and then we will continue the debate with my colleague from Oregon immediately after the offering of the amendment.

Let me at this time yield the floor.

The PRESIDING OFFICER. The Senator from New York.

AMENDMENT NO. 309

Mr. SCHUMER. Madam President, I ask unanimous consent that the pending amendments be laid aside and that amendment No. 309, offered by myself and the Senator from South Carolina, be called up.

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

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER], for himself, Mr. GRAHAM, Mr. BAYH, Mr. BUNNING, Mr. DODD, Mrs. DOLE, Mr. FEINGOLD, Ms. STABENOW, and Mr. KOHL, proposes an amendment numbered 309.

Mr. SCHUMER. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To authorize appropriate action if the negotiations with the People's Republic of China regarding China's undervalued currency are not successful)

On page 277, after line 8, add the following:

TITLE XXIX—CURRENCY VALUATION

SEC. 2901. NEGOTIATIONS REGARDING CURRENCY VALUATION.

(a) FINDINGS.—Congress makes the following findings:

(1) The currency of the People's Republic of China, known as the yuan or renminbi, is artificially pegged at a level significantly below its market value. Economists estimate the yuan to be undervalued by between 15 percent and 40 percent or an average of 27.5 percent.

(2) The undervaluation of the yuan provides the People's Republic of China with a significant trade advantage by making exports less expensive for foreign consumers and by making foreign products more expensive for Chinese consumers. The effective result is a significant subsidization of China's exports and a virtual tariff on foreign imports.

(3) The Government of the People's Republic of China has intervened in the foreign exchange markets to hold the value of the yuan within an artificial trading range. China's foreign reserves are estimated to be over $609,900,000,000 as of January 12, 2005, and have increased by over $206,700,000,000 in the last 12 months.

(4) China's undervalued currency, China's trade advantage from that undervaluation, and the Chinese Government's intervention in the value of its currency violates the spirit and letter of the world trading system of which the People's Republic of China is now a member.

(5) The Government of the People's Republic of China has failed to promptly address concerns or to provide a definitive timetable for resolution of these concerns raised by the United States and the international community regarding the value of its currency.

(6) Article XXI of the GATT 1994 (as defined in section 2(1)(B) of the Uruguay Round Agreements Act (19 U.S.C. 3501(1)(B))) allows a member of the World Trade Organization to take any action which it considers necessary for the protection of its essential security interests. Protecting the United States manufacturing sector is essential to the interests of the United States.

(b) NEGOTIATIONS AND CERTIFICATION REGARDING THE CURRENCY VALUATION POLICY OF THE PEOPLE'S REPUBLIC OF CHINA.—

(1) IN GENERAL.—Notwithstanding the provisions of title I of Public Law 106–286 (19 U.S.C. 2431 note), on and after the date that is 180 days after the date of enactment of this Act, unless a certification described in paragraph (2) has been made to Congress, in addition to any other duty, there shall be imposed a rate of duty of 27.5 percent ad valorem on any article that is the growth, product, or manufacture of the People's Republic of China, imported directly or indirectly into the United States.

(2) CERTIFICATION.—The certification described in this paragraph means a certification by the President to Congress that the People's Republic of China is no longer acquiring foreign exchange reserves to prevent the appreciation of the rate of exchange between its currency and the United States dollar for purposes of gaining an unfair competitive advantage in international trade. The certification shall also include a determination that the currency of the People's Republic of China has undergone a substantial upward revaluation placing it at or near its fair market value.

(3) ALTERNATIVE CERTIFICATION.—If the President certifies to Congress 180 days after the date of enactment of this Act that the People's Republic of China has made a good faith effort to revalue its currency upward placing it at or near its fair market value, the President may delay the imposition of the tariffs described in paragraph (1) for an additional 180 days. If at the end of the 180-day period the President determines that China has developed and started actual implementation of a plan to revalue its currency, the President may delay imposition of the tariffs for an additional 12 months, so that the People's Republic of China shall have time to implement the plan.

(4) NEGOTIATIONS.—Beginning on the date of enactment of this Act, the Secretary of the Treasury, in consultation with the United States Trade Representative, shall begin negotiations with the People's Republic of China to ensure that the People's Republic of China adopts a process that leads to a substantial upward currency revaluation within 180 days after the date of enactment of this Act. Because various Asian governments have also been acquiring substantial foreign exchange reserves in an effort to prevent appreciation of their currencies for purposes of gaining an unfair competitive advantage in international trade, and because the People's Republic of China has concerns about the value of those currencies, the Secretary shall also seek to convene a multilateral summit to discuss exchange rates with representatives of various Asian governments and other interested parties, including representatives of other G–7 nations.

AMENDMENT NO. 284

Mr. SCHUMER. Madam President, I ask unanimous consent that the amendment be laid aside and we return to the Dorgan amendment.

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

The Senator from North Dakota.

Mr. DORGAN. Madam President, I said 19 million Cuban people. I meant 11 million people who live in the country of Cuba.

Madam President, before I yield the floor so my colleague from Oregon can have the floor, let me say again, I think we will have people come to the floor and say: What do you mean ''a waste of money''? We have to deal with the Castro government. We have to get tough. We cannot back away.

I do not come to the floor to say anything good about the Castro government. The Cuban people deserve to be free and deserve to have the boot removed from their neck, the boot of oppression from a government that does not allow that kind of freedom.

But let me say this: This country has stated as its purpose for a long while with respect to China and Vietnam, both Communist countries, that the road to progress toward democratic reform in those countries is through trade and travel and engagement. We have believed that fervently, Republicans and Democrats. We trade with Vietnam. We trade with China. We travel to both countries. We believe that advances both countries toward more human rights and better human rights.

It is only with Cuba we have this obsession—believing if we can track down Americans who attempt to travel in Cuba, and slap them with big fines, restrict travel, restrict trade, and somehow waste money on things like TV Martí—it is only with Cuba we are obsessed with a policy that does not work.

Fidel Castro has lived through 10 Presidents. The fact is, the embargo this country slapped on Cuba is the best weapon he has to continue in office, to continue his power in the Cuban government. He says it is the 500-pound gorilla up North that has its fist around the throat of the Cuban people. It would be much smarter, in my judgment, to remove the travel restrictions and all the trade restrictions from Cuba and do with Cuba as we do with China and Vietnam. The quickest way to move Castro out of Cuba is through trade and travel and engagement, and I believe that strongly.

But this amendment of ours does not address that. It addresses one piece of this obsession with Cuba; and that is, the continued spending of money for TV signals into the Cuban country that the Cubans cannot see. It is one thing to do things that are wrong; it is another thing to do things that are dumb. I understand somebody shooting themselves in the foot. But after you have done it the first time, to take aim at your foot the second time—there is something fundamentally wrong and unsound about the thinking that allows you to do that. That is exactly what we are doing.

I will yield the floor so my colleague from Oregon, who is a cosponsor of this amendment, can speak.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Madam President, I tell my colleague, I am pleased to be able to team up with him on this effort. Over the last few months, we have been digging into a variety of areas where waste of taxpayers' dollars has occurred.

I think Senator DORGAN has made the central argument with respect to our amendment; that is, you do not get tough with somebody by wasting money. In other words, we are going to have a fair amount of discussion, I suspect, on this amendment about whether you are being soft minded on Castro, or something of that nature, whether you agree with Castro's political agenda.

What we are talking about is stopping foolishness with respect to frittering away taxpayer dollars. As my colleague has said, what we are faced with is a situation where Fidel Castro has jammed TV Martí's airwaves since their conception. As a result, instead of feeding the Cuban people a glimpse of honest television, what we have been feeding the Cuban people is static and snow. Now, the snow on Cubans' TV screens may be the only snow they get in Cuba, but I can assure you this is about the most expensive snow we have seen on the planet.

What we want to do is protect the interests of taxpayers. We have gone through Fat Albert. Now you have the question of the sequel to Fat Albert, with the President having proposed slashing other programs, particularly programs here at home. How do you argue that something such as this ought to be preserved, that the use of taxpayers' dollars in this area ought to be preserved, where everything here at home is on the chopping block during a belt-tightening environment in Government?

TV Martí was intended to follow in the footsteps of Radio Martí, providing Cubans access to balanced information from the outside world so that Cubans living under Fidel Castro's regime would have a taste of the freedom that Americans enjoy here at home.

We are willing to stipulate for purposes of this discussion and debate we are having on the floor of the Senate that Radio Martí enjoys a strong listening audience and successfully transmits news to Cubans from the outside world. But the bottom line is, TV Martí has never come close—never come close—to meeting the standards of Radio Martí. I defy anybody to find a significant group of people in Cuba who see this television.

As Senator DORGAN has mentioned, the process of surveying people, which under normal circumstances would be a good way to determine the extent of use, has now been hot wired so they do not even do the surveys anymore because they are not going to get the results they want to have. They want to have surveys that show a significant number of people are getting this, and they cannot prove it. So if you cannot prove it, you do not put out a survey that says: Oh, no viewers. You sort of figure out a way to make the surveys disappear. That is essentially what has happened.

Our discussions and examination, as we have pursued this issue over the last few months in an effort to root out this waste, indicates virtually nobody sees this. That is where we are now. So we are looking at the prospect, after all of this waste of money—well over $100 million sunk into this static, this static and snow over the years—of spending still more money.

Senator DORGAN and I believe it is time to draw a line in the sand and say: Halt this waste. Halt this frittering away of the American people's scarce dollars.

The President does have a new plan to circumvent the jamming. His idea is to use military aircraft to broadcast TV Martí that way. We have our folks, men and women from Alaska and North Dakota and Oregon, and they are in harm's way today. So at a time when our troops are in harm's way and face great peril around the world, we are talking about transferring military assets that we need to protect their well-being and the well-being of this country. I do not see how you can make the case again that that is a wise expenditure at this time.

So I hope as the Senate debates the Dorgan-Wyden amendment, we can make it clear that when programs such as Radio Martí work, we are willing to make sure the United States plays an active role in trying to make sure people have information, accurate, objective information, on what freedom is all about. But where you are talking about waste, where you are talking about funding programs that may make people say, ''oh, you're getting tough, you're getting tough on Castro,'' when in fact you are wasting money, that is where the two of us are trying to blow the whistle and prevent further efforts to throw taxpayers' money at TV Martí, when there is no evidence it will work.

The money we have spent year after year goes, as I have said, to finance some of the most expensive static, the most expensive snow in the history of television screens. What we ought to be doing is making sure that taxpayers' dollars are spent wisely. Here it could be used in a whole host of other areas. It is our hope, and the purpose of this amendment, to pull the plug on a program that does not work now, has not worked in the past, and is not going to work in the future.

Mr. DORGAN. Madam President, I wonder if the Senator from Oregon will yield for a question?

Mr. WYDEN. I am happy to yield.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, I used a picture of Fat Albert, the aerostat balloon. I will show that once again. Fat Albert was fearlessly broadcasting television signals that no one could receive, doing it for 16 years or so. And now, in order to continue broadcasting signals no one can receive, we have expropriated the use of the Pennsylvania Air National Guard's airplane called Commando Solo, one of only a half a dozen ever made, used in Bosnia, used in Iraq, used in Afghanistan, for very sophisticated electronic psychological warfare purposes. That has been flying now for 4 hours a week, broadcasting signals, without any evidence at all that the Cuban people can see those signals.

So we have gone from Fat Albert to Commando Solo and now the next step, to purchase a new airplane, to purchase a new airplane so TV Martí has its own airplane to broadcast signals no one can see. Does it sound a little goofy? It would in my hometown, if you told this story. Sometimes there are people who serve here who think they know more than anybody else, they can see over the horizon things others cannot see.

There is a broad common sense in this country that takes a look at things like this. And wouldn't it be the case that in a small town café in Oregon or a small town café in North Dakota or Alaska, people would take a look at this and say: What on Earth are you thinking about, spending money on something we don't need and doubling the funding for something that doesn't work? Where have you been? What planet are you living on?

Mr. WYDEN. I appreciate the Senator's question. It seems to me that this is Government Waste 101. This is not complicated. Since its inception in 1980, it appears that this particular program, TV Martí, has had essentially no real Cuban viewership. We have been doing everything we can to find anything resembling a current study, a current report, any body of evidence which would indicate that there is an actual market, a group of Cubans who see this.

As the Senator from North Dakota has indicated in his question, if you go into a coffee shop in Alaska or North Dakota or Oregon, this program doesn't pass the smell test. People are going to say: Look, we don't like Castro. And this isn't a debate about whether you like Castro. I have been studying this issue since my dad wrote a book about the Bay of Pigs, the untold story. So like many of my colleagues, I have been studying this issue for a long time. This is not a referendum on whether you are going to be tough on Castro or whether you like Castro. This is a referendum on whether we are going to allow millions of dollars of Government waste to go forward. We have been doing it for years. We should have pulled the plug some time ago. And yet, because this program sort of masquerades under the title of being tough on Castro, we just keep shoveling money at it.

I thank the Senator from North Dakota, who has spent a great deal of time on it. I also want to come back to

a point the Senator from North Dakota touched on that is very important. Personally, a lot of us would like to reexamine our policy with respect to Cuba. That is not what this amendment is about. This amendment is about one thing: whether we are going to sanction more waste. This program doesn't pass the smell test. You wouldn't possibly be able to explain it in a coffee shop.

My hope is that we support real programs, such as Radio Martí, that are going to make a difference in terms of getting information to the Cuban people about areas where there is waste and not continue to fritter away scarce taxpayer resources.

I thank my colleague for giving me the time.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. The point I have not made is, we don't propose to spend this money in other ways; we simply propose that we strike the funding for TV Martí, a program that doesn't work, and thereby reduce the Federal indebtedness. So we are not suggesting taking this money and spending it in some other way. Get rid of this program that doesn't work, that is unneeded, and thereby eliminate at least this small amount of Federal indebtedness.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. MARTINEZ. Mr. President, I rise to speak in opposition to the amendment. It is interesting that just a few minutes ago we were at the other end of this building in the House of Representatives in a joint session of Congress hearing from President Yushchenko speaking of freedom and the value of freedom and the unique opportunity freedom presents to a people. In order to ensure the ability of folks to raise a family, to conduct their lives, to conduct free commerce, all of these exciting things spark and begin with a flame of freedom. There is no more important way in which the flame of freedom can be conveyed than by information and communication.

We know that today the world of information transforms lives, transforms people around this Earth. We also know that there are still people across the world who do not have the opportunity to hear the free and unfettered bits of information that we so take for granted.

Let me take a moment to describe for you a little bit about what Cuba is like. Cuba is a country today where there is only one source of information: the Cuban Government. Cuba is a country where anyone who would dare to use the Internet without authorization from the Cuban Government, without oversight by the Cuban Government, would have their freedom threatened and taken away. In addition, we also know there is within Cuba a tremendous and growing movement of folks who believe that it is time for Cuba to be free as well and a dissident movement within Cuba. Those people who dare to risk their lives and freedom each and every day, those people who today suffer in Cuba's prison camps because of their desire to seek freedom, those people are emboldened and encouraged by what they can hear and see in the voices and sounds of freedom.

For a long time the United States has had a long and valued tradition of standing with people who are oppressed and suppressed. Mr. Yushchenko spoke this morning eloquently of the words of Ronald Reagan when he said ''tear down this wall'' and what a profound impact that had in beginning the change that occurred in the eastern European nations.

In addition to that, we know the words of Vaclav Havel, other leaders of the ''Velvet Revolution,'' and also the people of Poland, Lech Walesa. And they have said that without a doubt, the thing that made a difference in their lives was Radio Free Europe. I have never heard any one of these patriots of liberty of the modern day say in any public setting that the difference was made for them in seeking freedom when more tourists came and drank rum in their country or when they had the opportunity to see foodstuff in stores that they couldn't buy. But I have heard repeatedly said how valuable was the information and the opportunity to pierce that government control over the people.

You see the control of information is not just about the exchange of news and information, valuable as that is. It is about showing the people who dare to rise in opposition to tyranny that the tyrannical regime that controls their lives is not all powerful, is not omnipresent, but that they, in fact, have the right and opportunity to hear the message of freedom and liberty.

Let me talk specifically about TV Marti. The fact is that while we might mock in commentary what happens with the TV Martí broadcast to Cuba, I have a little different story. Around the time of my ascension to the U.S. Senate, when I had this awesome and unique privilege, the first Cuban American, the first person born in the island of Cuba to ever have the honor to speak from this floor, to be a part of this longest serving democratic institution in the history of mankind, the people of Cuba were rightfully proud and excited by that moment.

I want to tell you that about the time of my taking my oath, I did an interview for TV Martí. I spoke of my thrill and my pride and my hopes and aspirations as I came to the Senate. That interview was broadcast by Commando Solo. That interview was broadcast in the only way in which they can pierce Castro's control over his people about information: by flying this airplane over international waters in a way that can and does, in fact, pierce Castro's blockade and jamming.

That information that got through that night, that interview was seen by people in the hometown where I grew up, Sagua La Grande, Cuba. It is a small city on the northern coast of Cuba where I had the joy of growing up as a small child and where today there are people who still remember me and my family, and where there were people who, unbelievably to me, heard the broadcast and were able to communicate through telephone and otherwise about what they had seen and heard on TV that day, about the images of me taking my oath on this very floor, about the images of me celebrating with other people who supported my candidacy, who came from Florida, many of them Cuban Americans who rode on a bus for 18 hours to come here and join with me and celebrate.

They joined with me here, but those people in Cuba had the opportunity to see those images in my very hometown where I was born, to see me take the oath of office from Vice President CHENEY, President of the Senate. That happened because of the Commando Solo flights. It was a moving experience to the people in this little town, the people who I know sometimes seem unimportant and are not very well known but who, in fact, have the rare opportunity to see that blockade pierced.

So what is our hope? Our hope is we can expand that, that we can do more of it, that we can transfer the technology we now have and the ability to pierce the information blockade so that more and more people can have this information. Too often we talk about an economic blockade with Cuba. The greatest blockade that exists in Cuba, in the words of some of Cuba's dissidents, is the blockade of the Cuban Government against its own people, whether it be for economic opportunity, the rights of the individual, or just to perceive and hear information that comes across the airwaves.

I believe that while imperfect and while still a work in progress, for us to turn our backs on those people in Cuba who depend today on the little bit of information they can get through Radio and TV Martí would be a step away from the long and proud tradition of this country to stand by people who are oppressed. To harken back to the words of President Bush, to the words he gave upon taking office for his second term, if you are oppressed, we stand with you. If you seek freedom, we will be by your side. That wave of democracy that President Bush has begun in places such as the Middle East, that is the very hope that we have.

The President's policy toward Cuba began on May 10 of last year. It is a dynamic policy. It is not just about what we don't do; it is about what we do, about the proactive measures such as the Commando Solo flights, the opportunity for TV Martí to, in fact, be seen by the Cuban people, the opportunity for us to help the dissident movements, for us to proactively help the people of Cuba to remove the yoke of tyranny from their backs.

I believe that when the facts are examined, we would also know that the Interests Section Survey in Havana monitors the ability of the Commando Solo flights to be seen by the Cuban people. There is no such thing in Cuba as a Gallup poll or the ability to even speak freely about what you watch on TV, but 16 percent of those surveyed responded in the affirmative to the U.S. Interests Section in Havana that they were, in fact, seeing TV Martí and that it reached an audience. It does not cover the entire island. It doesn't cover as much as we would like. But each and every day, we make more happen with it.

I am proud to be a supporter of the efforts of TV Martí, and I urge my colleagues to defeat this amendment which would end the little glimmer of light that is available to the people of Cuba today and that otherwise would not be there for them.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ALLEN. Madam President, I ask unanimous consent to yield myself such time as I may consume on this amendment by the Senator from North Dakota.

The PRESIDING OFFICER. The Senator has that right.

Mr. ALLEN. Madam President, I rise to urge my colleagues to oppose this amendment and continue to support our country's investment in television broadcasting into Cuba. Otherwise known as TV Martí. The Senator from North Dakota may be exaggerating, and folks get carried away as well. He will say that this is not needed. This is needed. There may be a question as to how effective the TV Martí signal is getting in to Cuba.

Because we are talking about signals and broadcasts, let's make sure we are sending the right signal here. Whether it is my good friend from Oregon or whether my friend from North Dakota, we all, I would hope, want to make sure we are standing strong on the ability of people who are repressed and under the tyranny of Castro, to get information.

There are questions as to whether all the ways that we are trying to get around the jamming and scrambling of signals by Castro's regime are effective or not; however, it is a matter of our national interest that we try to get information, objective information, to the people of Cuba. It doesn't matter one's culture. All human beings, no matter their background or culture, if given the choice, the opportunity, will choose freedom. We have seen it with the Afghan people. We have seen it with the people in Iraq. We are seeing it with the Lebanese rising up to get the Syrian troops out. We have seen it with the Palestinians, with the death of the corrupt terrorist Arafat. The same applies to the people of Cuba, or anywhere else in the world. The Cuban people share the desire that all human beings have, and that is a need to have information and an opportunity to determine their own destiny.

I believe that Radio Martí and TV Martí can help promote freedom and justice in Cuba. We all know the United States has sponsored television and radio broadcasting in Cuba for almost 20 years. The effect of all of that—and we can all try to find measurements. It is not as if you can go around Cuba and do surveys. This is not allowed. Remember, this is Castro's regime. If I want some evidence of a probative witness, I am going to listen to the Senator from Florida, Mr. MARTINEZ, who made history, standing here as the first person ever born in Cuba to be elected to serve in the U.S. Senate. He understands the impact of our message to Cuba better than anybody or any statistics one would want to put forth.

So while we understand it is very difficult to get into Cuba and make sure of the effectiveness of TV or radio broadcasts, it is well known that Radio Martí—and to the extent we can get TV Martí in—is looked upon as an authoritative and reliable source of accurate, objective, and comprehensive news for the Cuban people.

If this Congress were to eliminate TV Martí, we would be sending the wrong message to the Cuban people. At a time when freedom is on the march around the world, eliminating TV Martí would tell the Cuban people—I suspect Castro would be getting his minions and fellow thugs of that regime out to say the United States isn't going to bother. We succeeded with jamming or scrambling the signals, saying the United States doesn't want to worry about this. It would be a signal for him to say that the United States is not committed to the cause of freedom in Cuba. Of course, with his long history of repressing free speech and the free flow of information and ideas in Cuba, this plays right into Castro's hands.

Thomas Jefferson once said:

> A free people [claim] their rights as derived from the laws of nature, and not as a gift of their chief magistrate.

The sharing of information and free flow of ideas, and the foundation of any free country is not to be something that is given or taken away by the machinations of a dictator like Castro.

In my view, there are four pillars of a free and just society. This is how I measure freedom myself for people if they are living in a free and just society. The first pillar is freedom of religion, where people's rights are not enhanced or diminished because of religious beliefs; second, freedom of expression; third, private ownership of property; fourth, the rule of law, where disputes are adjudicated fairly and God-given rights are protected. The second pillar, freedom of expression, is absolutely essential, where people are allowed to get information and to think for themselves. To communicate not in a way that is harmful, but the God-given rights of expression being protected.

We have to support the opportunity of the people of Cuba to get information. They are not going to get it from their Government. People will say, gosh, we are having to use airplanes. There are different ways you have to get at it. You cannot use balloons or a dirigible; you cannot do it off of broadcasting. Why can't we use it the way everybody else sees TV? It is because of that regime. Sometimes you have to be more clever than some of the reptilian cutthroats that we are dealing with. In my view, we ought to stand for the concept of freedom of expression. We have seen it work and we have seen it on Radio Martí. I hate wasting money, but there are certain things we need to do. This is actually a less expensive way of advocating freedom, by using technology—using extraordinary means, but still getting the message to the people of Cuba, regardless of the obstacles that are established by Castro's regime. I think we need to be providing news, commentary, and promoting the open exchange of information and ideas in Cuba and elsewhere to promote the cause of freedom.

To be effective in further opening communications and the sharing of ideas throughout Cuba, Radio and TV Martí must continue to be broadcast and should receive our country's support. I sincerely urge my colleagues to oppose this amendment and stand with the Senator from Florida, Mr. MARTINEZ, but, most importantly, stand for the advancement of freedom.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida, Mr. NELSON, is recognized.

Mr. NELSON of Florida. Madam President, the business before us is the Dorgan amendment, which strikes $21 million from the President's budget and prevents the funds from being used for the broadcast of TV Martí.

You can say I have a parochial interest in this, being the senior Senator from Florida, joining my colleague, Senator MARTINEZ. Indeed, we do have a parochial interest because we have quite a few Cuban Americans who are citizens of our State. But the reason we should defeat this amendment goes far beyond parochial interests, or any interest of any particular group, for it strikes at what the heart of America stands for in our promotion of freedom—freedom of speech, freedom of assembly, freedom of the press—all of these freedoms that we are privileged to have, protected by our Constitution, which supposedly are protected under the Cuban Constitution, but have never been protected.

This amendment sends the wrong message to the Cuban people at a time when change is in the wind, when in fact change is occurring on the island. This amendment would cut the entire budget for TV Martí.

It would also prevent the Broadcast Board of Governors from purchasing a small aircraft that they will use to transmit the signals. The aircraft is

equipped to broadcast both television and radio signals. Eliminating this funding would also limit the U.S. radio broadcast operations. Current broadcasting operations, including radio, are conducted from a Department of Defense EC–130 Commando Solo aircraft. It is based, interestingly, in Harrisburg, PA. It has to fly every Saturday all the way from Pennsylvania down to the Florida Keys for its mission. It makes a lot more sense for the Broadcasting Board of Governors to have a smaller aircraft that is located close to Cuba, being more economical and still having the same equipment.

This station and this money shows our commitment to the Cuban people as they continue to suffer under a dictatorship that ignores human rights and imprisons political dissidents. We simply should not be turning our backs on Cubans at a time when the regime is beginning to crack and a fledgling civil society is emerging.

Look, for example, at what has happened in the last couple of years. The Senate has heard me speak many times on the floor about this very brave Cuban named Oswaldo Paya and the Varela Project; where Cuban citizens put their name on a petition to the Government. Interestingly, this is under a process of the Cuban Constitution that said if you get 10,000 signatures—and they got well over that—that automatically an issue goes to the Government. The petition calls for freedom of expression, freedom of association, free enterprise, electoral reform, and also calls for elections within 1 year.

Have those brave Cubans who stood up suffered reprisals and intimidation by the Cuban security forces? You bet they have, and some of them went to jail. And only because the international community raised Cain were some of the dissidents released when, in fact, others are still in jail. But they were brave, and they went ahead and signed that petition that was generated by Oswaldo Paya. This type of dissident action is supported and promoted through TV Martí.

Some say all of these signals have been jammed. They have been jammed because they were either being transmitted from a stationary tower or they were being jammed when they tried to start transmitting from a satellite in the eastern Atlantic. This new airplane has only been flying since the fall of last year. We have to give it a chance to see if the signals are getting through. Now we will do it more economically with the smaller aircraft.

I will give another example of what is happening on the island in addition to the Varela Project. There are others in Cuba who are coming together to create civil society groups advocating for basic human rights and changes in the Cuban Government's structure. On May 20, next month, these groups will come together for the first time ever in Havana for a historic meeting to openly discuss and debate the future of the island and a transition after the future death of Castro.

TV Martí has produced a series of TV programs, including a 10-part series in which experts discuss a possible transition to democracy. That needs to be out there to be received by the Cuban people.

These are just some of the historic changes that are occurring on the island. These are the reasons that, maintaining our commitment to the freedom-loving Cuban people, we need to continue to broadcast TV Martí to Cuba.

I urge my colleagues to oppose this amendment. Senators, we need your help. Senadores, necesitamos su ayuda.

I yield to my colleague from Florida.

Mr. MARTINEZ. Madam President, will the Senator yield for a question? I wonder if the Senator has considered why the Cuban Government would spend all the money and make all the effort that it takes for them to jam these broadcasts. If it is not insignificant, if it is not important, why does the Senator think the Cuban Government goes on day after day jamming at great cost and expense each and every time we have broadcasts to Cuba?

Mr. NELSON of Florida. Madam President, I say to my colleague from Florida, the proof is in the pudding. Absolutely, the Castro Government for years has continued to try to jam broadcasts, and the fact is that we know the broadcasts of Radio Martí get through to the island. Broadcasting by this airplane is a new means by which we can get the transmission of TV Martí into the island. This clearly is what America stands for.

I am going to close. I see the chairman of our Foreign Relations Committee wanting to be recognized. I say to Chairman LUGAR, when I was 17 years old, I was taken, representing the youth of America, to Germany to broadcast over Radio Free Europe behind the Iron Curtain on a broadcast that years later we found out, much beyond my little broadcast, had a profound effect in bringing information to people who were enslaved behind the Iron Curtain. That was effective.

I think this is going to be effective in Cuba behind that iron curtain that enslaves those people on the island of Cuba.

Therefore, it is my hope, my prayer, that we will continue this effort, particularly where there are the beginning signs of liberty striking out all over the island.

I thank the chairman of the Foreign Relations Committee, the esteemed Senator from Indiana, for the opportunity to speak on this amendment.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Madam President, there has been a good debate on this amendment. It is an important amendment. I just wanted to make the point, however, that we have reached a point in our bill where we are going to have to move expeditiously; therefore, I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. DORGAN. Will the Senator yield?

The PRESIDING OFFICER. At this moment there is not a sufficient second.

Mr. LUGAR. I yield to the distinguished Senator.

Mr. DORGAN. I simply wanted 5 minutes to respond to some of what has been said. I have no objection at all to the vote.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Madam President, I would like an additional 5 minutes as coauthor of the amendment.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, the motion to table has been made. If we did it 5 minutes, 5 minutes, and then the vote?

Mr. LUGAR. OK.

Mr. REID. I ask unanimous consent that the Senator from North Dakota be recognized for 5 minutes, the Senator from Oregon for 5 minutes, the Senator from Indiana for 1 minute, and then we vote on his motion to table.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from North Dakota.

Mr. DORGAN. Madam President, I regret that we have a disagreement on the Senate floor, but I am not surprised. I would like to make a couple of comments. First, those who have opposed this amendment apparently have tried to win a debate we are not having. This debate is not about nurturing the flame of freedom. It is not about resisting tyranny. All of that is wonderful. I could stand here and tell a story about Vaclav Havel on a late night on a street corner in Prague, Czechoslovakia, hearing the Declaration of Independence for this country being recited by someone in Czechoslovakia. I could tell a story about Lech Walesa and what he did to light the flame of freedom in Poland, but I will not do that. That is not what this debate is about.

My colleague from Florida, Senator MARTINEZ, talked about how important these television signals are and that is why the Castro Government jams them each and every day. That is the point he made. That is exactly the point I was making.

If, in fact, these are jammed—and they are—let me read the expert from the U.S. Government. He says: Even though TV Martí is jammed, it is well positioned to be an important instrument of U.S. foreign policy or a crisis will occur on the island. Transmission to Cuba ''has been consistently jammed by the Cuban government.'' That is a U.S. official saying that. So we spend $10 million a year to send television signals no one can receive in Cuba to a Fat Albert, the aerostat balloon, and

now we have decided we are going to Commando Solo, a C–130 specially equipped.

By the way, there is no new technology here. I know several people have said this is new technology. Nonsense. This is plain old-fashioned waste of the taxpayers' money by now using a C–130 airplane to send television signals into Cuba the Cubans cannot receive. This is the same technology that is used by Fat Albert, the aerostat balloon. We have been doing it for 16 years. We have wasted $189 million.

I support Radio Martí. I have been to Cuba. That gets through to the Cuban people. I believe we ought to remove the embargo and allow trade and travel to Cuba. That is the quickest way to get rid of Fidel Castro, but that is not even the subject. The subject is will this Congress, when they see colossal waste, fraud, and abuse, stand up and decide to stop the spending?

When we talk about freedom, the question is this: Is there freedom from waste, fraud, and abuse for the American taxpayer? Does that freedom exist? If it does, will we decide to take that step in this vote?

I started this morning by saying even waste has a constituency in the Congress. It seems to me quite clear that we have had our colleagues say: Well, this is not perfect. Not perfect? What do they mean, not perfect? We broadcast television signals that the receivers cannot get and spend $10 million a year, and now we are going to double funding with the ''purchase of a small airplane''? Eight million dollars to buy a new airplane now to broadcast signals the Cubans cannot receive? We are going to double the funding? I am sorry. This is simply wasting the taxpayers' money.

I am all for doing things that remove the boot of oppression from the necks of the Cuban people, but I am not for wasting the taxpayers' money. We have been told now by the opponents of this amendment that this would send a bad message if we cease TV Martí, sending signals they cannot receive. Stopping that would send a bad message. That is the point of all of this, is it not?

Are we sending a message or are we not? The point of it all is we are spending a lot of money believing we are sending a message that is never received. Sending a message to someone who does not receive it, sending a message by aerostat balloon or by a C–130 or by a new $8 million airplane to 11 million people who cannot see it is fundamentally foolish.

Where is the freedom from waste, fraud, and abuse that the American people ought to expect from this Congress? We will see whether that freedom exists in the next 5 or 10 minutes.

I yield the floor.

The PRESIDING OFFICER (Mr. ISAKSON). The Senator yields.

The Senator from Oregon.

Mr. WYDEN. Mr. President, as we conclude with this amendment, I particularly thank the distinguished chairman of the committee for this extra time and get back to this question of what the amendment is really all about. I do not quibble at all with the fact that this is a laudable effort to promote freedom, as the Senator from Florida is talking about, but I believe it has to be about more than effort; it has to be about a result.

For example, something that strikes me as something that would be very useful is to set up Internet Martí. We have seen, for example, what happened in China. What really rattled the Chinese Government was the presence of the Internet. As far as I can tell, they have been struggling to block that out as well. They have not been able to do that. But that is the kind of investment that would make sense to me.

I would be thrilled to work with the distinguished Senator from Florida on wireless technology, for example. I have served on the Commerce Committee. I have a great interest in technology. I think there is a lot of potential as it relates to these kinds of concerns: wireless technology, Internet Martí.

What brings us to the floor today is that we talk about the flicker of freedom, which I am certainly for. As far as I can tell, the only thing the Cuban people see flickering is all that static on TV. So I hope we can save some money, which is the point of this amendment Senator DORGAN and I have offered, and then counsel together on a bipartisan basis through the chairman of the committee, Senator LUGAR, Senator MARTINEZ, our friend Senator NELSON, on something that would be practical. Sign me up for something like Internet Martí, something that would be a well-targeted investment, would allow us to build on the potential to cap other technologies, wireless technologies, Web-based technologies. That is something that seems to me makes sense.

I hope my colleagues will approve this money, allow us to start targeting these Government expenditures during a time of belt-tightening in a more cost-effective way.

I urge the passage of the amendment, and I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, the President of the United States has directed deployment of aircraft with capability of transmitting radio and television signals into Cuba. Thanks to the aircraft, plus Radio and TV Martí, they are reaching parts of the island that were previously unable to receive those signals. That is tremendously important.

As oppressive as that regime is, the state exerts extensive censorship. The Cubans are told only what the state wants them to know and are denied the right to obtain accurate information on Cuba and the world. We need to do all we can to open that up.

I appreciate the debate. It has offered avenues of constructive criticism of the program, but the program needs to continue. It is vital to our security and, we believe, the future of the Cuban people.

I renew my request for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion to table amendment No. 284.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 65, nays 35, as follows:

[Rollcall Vote No. 85 Leg.]

YEAS—65

Alexander	DeWine	Murkowski
Allard	Dole	Nelson (FL)
Allen	Domenici	Nelson (NE)
Bayh	Ensign	Reid
Bennett	Frist	Roberts
Biden	Graham	Salazar
Bond	Grassley	Santorum
Brownback	Gregg	Sarbanes
Bunning	Hagel	Schumer
Burns	Hatch	Sessions
Burr	Hutchison	Shelby
Chafee	Inhofe	Smith
Chambliss	Isakson	Snowe
Clinton	Kerry	Specter
Coburn	Kyl	Stevens
Cochran	Lautenberg	Talent
Coleman	Lieberman	Thomas
Collins	Lott	Thune
Cornyn	Lugar	Vitter
Craig	Martinez	Voinovich
Crapo	McCain	Warner
DeMint	McConnell	

NAYS—35

Akaka	Durbin	Levin
Baucus	Enzi	Lincoln
Bingaman	Feingold	Mikulski
Boxer	Feinstein	Murray
Byrd	Harkin	Obama
Cantwell	Inouye	Pryor
Carper	Jeffords	Reed
Conrad	Johnson	Rockefeller
Corzine	Kennedy	Stabenow
Dayton	Kohl	Sununu
Dodd	Landrieu	Wyden
Dorgan	Leahy	

The motion was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, in a moment I want to ask the Chair to recognize Senators SCHUMER and GRAHAM for an amendment on Chinese currency. Before I ask the Chair to do that, let me simply indicate that the status of our bill is such that amendments that clearly fall in the jurisdiction of the Finance Committee are going to be opposed not only by that committee but by the so-called blue-slip process, which means that our bill might not receive consideration on the floor of the Senate or ultimately on the floor of the House.

So leaving aside the substance of whatever may be the merits of an amendment, we are talking about an existential question for this bill itself as to whether it survives or has the hope of doing so.

For that reason, I just want to advise Senators why, at the end of about 40

minutes of debate, which I hope will be adequate for an exploration by the proponents of what they wish to do, I will be moving to table, to preserve really, this bill, the bill we are on. At that point I will ask the support of the body to table the Schumer-Graham amendment, whatever might be its merits, on the basis of jurisdiction.

We are going to have this problem two or three more times on amendments that have been suggested by Senators. So I make that point now, that will have to be the course of this chairman to preserve at least some hope we will have an authorization bill at all at the end of this process.

Having said all that, I am hopeful the Chair might recognize Senators SCHUMER and GRAHAM for a presentation of their amendment. And after about 40 minutes, we will come to a conclusion.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, before that, will the Senator yield? I had spoken to the Senator from Indiana about perhaps taking 3 to 4 minutes before they start on another matter. I ask unanimous consent, if I might, to be recognized for not to exceed 4 minutes. I assure the Senator it will not be beyond that.

The PRESIDING OFFICER. Is there objection?

Mr. LUGAR. Proceed.

The PRESIDING OFFICER. The Senator is recognized for 4 minutes.

Mr. LEAHY. Mr. President, I thank the senior Senator from Indiana for his usual courtesy.

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

AMENDMENT NO. 309

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from Kentucky.

Mr. BUNNING. Mr. President, I call up amendment 309.

The PRESIDING OFFICER. The amendment is pending.

Mr. BUNNING. Mr. President, I rise in strong support of the Schumer-Graham, et al., amendment that would authorize actions in currency negotiations with China. I have come before the Senate on a number of occasions to speak about how strongly I feel against providing permanent normal trade relations to China. The Chinese have been systematically devaluing their currency, and they have been buying up dollars. This is all done in a concerted effort to keep their goods cheaper than United States goods.

This should come as no surprise to anyone who has followed how the Chinese behaved over the years. China's human rights record, their antagonism toward Taiwan, and the threat they pose to our own national security have been well documented. These issues have been swept under the rug as the Senate has given away its voice on our trade relationship with the most populous nation on the globe. For me it looks as though we are simply putting profits over people. That is plain wrong.

Now we have a chance to correct that. The amendment before the Senate will give the administration a real tool to deal with the Chinese. The Chinese need our markets to sell their goods. If we take it away from them, we will have their attention. Hopefully this amendment will show the Chinese we are serious this time and that they need to play fair and let the market set the value on their currency.

Those opposed to the amendment will talk as if the American economy will be seriously harmed if we pass the amendment. I argue our economy is already being harmed. We are losing manufacturing jobs as a direct result of Chinese policies. The Chinese are killing what is left of our domestic textile industry. Hopefully, the U.S. Trade Representative's office will step in. It sounds as though they will. But we are dangerously close to losing what few textile jobs we have left in Kentucky, and I know other States are in the same boat.

For those who are not concerned about China's human rights, foreign policy, and trade record, let's take another cold, hard look at the facts. China operates one of the most oppressive regimes in the world, brutalizing its own people and persecuting people of faith. China ships weapons of mass destruction to terrorist states. China threatens other freedom advocates such as Taiwan and snubs its nose at the international community by occupying Tibet. China tried to buy access to our Government through illegal campaign contributions and to influence our elections.

The trade deficit with China has grown to record heights. For over a decade, the supporters of free trade with China have been making the arguments over and over again that China is changing, that things are getting better, and that we will soon reap the benefits of free trade with China. The facts prove them wrong. It has been over 10 years since Tiananmen Square and the Chinese are still oppressing their own people. They are still selling weapons to terrorists. They are still bullying other nations and threatening Taiwan and United States interests in the Pacific. Nothing is any different with China now. In fact, it might be worse.

Those who say otherwise are fooling themselves. We are seeing a march of freedom around the world—in Afghanistan, Iraq, the Orange Revolution in the Ukraine, whose President addressed Congress today, the Cedar Revolution in Lebanon, and other prodemocracy revolutions. We have seen that the time of the oppressive regimes is coming to an end. It is time to stop propping up the Communist government of Red China. Vote for the Schumer-Graham, et al. amendment and tell the Chinese our Government will no longer support tyranny. Vote for this amendment for the sake of America's economy and our workers. Vote for this amendment because it is the right thing to do.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. What is the status of the time?

The PRESIDING OFFICER. There is no time control.

Mr. GRAHAM. Will the Senator yield?

Mr. SCHUMER. I am happy to yield.

Mr. GRAHAM. We are trying to do the debate within 40 minutes. That was our goal.

Mr. SCHUMER. No time limit, but we will try to keep it to 40 minutes. Great.

I rise in strong support of this amendment of which my friend from Kentucky is a cosponsor. The lead sponsor of this legislation is Senator GRAHAM as well as myself. What this legislation does is simple. It says to the Chinese, enough already. It says to the Chinese that their unfair trade policies have got to end. It says to the Chinese, this is a shot across your bow. Reform because if you don't, there are going to be dramatic consequences throughout the world, in our country, and in your country as well.

The bottom line is very simple: The Chinese have enjoyed a huge trade surplus with the United States, as this chart shows. Every year it gets larger and larger and larger. Admittedly, some of that trade surplus is due to the rules of free trade. But much of that trade surplus is because the Chinese don't play fairly. They don't let our goods into their country. I can tell you of company after company in New York that cannot sell goods in China or can only sell the goods under certain conditions that make it impossible for them to sell them.

The Chinese make no effort to prevent the ripping off of our intellectual property. These are our crown jewels, the great creativity, the great entrepreneurialness of the American business community that is taken, and they shrug their shoulders. And worst of all, the Chinese, despite the fact that they have tremendous advantages by the rules of free trade, pile on unfair rules that violate free trade.

At the top of that list is the fact that the Chinese peg their currency abnormally low so that their exports get a 27-percent advantage in the United States; our imports get a 27-percent disadvantage when sold in China. Every tenet of free trade, if you believe in it, says they should not peg their currency.

Senator GRAHAM and I have foreborn. We were asked by the administration last year: Let us negotiate. I agreed. Negotiating would be better. But nothing happened. The Chinese give lipservice and don't change their trade policies a jot.

What does this mean for America? It means a huge job loss.

We have suffered dramatically in manufacturing jobs, and now service jobs and other jobs. It means we have a huge trade deficit. It means the dollar

sinks to abysmally low levels, threatening our wealth. It creates chaos in the whole world trading system. The euro and the yen bear the pressure of the Chinese currency evaluation against the dollar.

We are fed up. This is a measure that should not have to be on this floor. The Chinese should play by the rules once and for all. How can we stand by as millions of American workers lose their jobs, as thousands of American companies cannot compete fairly, as our country as a whole has wealth drained from it?

The U.S.-China Commission, set up by this and the other body to try to bring fair trade to China, believes this is the best way to go. The list of manufacturers, business leaders, and labor leaders who support this legislation is long and large. It is a bipartisan amendment. Senator GRAHAM and I have endeavored to pick up equal amounts of support from each side of the aisle. No one seeks political advantage. What we seek, rather, is fairness—fairness in trade, not in the sense of saying we don't want free trade, but in the sense of playing by the rules.

The Chinese do not play by the rules. We have talked and talked and talked, as a nation, to them, with other nations of the world. We have talked and talked to the Chinese until we are blue in the face. The time for action is now. If not now, when? If not us, who? Millions of American workers, thousands of American businesses, look to us to try to set things right. Today, by passing the Schumer-Graham amendment, we can do that. My guess is this would not have to become law. As soon as it passes this body, the Chinese will actually start to negotiate in earnest. But as long as they think all we do is wield words and do nothing to prevent these practices from continuing year after year after year, they will not budge. So it has come to this.

This amendment is probably one of the most important amendments we will vote on this year in this session of the Senate. I urge my colleagues to study it, to not put off the hour of decision, and to support the Schumer-Graham amendment.

I yield the floor and reserve the remainder of my time.

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

Mr. GRAHAM. Mr. President, first, I acknowledge that it has been a pleasure to work with Senator SCHUMER and others to develop this amendment. We have been involved in this effort for 2 years. We come from different ends of the political spectrum on many issues, but we found common ground here because we hear the comments, whether it is in South Carolina or New York, from manufacturing entities and other business people basically saying China has a business relationship that we cannot compete with. The political dynamic here is real.

Senator LUGAR explained how this amendment affects this bill. I want to let him know I totally understand that. We are now basically running out of options. As Senator SCHUMER said, whether this amendment becomes law is probably not the point. The point is that the Chinese need to understand where the Senate and House stand. The President spoke numerous times about trying to get China to change the value of the currency. Secretary Snow has been to China and brought up this topic. There has been a begrudging movement in words but none in deeds. Talk is literally cheap with the Chinese. Their money is cheaper and it is having an effect on our economy and world relationships that need to be met with decisive political action, because the truth is, for the last decade we have had a very mixed message when it comes to China—both Republicans and Democrats. The only thing the Chinese understand is resolve. The one thing this country has had, when it comes to China in terms of trade, is the lack of resolve.

No one is advocating building a wall around our country. China presents a great opportunity for American business. What we are advocating is allowing China to become part of the world community under the same set of rules we all abide by. They are missing the mark by miles. The money they are making off these trade agreements, where they cheat, is not going into the hands of the everyday Chinese worker; it is going into their military. If we had the same approach during the Soviet Union era by having trade deals with the Soviet Union that would be constantly violated, enriching the government, the Soviet Union would never have collapsed.

China's Communist government is taking the benefit of these trade deals and enriching their military and growing in economic and military strength in the way that I think hampers freedom. It doesn't help spread it. Here are the facts. Since March, 2002, the U.S. dollar has fallen 30 percent against the euro. You know what that has done against the yuan? Not one change. Thirty percent against the euro, but no change against the yuan. They always create an advantage. When we passed normal trading relations with China in 2001, the trade deficit was $100 billion; today it is $160 billion—a 60-percent increase of a trade imbalance since PNTR was passed.

Now, is our market access improving? There is a 5-percent increase of American goods going to China. If you don't believe me and Senator SCHUMER, and you think we are advocating a protectionist philosophy that is antiquated and outdated in the 21st century, maybe you will believe the U.S.-China Commission, which was authorized and empowered by the Congress, the Senate and the House, to investigate China's business dealings, their trade policies.

I ask unanimous consent to have this document printed in the RECORD.

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

U.S.-CHINA COMMISSION RELEASES FINDINGS AND RECOMMENDATIONS ON CHINA'S WTO RECORD

The U.S.-China Economic and Security Review Commission has released the official record of its two-day public hearing held on February 3 and 4, 2005 in Washington, DC examining China and the WTO: Assessing and Enforcing Compliance.

The hearing examined China's record of compliance to date with its WTO commitments and explored options for using U.S. trade laws and WTO mechanisms to address continuing trade problems, including China's undervalued currency and weak enforcement of intellectual property rights (IPR) protections. The Commission heard testimony from senior Administration officials, industry groups, labor organizations, economists, and trade law experts, as well as a bipartisan group of Members of Congress from both the House of Representatives and the Senate.

There was a general consensus among the witnesses that China remains in violation of its WTO obligations in a number of areas impacting vital U.S. economic interests. Witnesses highlighted China's undervalued currency and lack of IPR protections and expressed the view that U.S. government efforts to move China to address these serious problems have not achieved satisfactory results. The hearing also dealt with the application of U.S. trade remedies. The Commission heard testimony that the Administration has not effectively utilized available U.S. anti-dumping laws and China-specific import safeguards to counter China's unfair trade practices.

''It has become increasingly clear that China is not meeting key commitments it made when joining the WTO and that our trade laws have to date been insufficient in addressing these problems,'' said Commission Chairman C. Richard D'Amato. ''In some cases our trade remedies need to be enhanced, in other cases they have been woefully underutilized. The end result has been a trading relationship that is undermining important U.S. economic interests.''

In response to these concerns, the Commission has developed a comprehensive set of recommendations to the Congress designed to improve the use of U.S. trade remedies and to move China toward more effective compliance with its WTO commitments. A list of the Commission's recommendations is attached.

The complete hearing record is available on the Commission's web site at www.uscc.gov. Copies may be obtained by calling the Commission at (202) 624–1407.

ADDRESSING CHINA'S CURRENCY MANIPULATION

The Commission recommends that Congress pursue the following measures to move China toward a significant near-term upward revaluation of the yuan by at least 25 percent.

Press the Administration to file a WTO dispute regarding China's exchange rate practices. China's exchange rate practices violate a number of its WTO and IMF membership obligations, including the WTO prohibition on export subsidies and the IMF proscription of currency manipulation.

Consider imposing an immediate, across-the-board tariff on Chinese imports unless China significantly strengthens the value of its currency against the dollar or against a basket of currencies. The tariff should be set at a level approximating the impact of the undervalued yuan. The United States can justify such an action under WTO Article

XXI, which allows members to take necessary actions to protect their national security. China's undervalued currency has contributed to a loss of U.S. manufacturing, which is a national security concern for the United States.

Reduce the ability of the Treasury Department to use technical definitions to avoid classifying China as a currency manipulator by amending the 1988 Omnibus Trade Act to (i) include a clear definition of currency manipulation, and (ii) eliminate the requirement that a country must be running a material global trade surplus in order for the Secretary of the Treasury to determine that the country is manipulating its currency to gain a trade advantage.

ADDRESSING INTELLECTUAL PROPERTY RIGHTS (IPR) VIOLATIONS

The Commission recommends that Congress urge USTR to immediately file one or more WTO disputes pertaining to China's violation of its WTO IPR obligations, particularly China's failure to meet the requisite standards of effective enforcement, including criminal enforcement.

TREATING CHINA AS A NONMARKET ECONOMY

The Commission recommends that Congress require that the Department of Commerce obtain Congressional approval before implementing any determination that a nonmarket economy such as China has achieved market economy status. Congress should ensure that China continues to be treated as a nonmarket economy in the application of antidumping and countervailing duties through 2016, as is explicitly permitted by China's WTO accession agreement, unless China clearly meets the statutory requirements for market economy status.

WTO DISPUTE RESOLUTION

The Commission recommends that Congress establish a review body of distinguished, retired U.S. jurists and legal experts to evaluate the dispute resolution mechanism at the WTO. The review body would consider all decisions made by a WTO dispute settlement panel or appellate body that are contrary to the U.S. position taken in the case. In each instance, a finding would be made as to whether the WTO ruling exceeded the WTO's authority by placing new international obligations on the United States that it did not assent to in joining the WTO. If three affirmative findings were made in five years, Congress would be prompted to reconsider the relationship between the United States and the WTO.

ENHANCING THE EFFECTIVENESS OF U.S. TRADE REMEDIES

The Commission recommends that Congress authorize compensation to petitioners in the Section 421 safeguard process for legal fees incurred in cases where the ITC finds that market disruption has occurred but the President has denied relief. Congress should also consider eliminating presidential discretion in the application of relief through Section 421 petitions or limiting discretion to the consideration of non-economic national security factors.

The Commission recommends that Congress maintain the Continued Dumping and Subsidies Offset Act of 2000 (CDSOA or the ''Byrd Amendment''), notwithstanding the WTO's ruling that the law is inconsistent with WTO requirements, and accept any retaliatory tariffs that may ensue as the U.S. is permitted to do under its WTO obligations. Congress should press the Administration to seek explicit recognition during the WTO's Doha Round negotiations of the right of WTO members to distribute monies collected from antidumping and countervailing duties to injured parties.

The Commission recommends that Congress clarify without delay the authority of the Committee on the Implementation of Textile Agreements (CITA) to consider threat-based petitions for use of the China-specific textile safeguard negotiated as part of China's WTO agreement.

The Commission recommends that Congress direct the Department of Commerce to make countervailing duties applicable to nonmarket economies to provide an additional tool to combat China's use of government subsidies for its exporters.

The Commission recommends that Congress repeal the ''new shipper bonding privilege'' that has allowed many importers of Chinese goods to avoid payment of antidumping duties. Importers of goods subject to anti-dumping or countervailing duties should be required to deposit in cash the amount of any estimated applicable duty.

COUNTERING CHINA'S GOVERNMENT SUBSIDIES

The Commission recommends that Congress direct USTR and Commerce to investigate China's system of government subsidies for manufacturing, including tax incentives, preferential access to credit and capital from financial institutions owned or influenced by the state, subsidized utilities, and investment conditions requiring technology transfers. The investigation should also examine discriminatory consumption credits that shift demand toward Chinese goods, particularly as a tactic of import substitution for steel, Chinese state-owned banks' practice of noncommercial-based policy lending to state-owned and other enterprises, and China's dual pricing system for coal and other energy resources. USTR and Commerce should provide the results of this investigation in a report to Congress that assesses whether any of these practices may be actionable subsidies under the WTO.

Mr. GRAHAM. What do they tell us? There was a general consensus among the witnesses—they held 2 days of hearings—that China remains in violation of its WTO obligations in a number of areas impacting vital U.S. economic interests:

It has become increasingly clear that China is not meeting key commitments it made when joining the WTO and that our trade laws have to date been insufficient in addressing these problems.

They lay out the problems: China currency manipulation, intellectual property theft; treating China as a nonmarket economy; lack of enforcement of U.S. trade remedies that are on the books; China subsidies to businesses that are in violation to WTO.

We have had a very tepid response to China's cheating across the board and we are paying a huge price. Many Americans are losing jobs not because they are being outworked, or because the Chinese are smarter, but because they are being cheated out of their jobs. One way is that the Chinese have taken the value of their currency and artificially suppressed it, creating a discount on every product coming out of China to the detriment of American manufacturing and the world community at large, and all we do is talk to China.

A lot of people are depending on us to do something about China in a constructive fashion. Is this the best way to have done it? No. This is the only way I know of, after 2 years, to get anybody's attention, our attention or China's attention. We passed a sense-of-the-Senate resolution in 2003 that was a compromise that Senator SCHUMER and I made. OK, let's get the Senate on record. It was a sense of the Senate, and no one objected that China is manipulating its currency in violation of international norms and it costs Americans jobs. That was 2 years ago.

Last year, we were going to put it on the FSC/ETI bill. Everybody said you are going to mess up the bill. So we had a colloquy with Senator GRASSLEY, who is a good friend, and we talked about holding hearings and we talked about engaging China anew, because we didn't want to mess up the bill by bringing this bill forward. That was over a year ago. Not one thing has changed—not one hearing—and the problem gets worse and worse. The balance of trade between us and China is absolutely shameful. We are doing nothing about it other than talking.

Well, this amendment does something about it other than talking. Let me tell you what the U.S.-China Commission said about currency manipulation.

The commission recommends that Congress pursue the following measures to move China toward a significant near-term upward reevaluation of the yuan by at least 25 percent.

We look moderate compared to the United States-China Economic Security Review Commission.

Consider imposing an immediate, across-the-board tariff on Chinese imports unless China significantly strengthens the value of its currency against the dollar or against a basket of currencies.

The experts tell us the yuan is 15 to 40 percent below its true market, causing havoc on American manufacturing.

Reduce the ability of the Treasury Department to use technical definitions to avoid classifying China as a currency manipulator. . . .

They have a list things for us to do. One is imposing an across-the-board tariff. What I and Senators SCHUMER, BUNNING, and others are suggesting we do is put China on notice: In the next 6 months, allow China to move toward reevaluation in a way that will help the American economy, will make China a true, fair member of nations, and if they do not act in the next 6 months in some significant way, then we will look at the ability of this country to protect ourselves against a Communist dictatorship that cheats. And if the Senate is not here to protect the American worker against a Communist dictatorship that cheats, what the heck are we here for?

I hope we will send a message to China they can understand because apparently they do not understand what we are saying any other way.

I have enjoyed this experience working in a bipartisan fashion to stand up for American business interests that are being cheated out of jobs because of a Communist dictatorship that cheats and is building up their military at our expense.

To the American manufacturing community, there are a million other ways we can help. I talked with Governor Engler today. We are going to do more domestically and internationally to level the playing field, but this is a significant start. Will it solve all the problems? No. Will this put China on notice as they have never been put on notice before? Yes. And if we fail to adopt this message, we are also sending a message to China. I am not sure that is a message the American worker can stand having sent to China.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I ask unanimous consent that all the sponsors of the bill, S. 600—the amendment is identical to the bill—be added to amendment No. 309.

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

Mr. SCHUMER. Further, I ask unanimous consent that Senator DURBIN's name be added as a cosponsor to this amendment.

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

Mr. SCHUMER. I yield to my colleague.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM. Mr. President, I ask unanimous consent that Senator BURR be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered. Senator BURR will be added as a cosponsor.

The Senator from New York.

Mr. SCHUMER. Mr. President, I would like a followup to some of the comments the Senator from South Carolina has made in reference to our legislation.

First, I will mention the cosponsors of this bill, in addition to Senator GRAHAM and myself, as well as Senator BUNNING. They are: Senator REID, the minority leader, Senator BAYH, Senator DODD, Senator BURR, Senator DEWINE, Senator STABENOW, Senator MIKULSKI, Senator JOHNSON, Senator KOHL, and Senator FEINGOLD, and there are others as well. Senator DOLE I know is a cosponsor as well on the main bill. Now she is added to this amendment as well.

Mr. President, we have asked over and over again those who have said, Don't do this amendment, we know your intention is good, but don't do it, we have asked them over and over, What do we do? Secretary Snow called Senator GRAHAM and me and asked us not to do the amendment, give them a chance to negotiate with the Chinese. That was over a year ago.

You may recall before he even set foot in China, as his plane was in the air, the Chinese Government announced: Do not even try to negotiate on this; we are not changing. We are going to keep pegging our currency—which devalues our currency.

I sat down with a group of leading New York business people. It was at the invitation of one of them who gathered the group of very bright men in an effort to persuade me not to be for this amendment. After an hour and a half, they all agreed it was the right thing to do because we made the argument to them that day that if you believe in free trade, you cannot have one of the largest trading countries abjectly violating the rules. It does not work. It does not work for China, it does not work for America, and it does not work for the rest of the world.

If anyone doubts that the Chinese really play fair, let me mention one little story, and this is the kind of thing that drives us crazy. There is a company in Cortland, NY, called Marietta. Cortland has had tough times. It is an industrial town. Smith Corona used to make typewriters there. It obviously does not do that anymore. Buckbee-Mears had a big ball bearing plant, and that closed. The one saving grace of Cortland was Marietta, which kept growing.

Marietta makes a product we all use. They are the manufacturer of the little soaps and little shampoos that you get when you go to hotels and motels. The way Marietta gets its business, the chairman told me, is that they go to the big hotel companies, such as Hilton, and they say: You pick the color of the soap and the smell of the soap, and we will make sure it is in every room. That is how they have Hilton and other big companies as their customers.

Only one country does not allow Marietta to import its soap and its shampoo—China. When the president called me and I visited the plant up in Cortland, NY, 30 miles south of Syracuse, he told me that the Chinese now do their own business in China. They are using that protected market in China to compete with Marietta now in Southeast Asia, in Europe, and soon in America.

I said: Why don't you file with the WTO?

He said: I will get an answer in about 8 years, and I will be out of business.

Mr. President, I say to my colleagues, I could not agree more with what Senator GRAHAM said. We must do something. This is the best thing to do. It is certainly a lot better than what we have been doing over the last 2 years, which is absolutely nothing.

I urge, on behalf of free trade, on behalf of the world system that really works, and on behalf of saying to countries, You have to play by the rules to gain the benefits, you should not have a $162 billion trade surplus and not play by the rules, I urge them to support the amendment on which Senator GRAHAM and I have worked so long and hard.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I, too, believe in free trade, but I share Senator SCHUMER's thoughts and Senator GRAHAM's ideas. A great nation such as China needs to understand it has moved to a different level, that it sells an incredible amount of products to the United States of America, and what they do with the value of their currency impacts that trade.

What they have done is not sound policy. Because I believe in free trade, I believe it is not even going to be good for China. It is certainly not good for the United States today.

I do not want to be involved in telling a nation what their currency ought to be. I know the Senator from New York and the Senator from South Carolina do not believe they should, but this is reality.

We are not talking about theory. We moved beyond theory. It is jobs. It is trade. It is a deficit trade that we have with China to an extraordinary degree that continues to grow. So I thank the Senators for their efforts, and I would be pleased to support their amendment.

The PRESIDING OFFICER. Who seeks time?

The Senator from South Carolina.

Mr. GRAHAM. I do not believe we have any more speakers on deck.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, as I indicated at the outset of the debate, as we asked recognition of the Senators who have spoken so eloquently on this amendment, the issue before the Senate is the preservation of the authorization bill itself that we are debating. The issue has been often expressed, but let me mention it again, that the Finance Committee claims jurisdiction of this item. They also have indicated, both on the Senate and House sides, that they will prevent passage of the authorization bill for the State Department and foreign assistance if this item and, for that matter, several others that have been included in prospective amendments are adopted as a part of this bill.

I will not debate the merits of the amendment on China. We have had a hearing before our Foreign Relations Committee and delved into what is clearly a very complex and important issue. I do know, however, that even as we had the hearing for our own information and that of the public, we understood the jurisdictional question. We have tried to respect that. Therefore, on this amendment and on others that also are clearly in the jurisdiction of the Finance or of other committees, I feel compelled, for the sake of preserving this bill, to move to table the amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from New York.

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

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

The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 33, nays 67, as follows:

[Rollcall Vote No. 86 Leg.]

YEAS—33

Alexander	Coleman	Lugar
Allard	Collins	McCain
Baucus	DeMint	McConnell
Bennett	Ensign	Murkowski
Bond	Feinstein	Murray
Brownback	Frist	Nelson (NE)
Burns	Grassley	Roberts
Cantwell	Gregg	Smith (OR)
Carper	Hagel	Stevens
Chafee	Kyl	Sununu
Cochran	Lott	Wyden

NAYS—67

Akaka	Durbin	Nelson (FL)
Allen	Enzi	Obama
Bayh	Feingold	Pryor
Biden	Graham	Reed
Bingaman	Harkin	Reid
Boxer	Hatch	Rockefeller
Bunning	Hutchison	Salazar
Burr	Inhofe	Santorum
Byrd	Inouye	Sarbanes
Chambliss	Isakson	Schumer
Clinton	Jeffords	Sessions
Coburn	Johnson	Shelby
Conrad	Kennedy	Snowe
Cornyn	Kerry	Specter
Corzine	Kohl	Stabenow
Craig	Landrieu	Talent
Crapo	Lautenberg	Thomas
Dayton	Leahy	Thune
DeWine	Levin	Vitter
Dodd	Lieberman	Voinovich
Dole	Lincoln	Warner
Domenici	Martinez	
Dorgan	Mikulski	

The motion was rejected.

Mr. LIEBERMAN. Mr. President, I voted for Senator SCHUMER's and Senator GRAHAM's China currency amendment even though I prefer my own legislation, S. 377, on this issue, which is consistent with our international obligations. Nonetheless, I supported this amendment to send a message to the administration that the time for action on currency manipulation has come.

I acknowledge that if passed, this legislation may be disruptive to our trade obligations. But as noted economist Fred Bergsten wrote in the Financial Times on March 15, the world economy would suffer from a rapid and precipitous decline in the U.S. currency. Such a shock could drive up interest rates and curb U.S. growth to the detriment of all our trading partners.

These risks are greatly exacerbated by the growing U.S. current account deficit and the connected actions by some countries, including China, that are blocking the orderly adjustment of the U.S. dollar by their direct currency intervention. It is long past time for market forces to be allowed to work and time for the administration to press this issue. I note that if national security problems arise, the President under the amendment has waiver authority.

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

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

The assistant legislative clerk proceeded to call the roll.

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

Mr. LUGAR. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue the call of the roll.

The legislative clerk continued with the call of the roll.

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

Mr. LUGAR. I object.

The PRESIDING OFFICER. There is objection. The clerk will continue calling the roll.

The legislative clerk continued with the call of the roll.

Mr. LUGAR. 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. LUGAR. Mr. President, I ask the Senator from Massachusetts and the Senator from New Jersey would they be in agreement that a 15-minute presentation at this point would be possible, and then they would yield to me? I make this request because we have an existential crisis with the bill. Unless we solve it, we will probably not be continuing. This is serious. I understand you have an important colloquy. If it can be contained in 15 minutes, that would be fine.

Mr. LAUTENBERG. We appreciate the opportunity that the Senator has given us.

Mr. KENNEDY. Could we ask then that the Senator from Indiana be recognized after 15 minutes to take whatever action is necessary?

Mr. LUGAR. Yes. Mr. President, I ask unanimous consent to proceed as has been mentioned.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from New Jersey is recognized.

INDEPENDENCE OF THE JUDICIARY

Mr. LAUTENBERG. Mr. President, I want to discuss the situation that is developing, questioning the value of the separation of powers, about whether one of the powers has rights that succeed the powers of the other. Particularly, my subject now regards the judiciary and whether it is a free, unencumbered judiciary, as it ought to be.

Mr. KENNEDY. Will the Senator from New Jersey be kind enough to yield for a brief observation and question?

Mr. LAUTENBERG. Yes.

Mr. KENNEDY. Mr. President, the Senator from New Jersey is addressing the Senate on a very important issue, the independence of the judiciary. I think this is an important statement. Many of us have been deeply concerned by statements that have been made recently by Congressman TOM DELAY, who used the words, ''The time will come for men responsible for this to answer for their behavior,'' in relationship to the decision of the courts in the Schiavo case. The Senator from Texas has also mentioned and talked about the judiciary in a similar vein this week..

I ask unanimous consent that a New York Times editorial, regarding these statements 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, Apr. 6, 2005]

THE JUDGES MADE THEM DO IT

It was appalling when the House majority leader threatened political retribution against judges who did not toe his extremist political line. But when a second important Republican stands up and excuses murderous violence against judges as an understandable reaction to their decisions, then it is time to get really scared.

It happened on Monday, in a moment that was horrifying even by the rock-bottom standards of the campaign that Republican zealots are conducting against the nation's judiciary. Senator John Cornyn, a Texas Republican, rose in the chamber and dared to argue that recent courthouse violence might be explained by distress about judges who ''are making political decisions yet are unaccountable to the public.'' The frustration ''builds up and builds up to the point where some people engage in'' violence, said Mr. Cornyn, a former member of the Texas Supreme Court who is on the Senate Judiciary Committee, which supposedly protects the Constitution and its guarantee of an independent judiciary.

Listeners could only cringe at the events behind Mr. Cornyn's fulminating: an Atlanta judge was murdered in his courtroom by a career criminal who wanted only to shoot his way out of a trial, and a Chicago judge's mother and husband were executed by a deranged man who was furious that she had dismissed a wild lawsuit. It was sickening that an elected official would publicly offer these sociopaths as examples of any democratic value, let alone as holders of legitimate concerns about the judiciary.

The need to shield judges from outside threats—including those from elected officials like Senator Cornyn—is a priceless principle of our democracy. Senator Cornyn offered a smarmy proclamation of ''great distress'' at courthouse thuggery. Then he rationalized it with broadside accusations that judges ''make raw political or ideological decisions.'' He thumbed his nose at the separation of powers, suggesting that the Supreme Court be ''an enforcer of political decisions made by elected representatives of the people.'' Avoiding that nightmare is precisely why the founders made federal judgeships lifetime jobs and created a nomination process that requires presidents to seek bipartisan support.

Echoes of the political hijacking of the Terri Schiavo case hung in the air as Mr. Cornyn spoke, just days after the House majority leader, Tom DeLay, vengefully vowed that ''the time will come'' to make the judges who resisted the Congressional Republicans' gruesome deathbed intrusion ''answer for their behavior.'' Trying to intimidate judges used to be a crime, not a bombastic cudgel for cynical politicians.

The public's hope must be that Senator Cornyn's shameful outburst gives further

pause to Senate moderates about the threats of the majority leader, Senator Bill Frist, to scrap the filibuster to ensure the confirmation of President Bush's most extremist judicial nominees. Dr. Frist tried to distance himself yesterday from Mr. DeLay's attack on the judiciary. But Dr. Frist must carry the militants' baggage if he is ever to run for president, and he complained yesterday of ''a real fire lighted by Democrats around judges over the last few days.''

By Democrats? The senator should listen to what's being said on his side of the aisle, if he can bear it.

Mr. KENNEDY. Mr. President, I draw to the attention of the Senate that today the Judicial Conference has asked the White House and the Senate for $12 million to help protect judges from violence. When we see leaders in Congress making statements which clearly have incited, or threaten to incite, violence against judges, the same judges, honorable men and women appointed to uphold America's laws and ideals, who are living in fear of violence, we must be concerned.

The Judicial Conference is requesting $12 million to provide protection for the American judiciary. What in the world is this Congress and this Senate coming to? I think it is appropriate for the leaders and other members in this body and the House to tone down their rhetoric, and avoid the threats to the American judiciary. I think that is absolutely unconscionable.

When you have the Judicial Conference asking for this, that indicates where the judges themselves—made up of Republicans and Democrats—are coming from. I intend to offer an amendment on the supplemental to positively respond to their request and to get the $12 million. I am interested if my friend from New Jersey would cosponsor that.

Mr. LAUTENBERG. Yes, I would be pleased to. Mr. President, I ask the Senator from Massachusetts, why should we be surprised they ask for more protection? We have seen atrocious assaults on members of the bench and their families.

What we see is, I think, the beginning of a firestorm, and the problem is that the fuel is being provided by comments made here and in the other body.

I start off by reading from article III, section 1 of the U.S. Constitution. It says:

The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish.

It is pretty clear to me. It says judicial power is vested in our courts, not in the Congress. The Constitution gives the Senate a role in the appointment of judges, and we are supposed to provide advice and consent, not direction. But once a judge is seated on the bench, his or her decisions are not subject to our approval.

The Founding Fathers, in their brilliance, set it up that way on purpose. They wanted to make sure that court decisions would be based on legal grounds, not political grounds. But today there is an orchestrated effort to smear the reputation of the judiciary, especially Federal judges. And the effort is being waged by Republicans in Congress as a prelude to an attempt to change the rules for confirming judicial nominations.

In order to justify this nuclear option, they are trying to paint judges as ''activists'' and ''out of control.''

In reality, it is the leadership of this Congress that is out of control and endangering the future of a fair court system.

In this Chamber on Monday, one of our colleagues said Americans are becoming frustrated by the rulings of the judges—so be it; that is all right, you can be frustrated as much as you want—but then he accused the judges of making ''raw political or ideological decisions.'' That was in the quote from our colleague's statement.

He went on to say:

I wonder whether there may be some connection between the perception in some quarters, on some occasions, where judges are making political decisions yet are unaccountable to the public . . . that it builds up and builds up and builds up to the point where—

Listen to this—

where some people engage in violence.

These are comments made by a Senator. The remarks are almost unbelievable. Yet they echo the words last week of the House majority leader. Speaking of the judges in the Schiavo case, the House majority leader said:

The time will come for the men responsible for this to answer for their behavior.

What does that imply? These are inflammatory words. They ignore the fact that our Founding Fathers wanted judges to be insulated from political pressure, and they are words that could easily incite violence against judges.

On this past Sunday, a columnist in the hometown newspaper of the House majority leader, the Houston Chronicle, wrote:

It is time for him to stop sputtering ill-tempered threats, not only at the judiciary but also at the U.S. Constitution, which he repeatedly has sworn to uphold.

There were two matters that made things worse, two recent episodes to which the Senator from Massachusetts made reference involving violence against judges and their families. In Chicago, a man fatally shot the husband and the mother of a Federal judge who had ruled against him in a medical malpractice suit. And in Atlanta last month, a man broke away from a deputy, killed four people, including the judge presiding over his rape trial. Is that what these people see? Is that what our colleagues saw? Is that what the House majority leader saw, an opportunity to take revenge on judges who make decisions with which they disagree? What are we, some lawless nation where if you do not like it, you kill the person who did it?

Were these judges who suffered terribly while performing their official duties activists? Were they out of control?

The message being sent to the American people by the other side of the aisle is not only irresponsible, but downright dangerous to our Nation's judges.

Like the nuclear option, the goal here is to have judges make political decisions rather than legal decisions. They are trying to intimidate sitting judges, and they are trying to change Senate rules to get bad judges on the bench.

I vow to fight this nuclear option, as well as these irresponsible threatening statements. I do that for my family and for American families across this country.

In my view, the true measure of democracy is how it dispenses justice. In this country, any attempt to intimidate judges not only threatens our courts but our fundamental democracy as well.

I note that a letter was sent out most recently by the distinguished majority leader. It is dated March 31, 2005. He invites colleagues—it says: ''Get a Fresh Perspective on Our Nation's''—this is on the majority leader's stationery—''Get a Fresh Perspective on Our Nation's Religious Heritage with a Special Tour of the U.S. Capitol'':

Dear Colleague: I am writing to invite you and your family to a private tour of the U.S. Capitol Building with WallBuilders' President, David Barton, on Monday, April 11, 2005. The walking tour will commence at my office—

And he identifies the location of his office and the time, and then adds:

David Barton is the founder and President of WallBuilders, a national pro-family organization which distributes historical, legal, and statistical information, and helps citizens become active in their local schools and communities. He is an historian noted for his detailed research into the studied the religious heritage of our nation. Among some of the interesting facts made by Mr. Barton:

The U.S. Capitol served as a church building for decades.

The first English-language Bible in America was printed and endorsed by the United States Congress.

The original Supreme Court—composed of numerous signers of the Constitution—began their sessions with ministers coming in and praying for the Court, the jury, and their deliberations.

The majority leader goes on to say:

You will also learn inspiring stories behind the faces, paintings, and statues in the U.S. Capitol Building and view original documents from George Washington and others . . . which are depicted in artwork. . . .

I have read something of Mr. Barton's biography:

Mr. Barton intends to prove that the separation of church and state is a myth, and that America's Founders intended for the United States to be a Christian nation.

Does that mean those of us who are not Christian—whether Muslim, Jewish, or some other religion—are not part of this great nation?

The majority leader is the one making this suggestion. Mr. President, 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, March 31, 2005.

GET A FRESH PERSPECTIVE ON OUR NATION'S RELIGIOUS HERITAGE WITH A SPECIAL TOUR OF THE U.S. CAPITOL

DEAR COLLEAGUE: I am writing to invite you and your family to a private tour of the U.S. Capitol Building with WallBuilders' President, David Barton on Monday, April 11, 2005. The walking tour will commence at my office, S–230 of the U.S. Capitol at 6:00 p.m. and conclude at 7:00 p.m.

David Barton is the founder and President of WallBuilders, a national pro-family organization which distributes historical,legal, and statistical information, and helps citizens become active in their local schools and communities. he is an historian noted for his detailed research into the religious heritage of our nation. Among some of the interesting facts covered by Mr. Barton:

The U.S. Capitol Building served as a church building for decades.

The first English-language Bible in America was printed and endorsed by the United States Congress.

The original Supreme Court—composed of numerous signers of the Consititution—began their sessions with ministers coming in and praying over the Court, the jury, and their deliberations.

You will also learn inspiring stories behind the faces, paintings, and statues in the U.S. Capitol Building and view original documents from George Washington and others (some that are over 400 years old) which are depicted in artwork throughout the Capitol.

If you and your family would like to participate, contact Brook Whitfield in my office at 202–224–0948 or brook__whitfield@first.senate.gov to RSVP. I look forward to seeing you then.

Sincerely,

WILLIAM H. FRIST M.D.,
Majority Leader, U.S. Senate.

Mr. LAUTENBERG. Mr. President, I quote from this report:

Now Barton appears to be angling for a spot on the national stage. He is touring the nation again, this time with financial support from the Republican National Committee as part of what is described as a larger get-out-the-vote effort.

As he tours the country, Barton leads pastors in sessions examining the role Christianity played in America's founding and puts forth his usual shaky thesis. But Barton doesn't stop there. Barton's not-so-subtle message is that America's Christian heritage is at risk—and only voting Republican can save it.

I want those who hear me across America to pay attention: ''Christian heritage is at risk.'' That means that all the outsiders, all of those who approach God differently but are people who believe in a supreme being; people who behave and live peacefully with their neighbors and their friends. No, this is being put forward as an attempt—a not too subtle attempt—to make sure people understand that America is a Christian country. Therefore, we ought to take the time the majority leader offers us, as Members of the Senate, for a chance to learn more about how invalid the principle of separation between church and state is.

I hope the American public sees this plan as the spurious attempt it is.

I ask my colleagues if they want to go to a Christian-only spokesman who will tell us about how insignificant the separation between church and state is. The question is fundamental to the Constitution. Are we a country of laws? If we are, then we must respect the law and we must hold the law free from threats.

How does it feel when one looks at the Federal judge in Chicago who had her husband and her mother murdered because someone disagreed with her legal decision? How do we feel about seeing this guy break loose in Atlanta and kill the judge and a deputy? Senator KENNEDY just mentioned the fact that there was a $12 million request for security for judges and courtrooms. I do not blame them. This is not some lawless country where if a judge makes a decision he better run for his life; nor is it Iraq, where those who are upholding the law are getting killed because other people disagree with them. We should not stand for this.

I ask the majority leader to withdraw that invitation to tour the U.S. Capitol with this man who says that this should be a Christian-only country. How can he dare undermine the principles that are in our brilliant Constitution that was written so many years ago? We are entering a dangerous period, in my view.

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

Mr. LAUTENBERG. I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, work continues among a number of Senators who are deeply interested, as I am, in the resolution and the amendment ahead of us. For the moment it appears we ought to give more time to this discussion. So 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. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. LUGAR. I object.

The PRESIDING OFFICER. The objection is heard. The quorum call will be continued.

The legislative clerk continued to call the roll.

Mr. LUGAR. 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. LUGAR. Mr. President, in a moment I am hopeful the Chair may recognize the distinguished Senator from Connecticut, Mr. DODD, for 10 minutes in which he will offer an amendment. On our side, we are prepared to accept the amendment. Therefore, we will at least make some progress while the other discussion continues.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

AMENDMENT NO. 318

Mr. DODD. Mr. President, I send an amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The bill clerk read as follows:

The Senator from Connecticut [Mr. DODD], for himself and Mr. LIEBERMAN, proposes an amendment numbered 318.

Mr. DODD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To specify requirements under the Arms Export Control Act applicable to the VHXX Executive Helicopter Program (also known as the Marine One Presidential Helicopter Program).

At the end of subtitle B of title XXII, add the following:

SEC. 2239. APPLICABILITY OF ARMS EXPORT CONTROL ACT REQUIREMENTS TO VHXX EXECUTIVE HELICOPTER PROGRAM.

(a) TREATMENT AS COOPERATIVE PROJECT.—The VHXX Executive Helicopter Program (also known as the Marine One Presidential Helicopter Program) shall be treated as a cooperative project for purposes of the Arms Export Control Act (22 U.S.C. 2751 et seq.) as authorized under section 27 of that Act (22 U.S.C. 2767).

(b) LICENSING AND NOTICE REQUIREMENTS.—

(1) IN GENERAL.—Any licensing and notice to Congress requirements that apply to the sale of defense articles and services under the Arms Export Control Act shall apply to any foreign production (including the export of technical data related thereto) under the VHXX Executive Helicopter Program without regard to any dollar threshold or limitation that would otherwise limit the applicability of such requirements to such production under that Act.

(2) NOTICE TO CONGRESS.—Notwithstanding the treatment of the VHXX Executive Helicopter Program as a cooperative project for purposes of the Arms Export Control Act under subsection (a), section 27(g) of that Act (22 U.S.C. 2767(g)) shall not be applicable to the program, and the notice requirements of subsections (b) and (c) of section 36 of that Act (22 U.S.C. 2776) shall be complied with in the issuance of any letters of offer or licenses for the program as required by paragraph (1).

(c) LIMITATION ON ISSUANCE OF LICENSES.—No license may be issued under the Arms Export Control Act for any portion of the VHXX Executive Helicopter Program, including research and development and the sharing of technical data relating to the program, until each participant in the program agrees, in writing, not to enter into any contract, or otherwise do any business, with any party who is subject to the jurisdiction of a country that supports international terrorism for five years after the date of the completion of the participation of such participant in the program.

(d) COUNTRY THAT SUPPORTS INTERNATIONAL TERRORISM DEFINED.—In this section, the term ''country that supports international terrorism'' means any country whose government has repeatedly provided support for acts of international terrorism for purposes of either of the provisions of law as follows:

(1) Section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)).

(2) Section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

Mr. DODD. Mr. President, in order to move things along in time, I appreciate the willingness of the distinguished chairman of the Foreign Relations Committee to accept the amendment. It is very simple amendment.

It says that foreign companies involved in developing the President's Marine One helicopter must pledge in writing that they will not conduct business with state-sponsors of terrorism during the contract and 5 years after it has been completed. Moreover, it provides that those involved in building such technologies will be subject to at least the same export licensing requirements as other defense projects built jointly by the U.S. and foreign manufacturers, as governed by the U.S. Arms Export Control Act.

The principle is clear, and hardly controversial. I am sure my colleagues will agree that there are few more sensitive and more important national security concerns than the safe transport of our country's chief executive. But the aircraft we are talking about today is far more than a mode of transportation. It will be outfitted with some of the most advanced technology available to ensure secure communications and easy maneuvering to avoid any possible threats from the ground and air. As long as the President is in flight, this aircraft will be a global nerve center, with critical information constantly flowing in and essential decisions flowing out. This aircraft needs to be safe and secure, and well-equipped to ensure secure communications. For obvious reasons, the technology making this happen needs to be protected at all costs.

We cannot afford to let America's enemies gain access to any of this critically important technology. That is why companies involved in developing Marine One cannot be allowed to have any relations with our most dangerous adversaries. Such relations might present opportunities for the sharing of designs or materials with state-sponsors of terrorism.

Armed with such information, terrorists could learn about the vulnerabilities of the Presidential helicopter, and attempt to intercept critical communications or effectively target our President from the air or from the ground.

My amendment also says that when it comes to this critically important technology, there should be no chance that anyone wishing America harm could gain access to our most sensitive secrets. When it comes to this critical defense system, there should be no exceptions to our export licensing.

It may come as a surprise to some that this amendment would even be necessary, but it should not come as a surprise that Senator LIEBERMAN, my cosponsor on this amendment, and I are deeply concerned about what could happen. But I am afraid that troubling reports have surfaced about a European partner in the manufacturing team recently awarded the contract to build Marine One. As many of my colleagues know, Agusta Westland, an Italian-British consortium, was tasked with building this helicopter's basic design as well as manufacturing approximately 30 percent of the aircraft's components, including the rotor blades to be built in Yeovil, England, and the main transmission, to be constructed in Cascina Costa, Italy.

Obviously, I have some local interests in this case. The Navy selected the European/American team over the Connecticut-based, All-American Sikorsky team which has administered the Marine One contract for about 50 years. Truth be told, I believe that Sikorsky has a better performing, more experienced aircraft team as well as a superior design. But my concerns go beyond parochial interests, and even the technical merits of the aircraft. I am gravely troubled about the impact this contract award will have on the United States' ability to stay competitive in the global helicopter industry. But more importantly, I am deeply troubled that the European partner in the winning contractor team is currently considering conducting business with a sworn enemy of the United States—the Islamic Republic of Iran.

I have here a list of companies who recently attended an air show in Kish, Iran, exhibiting their wares, and soliciting business from the Iranian Government. Listed at number 50 on this list is Agusta Westland as well as its parent company Finneccanica at number 52. We do not know what they were marketing at their exhibits during the January 18–21 trade show, but it is surely the view of this Senator that no government manufacturer of such sensitive technology as the U.S. Presidential helicopter has any business even entertaining the idea of doing business with state sponsors of terrorism such as Iran.

How can we allow the chance that a sworn adversary of the United States like Iran could gain access to America's most sensitive defense technologies? I know that my colleagues are keenly aware of the history of Iran's government, dating back to the taking of American hostages in 1979 and the installation of a brutal fundamentalist dictatorship. But let me be utterly clear about the threat that we are dealing with here. We are talking about one of the three members of what President Bush referred to as ''the Axis of Evil.'' This is how the State Department described U.S. relations with Iran in its most recent Iran country report:

> As a state sponsor of terrorism Iran remains an impediment to international efforts to locate and prosecute terrorists . . . The U.S. Government defines its areas of objectionable Iranian behavior as the following: Iranian efforts to acquire nuclear weapons and other weapons of mass destruction; Its support for and involvement in international terrorism; Its support for violent opposition to the Middle East peace process; and Its dismal human rights record.

President Bush himself referred to the threat posed by Iran in his most recent State of the Union address, stating:

> Today, Iran remains the world's primary state sponsor of terror, pursuing nuclear weapons while depriving its people of the freedom they seek and deserve.

Unclassified intelligence reports have attributed dozens of acts of international terrorism to the Iranian government or surrogate terrorist groups since the 1990s. One such Iranian surrogate is Islamic Jihad, also known as Hezbollah, which publicly has claimed responsibility for a number of attacks on innocent civilians throughout the world from Argentina to Israel. And they continue to prosecute attacks in Israel, and threaten instability in Lebanon.

Meanwhile, terrorists are moving in and out of Iraq and Afghanistan across Iranian borders, attacking U.S. troops with either Tehran's support or outright sponsorship. And today, as we entrust the security of our President and our most sensitive national security secrets to a major European subcontractor, we are facing the prospect of having such a critical U.S. defense system shared with one of the America's gravest adversaries.

The stakes could not be any higher. We cannot afford to allow critical American technology to fall into the hands of terrorist states. And we cannot allow those who wish us harm access to information on any aircraft that would be carrying the President of the United States.

For these reasons, I am offering this amendment which, I repeat, addresses two critical concerns that I have raised here today:

First, my amendment forbids any company involved in building the Marine One aircraft from conducting business with a state sponsor of terrorism; second, it subjects the Marine One contract to standard export controls governing joint U.S.-foreign defense programs, waiving exemptions provided to companies from NATO countries.

I know that there are some who might object to this provision as being too harsh on our allies, particularly since it eliminates waiver protections pertaining to companies in NATO countries. But the honest and sobering reality is that I am not proposing anything nearly as drastic as what our NATO allies are currently doing in the conduct of their own defense contracts.

Unlike the legitimate security concerns I have voiced here on the floor today, our European friends are currently banning non-European helicopter manufacturers from even competing for bids in their countries, simply in order to protect their domestic defense industry. As this chart demonstrates—in the market for medium lift helicopters, the U.S. has been banned from even bidding for contracts with the governments of the United Kingdom, France, Portugal, Norway, the Netherlands, Sweden, Denmark, Finland, Germany, Italy, and Greece.

My amendment does not attempt to impose the same protectionist measures that these countries have imposed. This measure is critically important in safeguarding secrets that are fundamental to our Nation's government. It will ensure that no person with access to our most sensitive national security technologies has the opportunity to share these critical secrets with those who would wish us harm. We are simply standing up for the most sensitive security interests of our nation and the safety of our President.

Anything less would be reckless and a dereliction of our duty as Americans.

I merely point to this fact. Nothing in this amendment would suggest we ought to keep them out of our own country, but we ought to be aware that, while we are talking about free trade, in the European nations themselves a United States firm cannot even get in the bidding process. So there are other reasons why this amendment ought to be adopted.

I urge my colleagues to do so, and I thank the chairman of the committee for supporting the amendment.

Mr. LUGAR. Mr. President, as I indicated at the outset, we are prepared on our side to accept the amendment. Therefore, I urge its adoption.

The PRESIDING OFFICER (Mr. COBURN). Is there further debate?

Without objection, the amendment is agreed to.

The amendment (No. 318) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, this amendment has the effect of placing a serious impediment, if not an absolute block, against the United States proceeding to fulfillment of a contract entered into by the Department of Defense—more specifically, the Navy Department having been the executive agent on this contract—for the procurement of the replacement helicopters commonly referred to as marine I. It is the fleet that serves the President primarily and others associated with the White House.

This contract was in negotiation for over a year. It was an open and free competition. So far as I know there was no question raised against the contract being awarded to the winning company, a U.S. company, together with a consortium of overseas participants with, nevertheless, the U.S. company being the lead company.

The amendment was drafted to the Arms Export Control Act and it is intended to prevent the Navy from going forward with this acquisition program. This is a matter that is clearly within the jurisdiction of the Armed Services Committee. Normally, we consult committees before acting.

I do not fault the distinguished chairman of the Foreign Relations Committee. I think at the time this was done very hastily, it was not clear to the staff and the chairman of the Foreign Relations Committee that it was within the jurisdiction of the Armed Services Committee. Otherwise, I would have come over to the floor earlier.

Now, the amendment having been adopted, I, together with my two distinguished colleagues from New York, Senators CLINTON and SCHUMER, will address this matter tomorrow or during the course of the further consideration of the Foreign Affairs Authorization Act. But I can assure you, we will employ every parliamentary device available to us to see that this matter is rectified because I think it was not done in a manner that is consistent with what we normally do around here by way of procedures. Secondly, I think it is detrimental to the whole performance of the contracting and procurement responsibilities of the Secretary of Defense.

So for the moment, for those interested in this contract, let it be known there is a group of us who are going to have this reexamined and, if necessary, take it to the full Senate for consideration before this bill is finally acted upon.

I thank the Chair.

Mr. LUGAR. I am advised the distinguished Senator from Illinois has a statement he would like to make at this time. I ask the Chair to allocate 5 minutes to the Senator and then to recognize me following that statement.

The PRESIDING OFFICER. Is there objection?

Mr. SESSIONS. Mr. President, I wonder if I might be recognized after the distinguished chairman, Chairman LUGAR.

Mr. LUGAR. I amend my request that after I am recognized, the distinguished Senator from Alabama be recognized.

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

The Senator from Illinois.

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

Mr. LUGAR. Mr. President I ask that the Chair now recognize the distinguished Senator from Alabama. I understand he will discuss amendments but not offer them at this time.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I want to share some comments about a matter which I became aware of recently. I think it is rather dramatic, and it is a matter which this Senate should deal with.

The United Nations is planning to renovate the United Nations Headquarters Building in New York. The New York Sun reports that they are projecting to spend $1.2 billion to renovate that building. That is a lot of money! But, frankly, I don't know what it takes to build a building in New York, and neither do most folks. But there are some people who do and we'll look to their opinions later.

It is a 30-story building. We own the real estate. It was modern once, when it was built in 1953, and people thought it was avant garde at the time. I have never been impressed with it, but it is an imposing structure. The fact that we need to renovate that building may not be disputable. It probably does need it, although it was renovated pretty substantially in the 1970's. Equivalent in today's dollars, over $150 million was spent on it.

The current plan is for the United States to loan the money at a 5.5 percent interest, a somewhat realistic interest rate, whereas the U.N. is holding out on accepting the offer. They probably would like a loan at no cost. The GAO reported that was Annan's initial desire.

The United Nations, as we know, is notoriously wasteful in the spending of its money. I wish that it weren't so, but it is a plain fact. Their cost controls have never been good. The Oil-For-Food Program that has been discussed so much lately is the biggest boondoggle—fraud, really—in the history of the world. This U.N. program is out of control. Waste of money under any circumstances is not acceptable.

The United States, of course, pays about 20 percent of U.N. dues. We are the largest dues-paying member of the United Nations. I believe we pay a total of 22 percent of those dues. But regardless of that, UN dues are funds that have been sent to the United Nations by nations all over the world, and that money ought to be spent for good things with good purposes, purposes consistent with the ideals and principles on which the United Nations was founded—feeding the poor, improved medical care around the world, aid for research and treatment, river blindness, and peacekeeping missions.

We don't have enough money to handle all the missions we need to do in the world, and the U.N. ought to do more. They do economic development, infrastructure improvements, and democracy building, but there is never enough money to do all of those things we should. Surely, with all the potential beneficial projects in the world, there is no room to waste money on a project, much less a project that would build offices for bureaucrats.

Let me share this story with you, which is pretty shocking to me. The $1.2 billion loan the United Nations wants is to renovate a building. Some member of the United Nations, a delegate, apparently, from Europe, had read in the newspaper in New York that Mr. Donald Trump, the premier real estate developer in New York, the largest in New York by far, who has his own television show now—had just completed the Trump World Tower—not a 30-story building like the United Nations, but a 90-story building, for a

mere $350 million, less than one-third of that cost. So the European United Nations delegate was curious about the $1.2 billion they were spending on the United Nations.

He knew he didn't know what the real estate costs are in New York. So, he called Mr. Trump and they discussed it. Mr. Trump told him that building he built for $350 million was the top of the line. It has the highest quality of anything you would need in it.

They discussed the matter, and an arrangement was made for Mr. Trump to meet Kofi Annan, Secretary-General, to discuss the concerns. The European delegate was somewhat taken back at Trump's reaction because he just didn't know how much it would cost. He had originally thought Mr. Trump's figures that were printed in the paper were in error.

So according to Mr. Trump, who I talked to personally this morning, they go meet with Mr. Annan, who had asked some staff member to be there, and Mr. Trump is very outraged about this staffer. When the European asked how these numbers could happen, Mr. Trump said the only way would be because of incompetence, or fraud. That is how strongly he felt about this price tag because he pointed out to me that renovation costs much less than building an entirely new building. So he has a meeting with Mr. Annan, and they have some discussion. And Mr. Trump says these figures can't be acceptable.

He told me in my conversation this morning, he said: You can quote me. You can say what I am saying. It has already been reported in the newspapers. He said they don't know. The person who had been working on this project for 4 years couldn't answer basic questions about what was involved in renovating a major building. He was not capable nor competent to do the job.

He was further concerned. He went and worked on it, and talked about it, and eventually made an offer. He said he would manage the refurbishment, the renovation, of the United Nations Building, and he would not charge personally for his fee in managing it. He would bring it in at $500 billion, less than half of what they were expecting to spend, and it would be better.

He told me: I know something about refurbishment and renovations. I do a lot of that, also. I know how to do that. Yet he never received a response from the United Nations, which raised very serious concerns in his mind about what was going on there.

Let me further note some comments in the New York Sun article of February 4 of this year dealing with this subject. It starts off quoting Mr. Trump in this fashion:

''The United Nations is a mess, and they're spending hundreds of millions of dollars unnecessarily on this project.'' And several other Manhattan real estate experts agreed, saying that the space should cost a fraction of what is being projected on a square foot basis.

In addition to this, by the way, after refurbishing their existing building, there are plans to construct a 35-story, 900,000-square-foot swing space over Robert Moses Park, plus a 100,000-square-foot esplanade park, which the United Nations Development Corporation says will be built into the East River. That has an additional price tag of $650 million. But that is a separate issue because they are having some additional problems with that, I understand, at this point.

An executive managing director at the commercial real-estate firm Julien J. Studley Inc., Woody Heller, said a thorough renovation of an office building would probably cost between $85 and $160 per square foot.

I am still reading from that newspaper article.

Also from there, an executive vice president at Newmark, Scott Panzer, said renovation prices could range between $120 and $200 per square foot.

From the article:

Mr. Panzer, who works with many corporations to redevelop their buildings for future efficiency and energy cost savings, put a price of $70 to $100 per square foot on infrastructure upgrades. Those would include heating; ventilation; air conditioning; replacing the central plant; fenestration (specifically, switching from single-pane to thermal-pane windows); upgrading elevator switch gears, mechanicals, and vertical transportation; improving air quality, and making security upgrades. On top of that amount, another $50 to $100 per square foot would take care of the inside office improvements.

Fifty dollars is a lot of money to renovate a room. Remember, this is renovation, not building. You can probably build a building in Alabama for $100 a square foot.

The chairman of the global brokerage at commercial real-estate firm CB Richard Ellis, Stephen Siegel, said high-end commercial renovation usually runs from $50 to $100 per square foot. For a renovation that does not include new furniture . . . [and this plan does not] but does provide for improved heating, ventilation, and air-conditioning equipment, as well as work on the building exterior, the cost would be closer to the $100 end of the range, Mr. Siegel said. Even accounting generously for upgrades that might be peculiar to the U.N., Mr. Siegel added he would set $250 per square foot as the absolute maximum.

Some in the industry have estimated, however, that the dimensions of the U.N. headquarters building and total square footage in need of refurbishment is probably actually less than 1.1 million square feet ,less than what they are saying, because it has been suggested that they were counting the parking deck in the renovation and other parts of the building that are not occupied. If you take out the parking deck and these other areas, you get a different figure than the 2.5 million they give you.

Using the U.N. figures, the capital master plan yields a square foot cost of $452.71 for the renovation per square foot. That is breathtaking and completely out of common sense. It is almost twice what Mr. Siegel said would be the absolute maximum.

But that is not all. If you go back and take out the parking deck and some of these other areas of the building that would not normally be considered when you think of the square foot of renovation, let me tell you what the figure comes to, and hold on to your hat: $1,100 per square foot. According to Mr. Trump, this is three, four, maybe five times the cost of this renovation, making this the most expensive renovation in history. Mr. Siegel said the $1.2 billion cost estimate was ''outrageous.'' This is a professional real estate man in New York City. He said the cost of renovation would be nearly as much as the price of putting up a new building, including the cost of land, and he would set the cost of the land at $500 per square foot, but that is already paid for in this case.

This is a big deal. A GAO report has looked at it. It assumes that our Government will pay 22 percent of the $1.2 billion loan principal. In other words, because we pay about that much percentage in our dues to the U.N., we will pay 22 percent of the $1.2 billion paying the principal back. The American taxpayers have a real interest in this.

There are some negotiations now. The administration is saying, you ought to pay some interest. We want to be paid 5.5 percent. We will loan you the money, but we want to be paid 5.5 interest. The U.N. is holding out to accept our loan, perhaps Mr. Annan is holding out for a loan with zero-interest.

We would like the U.N. to have good quarters. We would like them to renovate if that is the right thing to do. However, the United Nations has a responsibility not only to the United States, the largest contributor, but to every single country that contributes to that organization. Many of them are not wealthy. Many of them contribute significantly to the U.N. They have a responsibility to use that money wisely.

I am very concerned in light of the oil-for-food scandal and other problems we have seen at the U.N. that we are heading down the road to an incredibly wasteful adventure in New York. The U.S. Government ought to do everything it can not only to protect our own treasury, but to protect the U.N. Secretary, to make sure this boondoggle does not go forward.

At some point legislation by this Congress needs to be passed to allow, encourage, or require our leadership to demand strict accounting of what is being spent, to demand that any construction or renovation be done in a cost-effective way, to make sure there is no fraud, there is no corruption, no kickbacks, and no abuses whatsoever in building this building, and that every dollar of the U.N. is spent wisely and carefully.

Those are my concerns. I thank the New York Sun for making a point in this article. I thank Mr. Trump for his willingness to speak publicly. He is pretty frank about it. Obviously, he is very concerned. He felt this was not being handled in a wise way. He saw a

disaster on the horizon, and he was willing to speak out about it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, I ask unanimous consent the pending amendment be temporarily set aside.

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

AMENDMENTS NOS. 319, 320, 321, AND 322, EN BLOC

Mr. ENSIGN. Mr. President, I ask unanimous consent I be permitted to offer four amendments en bloc, and I send those four amendments to the desk.

The PRESIDING OFFICER. Is there objection to considering the amendments en bloc?

Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. ENSIGN] proposes amendments numbered 319 through 322, en bloc.

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

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

The amendments are as follows:

AMENDMENT NO. 319

(Purpose: To encourage multilateral cooperation and authorize a program of assistance to facilitate a peaceful transition in Cuba, and for other purposes)

At the end of the bill, add the following:

TITLE XXIX—PEACEFUL TRANSITION IN CUBA

SEC. 2901. SHORT TITLE.

This title may be cited as the ''Cuba Transition Act of 2005''.

SEC. 2902. FINDINGS.

Congress makes the following findings:

(1) The Cuban people are seeking change in their country, including through the Varela Project, independent journalist activity, and other civil society initiatives.

(2) Civil society groups and independent, self-employed Cuban citizens will be essential to the consolidation of a genuine and effective transition to democracy from an authoritarian, communist government in Cuba, and therefore merit increased international assistance.

(3) The people of the United States support a policy of proactively helping the Cuban people to establish a democratic system of government, including supporting Cuban citizen efforts to prepare for transition to a better and more prosperous future.

(4) The Inter-American Democratic Charter adopted by the General Assembly of the Organization of American States (OAS) provides both guidance and mechanisms for response by OAS members to the governmental transition in Cuba and that country's eventual reintegration into the inter-American system.

(5) United States Government support of pro-democracy elements in Cuba and planning for the transition in Cuba is essential for the identification of resources and mechanisms that can be made available immediately in response to profound political and economic changes on the island.

(6) Consultations with democratic development institutions and international development agencies regarding Cuba are a critical element in the preparation of an effective multilateral response to the transition in Cuba.

SEC. 2903. PURPOSES.

The purposes of this title are as follows:

(1) To support multilateral efforts by the countries of the Western Hemisphere in planning for a transition of the government in Cuba and the return of that country to the Western Hemisphere community of democracies.

(2) To encourage the development of an international group to coordinate multilateral planning to a transition of the government in Cuba.

(3) To authorize funding for programs to assist the Cuban people and independent nongovernmental organizations in Cuba in preparing the groundwork for a peaceful transition of government in Cuba.

(4) To provide the President with funding to implement assistance programs essential to the development of a democratic government in Cuba.

SEC. 2904. DEFINITIONS.

In this title:

(1) DEMOCRATICALLY ELECTED GOVERNMENT IN CUBA.—The term ''democratically elected government in Cuba'' has the meaning given the term in section 4 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6023).

(2) TRANSITION GOVERNMENT IN CUBA.—The term ''transition government in Cuba'' has the meaning given the term in section 4 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6023).

SEC. 2905. DESIGNATION OF COORDINATOR FOR CUBA TRANSITION.

(a) IN GENERAL.—The Secretary of State shall designate, within the Department of State, a coordinator who shall be responsible for—

(1) designing an overall strategy to coordinate preparations for, and a response to, a transition in Cuba;

(2) coordinating assistance provided to the Cuban people in preparation for a transition in Cuba;

(3) coordinating strategic support for the consolidation of a political and economic transition in Cuba;

(4) ensuring program and policy coordination among agencies of the United States Government in carrying out the policies set forth in this title; and

(5) pursuing coordination with other countries and international organizations, including international financial institutions, with respect to assisting a transition in Cuba.

(b) RANK AND STATUS OF THE TRANSITION COORDINATOR.—The coordinator designated in subsection (a) shall have the rank and status of ambassador.

SEC. 2906. MULTILATERAL INITIATIVES RELATED TO CUBA.

The Secretary of State is authorized to designate up to $5,000,000 of total amounts made available for contributions to international organizations to be provided to the Organization of American States for—

(1) Inter-American Commission on Human Rights activities relating to the situation of human rights in Cuba; and

(2) the funding of an OAS emergency fund for the deployment of human rights observers, election support, and election observation in Cuba as described in section 109(b) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6039(b)(1)).

SEC. 2907. SENSE OF CONGRESS.

(a) SENSE OF CONGRESS REGARDING CONSULTATION WITH WESTERN HEMISPHERE.—It is the sense of Congress that the President should begin consultation, as appropriate, with governments of other Western Hemisphere countries regarding a transition in Cuba.

(b) SENSE OF CONGRESS REGARDING OTHER CONSULTATIONS.—It is the sense of Congress that the President should begin consultations with appropriate international partners and governments regarding a multilateral diplomatic and financial support program for response to a transition in Cuba.

SEC. 2908. ASSISTANCE PROVIDED TO THE CUBAN PEOPLE IN PREPARATION FOR A TRANSITION IN CUBA.

(a) AUTHORIZATION.—Notwithstanding any other provision of law other than section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1) and comparable notification requirements contained in any Act making appropriations for foreign operations, export financing, and related programs, the President is authorized to furnish an amount not to exceed $15,000,000 in assistance and provide other support for individuals and independent nongovernmental organizations to support democracy-building efforts for Cuba, including assistance for—

(1) political prisoners and members of their families;

(2) persons persecuted or harassed for dissident activities;

(3) independent libraries;

(4) independent workers' rights activists;

(5) independent agricultural cooperatives;

(6) independent associations of self-employed Cubans;

(7) independent journalists;

(8) independent youth organizations;

(9) independent environmental groups;

(10) independent economists, medical doctors, and other professionals;

(11) establishing and maintaining an information and resources center to be in the United States interests section in Havana, Cuba;

(12) prodemocracy programs of the National Endowment for Democracy related to Cuba;

(13) nongovernmental programs to facilitate access to the Internet, subject to section 102(g) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6032(g));

(14) nongovernmental charitable programs that provide nutrition and basic medical care to persons most at risk, including children and elderly persons; and

(15) nongovernmental charitable programs to reintegrate into civilian life persons who have abandoned, resigned, or been expelled from the Cuban armed forces for ideological reasons.

(b) DEFINITIONS.—In this section:

(1) INDEPENDENT NONGOVERNMENTAL ORGANIZATION.—The term ''independent nongovernmental organization'' means an organization that the Secretary of State determines, not less than 15 days before any obligation of funds to the organization, is a charitable or nonprofit nongovernmental organization that is not an agency or instrumentality of the Cuban Government.

(2) ELIGIBLE CUBAN RECIPIENTS.—The term ''eligible Cuban recipients'' is limited to any Cuban national in Cuba, including political prisoners and their families, who are not officials of the Cuban Government or of the ruling political party in Cuba, as defined in section 4(10) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6023(10)).

SEC. 2909. SUPPORT FOR A TRANSITION GOVERNMENT IN CUBA.

(a) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds otherwise available for such purposes, there are authorized to be appropriated such sums as are necessary to the President to establish a fund to provide assistance to a transition government in Cuba as defined in section 4(14) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6023(14)).

(b) DESIGNATION OF FUND.—The fund authorized in subsection (a) shall be known as the ''Fund for a Free Cuba''.

(c) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.

AMENDMENT NO. 320

(Purpose: To amend chapter 118 of title 18, United States Code, to prohibit foreign war crimes prosecutions of Americans)

At the end of title IV, add the following:

SEC. 405. PROHIBITION OF WAR CRIMES PROSECUTION.

(a) IN GENERAL.—Chapter 118 of title 18, United States Code, is amended by adding at the end the following:

''§ 2442. International criminal court

''(a) OFFENSE.—Except as provided in subsection (b), it shall be unlawful for any person, acting under the authority of the International Criminal Court, another international organization, or a foreign government, to knowingly indict, apprehend, detain, prosecute, convict, or participate in the imposition or carrying out of any sentence or other penalty on, any American in connection with any proceeding by or before the International Criminal Court, another international organization, or a foreign government in which that American is accused of a war crime.

''(b) EXCEPTION.—Subsection (a) shall not apply in connection with a criminal proceeding instituted by the government of a foreign country within the courts of such country with respect to a war crime allegedly committed—

''(1) on territory subject to the sovereign jurisdiction of such government; or

''(2) against persons who were nationals of such country at the time that the war crime is alleged to have been committed.

''(c) CRIMINAL PENALTY.—

''(1) IN GENERAL.—Any person who violates subsection (a) shall be fined not more than $5,000,000, imprisoned as provided in paragraph (2), or both.

''(2) PRISON SENTENCE.—The maximum term of imprisonment for an offense under this section is the greater of—

''(A) 5 years; or

''(B) the maximum term that could be imposed on the American in the criminal proceeding described in subsection (a) with respect to which the violation took place.

''(d) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial jurisdiction over an offense under this section.

''(e) CIVIL REMEDY.—Any person who is aggrieved by a violation under subsection (a) may, in a civil action, obtain appropriate relief, including—

''(1) punitive damages; and

''(2) a reasonable attorney's fee as part of the costs.

''(f) DEFINITIONS.—In this section—

''(1) the term 'American' means any citizen or national of the United States, or any other person employed by or working under the direction of the United States Government;

''(2) the term 'indict' includes—

''(A) the formal submission of an order or request for the prosecution or arrest of a person; and

''(B) the issuance of a warrant or other order for the arrest of a person,

by an official of the International Criminal Court, another international organization, or a foreign government;

''(3) the term 'International Criminal Court' means the court established by the Rome Statute of the International Criminal Court adopted by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of and International Criminal Court on July 17, 1998; and

''(4) the term 'war crime' means—

''(A) any offense now cognizable before the International Criminal Court; and

''(B) any offense hereafter cognizable before the International Criminal Court, effective on the date such offense becomes cognizable before such court.''.

(b) CLERICAL AMENDMENT.—The table of sections in chapter 118 of title 18, United States Code, is amended by adding at the end the following:

''Sec. 2442. International criminal court.''.

AMENDMENT NO. 321

(Purpose: To ensure the independence of the Inspector General of the United Nations)

On page 59, between lines 4 and 5, insert the following new section:

SEC. 405. UNITED NATIONS OFFICE OF THE INSPECTOR GENERAL.

(a) WITHHOLDING OF PORTION OF CERTAIN ASSESSED CONTRIBUTIONS.—Twenty percent of the funds made available in each fiscal year under section 102(a) for the assessed contribution of the United States to the United Nations shall be withheld from obligation and expenditure until a certification is made under subsection (b).

(b) CERTIFICATION.—A certification under this subsection is a certification by the Secretary in the fiscal year concerned that the following conditions are satisfied:

(1) ACTIONS BY THE UNITED NATIONS.—

(A) The United Nations has met the requirements of paragraphs (1) through (6) of section 401(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 446).

(B) The Office of Internal Oversight Services has fulfilled the directive in General Assembly Resolution 48/218B to make all of its reports available to the General Assembly, with modifications to those reports that would violate confidentiality or the due process rights of individuals involved in any investigation.

(C) The Office of Internal Oversight Services has an independent budget that does not require the approval of the United Nations Budget Office.

(2) ACTIONS BY THE OIOS.—The Office of Internal Oversight Service has authority to audit, inspect, or investigate each program, project, or activity funded by the United Nations, and each executive board created under the United Nations has been notified in writing of that authority.

AMENDMENT NO. 322

(Purpose: To ensure the United Nations maintains a no growth budget)

On page 11, line 15, striking ''There'' and insert the following:

(1) AUTHORIZATION OF APPROPRIATIONS.—There

On page 11, between lines 23 and 24, insert the following:

(2) NO GROWTH BUDGET.—Of the amounts appropriated pursuant to the authorization of appropriations in paragraph (1), $80,000,000 shall be withheld for each of the calendar years 2006 and 2007 unless the Secretary submits a certification to the appropriate congressional committees for each such calendar year that states that the United Nations has taken no action during the preceding calendar year to increase funding for any United Nations program without identifying an offsetting decrease elsewhere in the United Nations budget during that calendar year and that for such calendar years the United Nations will not exceed the spending limits of the initial 2004–2005 United Nations biennium budget adopted in December, 2003.

Mr. ENSIGN. I yield the floor.

AMENDMENTS NOS. 290, 291, AND 317, EN BLOC

Mr. SESSIONS. Mr. President, I ask unanimous consent the pending amendments be set aside in order to offer three amendments en bloc.

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

Mr. SESSIONS. I call up amendments numbered 290, 291, and 317.

The amendments are as follows:

AMENDMENT NO. 290

(Purpose: To require aliens to affirm certain oaths prior to admission to the United States)

On page 110, between lines 4 and 5, insert the following:

SEC. 812. REQUIREMENTS FOR ADMISSION TO THE UNITED STATES.

(a) REQUIREMENT FOR OATH PRIOR TO OBTAINING VISA.—Section 222 of the Immigration and Nationality Act (8 U.S.C. 1202) is amended by adding at the end the following new subsection:

''(i) Every alien applying for a nonimmigrant visa shall, prior to obtaining such visa, swear or affirm an oath stating that—

''(1) the alien shall adhere to the laws and to the Constitution of the United States;

''(2) the alien will not attempt to develop information for the purpose of threatening the national security of the United States or to bring harm to any citizen of the United States;

''(3) the alien is not associated with a terrorist organization;

''(4) the alien has not and will not receive any funds or other support to visit the United States from a terrorist organization;

''(5) all documents submitted to support the alien's application are valid and contain truthful information;

''(6) the alien will inform the appropriate authorities if the alien is approached or contacted by a member of a terrorist organization; and

''(7) the alien understands that the alien's visa shall be revoked and the alien shall be removed from the United States if the alien is found—

''(A) to have acted in a manner that is inconsistent with this oath; or

''(B) provided fraudulent information in order to obtain a visa.''.

(b) REQUIREMENT FOR OATH PRIOR TO ADMISSION.—

(1) IN GENERAL.—The Secretary of Homeland Security or an individual designated by the Secretary of Homeland Security shall require an alien seeking admission to the United States pursuant to a nonimmigrant visa to swear or affirm an oath reaffirming all the information provided by the alien for the purpose of obtaining the nonimmigrant visa.

(2) ADMINISTRATION OF OATH.—The Secretary of Homeland Security shall administer the oath required by paragraph (1) to an alien in the United States prior to the admission of such alien.

(3) FALSE STATEMENTS.—An alien who knowingly and willfully makes a false statement in swearing or affirming the oath required by paragraph (1) shall be subject to the penalties imposed for making a false statement under section 1001 of title 18, United States Code.

(4) ADMISSION DEFINED.—In this subsection, the term ''admission'' shall have the meaning given that term in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)).

AMENDMENT NO. 291

(Purpose: To strike the authority to provide living quarters and allowances to the United States Representative to the United Nations)

Strike section 318.

AMENDMENT NO. 317

(Purpose: To provide for accountability in the United Nations Headquarters renovation project)

SEC. ___. UN HEADQUARTERS RENOVATION.

(a) LIMITATION.—Notwithstanding any other provision of law, no loan in excess of $600,000,000 may be made available by the United States for renovation of the United Nations headquarters building, located in New York, New York.

''(b) REPORTING REQUIREMENT.—Any such loan shall be contingent upon the satisfactory submission, by the Secretary-General of the United Nations, of a report to Congress containing a detailed analysis of the United Nations headquarters renovation.

Mr. LUGAR. 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. DODD. 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. DODD. Mr. President, I will send a copy of an amendment to the desk, but I am not going to offer the amendment right now. I would like to discuss what I would like to do at some point on a matter of significance. I will send the amendment up to the desk and ask unanimous consent to lay aside the pending amendment.

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

Mr. DODD. Mr. President, very briefly, I know we are about to maybe have a more important matter come to the floor. I am going to keep my eye on the chairman of the committee so he can let me know when I should wrap up these comments.

The amendment that at some point I would like to offer, either on this bill or another piece of legislation, deals with what I believe is an extremely important issue about enhancing U.S. diplomatic and strategic influence in the Western Hemisphere.

As many of my colleagues know, I have been a member of the Foreign Relations Committee on the subcommittee dealing with Latin America for the 24 years I have been in the Senate, either as the ranking member or as the chairman of the subcommittee.

I am deeply concerned, as I know many of my colleagues are, that while our attention is focused on other parts of the world, for obvious reasons, there is a serious condition developing in Latin America that deserves our attention.

The amendment I would be offering is quite simple. It would permit nations in this hemisphere to receive international military and educational training, so-called IMET training, assistance from the United States.

My colleagues might say: Well, don't we do that? Haven't we been doing that for years? The answer is yes. But it has been stopped in 11 countries in Latin America, along with economic support funds. The reason is because these nations have not signed on to the so-called article 98 agreement with the United States. The article 98 agreement has to do with the American Service Members Protection Act. That is because the administration is vehemently opposed to the International Criminal Court, and any nation that does not protect American servicemen from potentially being prosecuted under that act would have the international military and educational training funds, along with economic support funds, cut off entirely.

Now, again, I am not arguing at all about whether we ought to have the American Service Members Protection Act. My colleagues have voted for that. That is the law of the land. My concern is linking that legislation with the international military and educational training funds and economic assistance funds.

Let me tell you what has happened as a result of linking these up. We used to have as many as 800 junior officers or senior officers from Latin America come to the United States each year to go to our schools, to learn about how we would conduct our military operations, to receive the critical training that would make them more in tune with our ideals, our values, as military officers.

As a result of this linkage we have now adopted, we now have zero military personnel coming from these countries that I have already mentioned, the 11 countries affected; the countries being Bolivia, Ecuador, Peru, Venezuela, Brazil, Costa Rica, Paraguay, Uruguay, Barbados, St. Vincent and the Grenadines, Trinidad, and Tobago.

To give you some idea, we used to have from Peru 172 young officers come to the United States. Because of the linkage, we now have zero. Uruguay sent 202. We now have zero. Venezuela, 73; Ecuador, 85—to give you some idea in the last year or so, and on down the list.

I ask unanimous consent that the list of the number of people coming from these countries on a roughly annual basis be printed in the RECORD, if I may.

Mr. SCHUMER. Reserving the right to object.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, an amendment just passed without notice to any of us that involves a dispute about a helicopter between New York and Connecticut. I did not know of that amendment. Neither did Senator CLINTON. Neither did anybody else. So I have to object to this until I see what it is. It was offered by my good friend from Connecticut. I will serve notice, I will hold up this bill and sit here until we deal with this in a fair way. This was a sneak attack. We knew nothing about it. It was not debated. And it is not the right way to do business around here.

Mr. DODD. Well, Mr. President——

Mr. SCHUMER. So I object to whatever the unanimous consent request was until I see what it is.

The PRESIDING OFFICER. Objection is heard.

Mr. DODD. Mr. President, my point on this amendment is that with the significant deterioration in the connections between our country and these nations that have received in the past the international military and educational training funds and the economic support funds, that we find ourselves in a very precarious position with these countries and the junior officers and senior officers who have come here for their training. So the amendment, in effect, would delink these issues. It does not overturn the American Service Members Protection Act; it just delinks it.

Who is advocating this? SOUTHCOM, which is the military structure and organization that has the responsibility for dealing with Latin America, is a strong advocate of delinking these issues. In fact, in today's Washington Times, the headline is ''U.S. 'hands tied' in South America.'' I will quote from the article:

> As the Bush administration tries to craft a new foreign policy toward an increasingly belligerent Venezuela, Pentagon and military officials say they cannot blunt that nation's regional influence unless a law meant to protect U.S. personnel from prosecution in the International Criminal Court is changed.

The article goes on:

> That law, the American Service Members Protection Act, prohibits U.S. security assistance funds and most military cooperation unless a country rejects the U.N.-backed ICC or signs a bilateral immunity agreement with the United States. . . .
>
> Of the 22 nations in the world that are on the black list [so-called]—they have ratified the ICC agreement and have refused to grant the United States bilateral immunity—11 of them are in Latin America.

I have listed them already.

So again, I will not go on at great length. I know there is a possibility here of reaching an agreement on a matter that has held up this bill. This amendment would delink these issues. I do not need to emphasize the point. My colleagues should be aware of this.

There was a growing influence from the People's Republic of China in Latin America, offering to spend billions of dollars in the region and I presume, willing as well, to train military personnel. We do not want to lose the tremendous opportunity we have had over the years to maintain these relationships.

Again, I am not here to argue today the wisdom or lack of wisdom of the American Service Members Protection Act. The only case I want to make to my colleagues is, Should we be linking these IMET funds—that is, the international military and educational training funds—and economic support funds, which are critically important in Latin America, with that legislation? I do not think we should. SOUTHCOM, our military leaders, do

not think we should. Roger Noriega, with whom I do not always agree on Latin American issues, thinks it is wrong to link the economic support fund issues as well. So people who have strong credentials, if you will, in opposing the International Criminal Court believe that linking these issues in this region is not serving the interests of the United States well at all.

At an appropriate time, in consultation with the chairman of the committee and others, I would like to pursue this matter to see whether my colleagues might agree that we might delink these issues. With that, again, knowing there are other matters that can be dealt with, I won't belabor the point.

I have some further comments I will make, but I will wait for the appropriate time to do that so that my full statement can be read by those who may be interested in this particular proposal.

I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, let me respond briefly to the distinguished Senator from New York. The amendment that was offered by the distinguished Senator from Connecticut, as I indicated before he was on the floor, we were prepared to accept. We presumed there was not Democratic Party opposition to that; there were not members of the committee on the floor. Senator DODD is a member of the committee, and, therefore, we acted in good faith, as we have to. We are trying very hard to proceed amendment by amendment, depending upon Senators to be on the floor, to be represented by their party officials and by their staffs. So I am hopeful the distinguished Senator from New York and the Senator from Connecticut may be able to agree on a course of action, but from our standpoint, we believe the amendment was offered and accepted legitimately and in due course.

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

Mr. LUGAR. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue calling the roll.

The assistant legislative clerk continued with the call of the roll.

Mr. GREGG. 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. GREGG. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak for up to 10 minutes each. I also ask unanimous consent that I be recognized for 20 minutes as the initial speaker.

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

The Senator from New Hampshire is recognized.

THREAT OF BIOLOGICAL ATTACKS

Mr. GREGG. Mr. President, I appreciate the courtesy of the Members who are in the Chamber and who are dealing with the State Department authorization bill and allowing me to proceed as in morning business as they address the issues surrounding that bill.

I wanted to raise an issue which I believe is of very high significance of how we deal with the threat of biological attacks. This has been an issue I have been involved in for a considerable amount of time, having authored the first bioshield bill as the chairman of the HELP Committee at the time.

Just weeks after September 11, anthrax attacks occurred in Florida, New York, and Washington. They killed five people, and they crippled the mail delivery system in several cities and required a cleanup that cost more than $1 billion. For all that, the President's Commission which just reported on weapons of mass destruction says we were lucky.

We cannot really know whether we were exclusively lucky or whether this was the result of responsible effort to prepare ourselves for the next attack that we have not been attacked again or in a worse way, but the facts remain that the threat continues. The President's Commission makes obvious the finding that biological weapons are cheaper and easier to acquire than nuclear weapons, and they could be even more deadly.

There is no question that if terrorists are able to get their hands on a weaponized biological agent, whether it is anthrax, small pox, botulism, or ebola, they will use it in a place where Americans gather in their daily lives. Whether it is a subway system as occurred in Japan or a building as occurred in the Capitol, it is these types of attacks—biological, chemical, and dirty bombs—that pose the greatest threat to our Nation.

The President's Commission, which released its report last Thursday, exposed the stark reality that our intelligence community may have underestimated the progress of terrorists and others in developing biological weapons. For example, in Afghanistan, investigators found evidence that after the war, al-Qaida had the capability to produce a virulent biological weapon identified only as ''agent X,'' which documents suggest was anthrax.

Much of the information we have on the development of biological weapons by terrorist groups and rogue nations is classified; however, it is no secret that Soviet scientists were working on engineering biological agents before the fall of the Soviet Union, including smallpox engineered to be totally lethal, a hybrid plague that is more resistant to vaccine, and a strain of anthrax resistant to seven different antibodies. Unfortunately, we have no assurance that all of these products which they were trying to develop have been destroyed. We are aware of some rogue countries that developed delivery systems such as anthrax-laced cigarettes and botulism-contaminated beer.

While the President's Commission finds the threat deeply troubling today, they foretell that it will be more tomorrow, when genetics modification techniques will allow creation of even worse biological weapons. These findings underscore that the threat posed to our national security from biological, chemical, radiological, and nuclear weapons is truly real and significant.

Even before the anthrax attacks here, we as a Congress recognized the need to enhance three critical enterprises or sectors in our country to better protect our people from attacks by biological agents: No. 1 the research enterprise, led by NIH and private researchers; No. 2 the biotechnology development and manufacturing sector, particularly vaccines but also other countermeasures such as drugs and devices; and No. 3 the broader health care delivery system, including physicians, hospitals, and public health departments here and abroad.

The first substantial effort, started before the anthrax attacks and completed in 2002, was the Bioterrorism Act of 2002, which dramatically increased funding for the Strategic National Stockpile so that a national pool of countermeasures, including those to protect against smallpox, could be maintained. It also dramatically improved our border protection authorities, particularly for food imports; protected our water supply; dramatically increased oversight of research labs that handled agents that could potentially be used in an attack; and committed substantial new resources to our state public health systems and hospitals to ensure improved surveillance and surge capacity. Institutionally, it also created a number of new Federal authorities to identify and develop and coordinate our response to a threat.

In 2003 and 2004, following the President's call and leadership, we passed the bipartisan Project BioShield Act to confront weaknesses in our ability to have the research enterprise speed results to us and to have FDA speed products to potential victims. Notably, we pre-funded a $5.6 billion account to assure the developers of countermeasures that if they delivered a product that protected this country from a biological attack then the Government would in fact have the resources to purchase that product and recognize their work.

Project BioShield recognized that we had very little on hand to address even

the handful of agents that pose the greatest threat, such as smallpox, anthrax, botulism and plague. As a result, we have made valuable progress.

Our smallpox stockpile has grown from 90,000 doses of smallpox vaccine ready for use in 2001 to 300 million doses today. We have modified vaccinia Ankara, a next-generation smallpox vaccine that promises greater safety, in clinical testing and others in predevelopment. In addition, we have a new oral form of an antiviral drug cidofovir in advanced product development for use in the event of a smallpox attack and to treat the rare complications from the smallpox vaccine.

To combat anthrax, a new recombinant vaccine is in clinical testing and may need fewer doses than the classic vaccine, and the Department of Health and Human Services has contracted with VaxGen to purchase 75 million vaccine doses under BioShield. New anthrax therapies that can neutralize the anthrax toxin are also being developed, such as monoclonal and polyclonal antibodies.

To combat botulism, treatments for the toxin and a vaccine to prevent the disease are in development. And finally for Ebola a new vaccine is in development.

Project BioShield was a good start, but we must do more. As the authors of the Center for Biosecurity report note: The legislation represents a significant step for the government and demonstrates [its] seriousness [but] is only a necessary first step.

We have identified dozens of agents that could be used against our people, yet we still lack vaccines and treatments for some of the gravest biological and chemical threats, such as ricin, plague, and viral hemorrhagic fever. We still lack an antidote to sulfur mustard and nitrogen mustard—and those available for sarin and VX have significant limitations in their practical utility given the speed with which they need to be applied.

We are also not prepared to fight naturally occurring infectious diseases—such as avian flu—that could be equally as deadly and could be weaponized in the future. And experts in HELP testimony, as well as those responding to a comprehensive survey by the University of Pittsburgh Center for Biosecurity, note the increasing threat of new bio-engineered and genetically modified pathogens. A 2003 CIA review confirms that these strains could be ''worse than any disease known to man.'' Many have observed that we in fact need to move beyond the product-by-product and bug-by-bug approach of BioShield and address solutions more comprehensively and innovatively.

And we have seen a very anemic response within the research and manufacturing sectors to engage in biodefense work. Fewer than 100 companies have come forward with even a modest interest in developing countermeasures for bioterrorism and other agents. The profile of these companies is in many ways positive—they are entrepreneurial, often have crucial insights into a bioterrorism agent or product, can move quickly, and many have strong venture capital connections. However, in other critical ways they lack the ability in our current environment to deliver a finished, effective product to potential victims. These same companies tend to be small, often work on only a single product, rarely have the capital required to bring a product to market, and typically have limited ability to manufacture a product at the level and with the speed required to respond fully to an emergency. BioShield has done little to address these latter concerns.

The President's Commission stated that to combat this continuing threat, the Intelligence community, and the government as a whole, needs to approach the problem with a new urgency and new strategies. We are in fact pushing our luck.

This is precisely why BioShield II—a bill that I introduced as part of S. 3—is critical to our efforts in the war against terrorism. S. 3 clearly indicates that the Senate Republican leadership puts a very high priority on invigorating our biodefense capability. The people and 10 organizations that will be on the front lines of national defense will no longer be just traditional defense industries—providing arms and artillery—but will now include biomedical research and biotechnology manufacturing sectors, as well as health care delivery systems.

Building this biodefense sector is the first step in winning what could be the arms race of the 21st century. We must be secure in the ability of this sector to prevent and defend the United States against biological weapons. If we are capable of developing a vaccine or some other treatment that will neutralize the effect of these types of biological agents, including genetically modified pathogens, then they are less likely to be used against us. This same sector must also be positioned to fight new natural threats, such as a pandemic of avian flu. And, as highlighted by a recent GAO report on Anthrax Detection, we need improved detection and testing methods to accurately determine when an agent has been released and when an area has been decontaminated and is safe. Similarly, as the Washington Post helped uncover, BioWatch style technologies need to be dramatically improved, so that we have confidence in the detection of airborne pathogens affecting our key cities. Currently, lab analysis, even when it is correct, requires days to return results on only 10 agents to date.

A range of experts, including researchers, government officials, and manufacturers, told us in hearings that they need greater Federal assistance for them to bear the risk of developing products to counter biological threats or infectious disease that also divert capital away from the development of other important and often more profitable drugs. Many of the measures in BioShield II legislation, including financial incentives, intellectual property protection, and liability protection were recommended during those hearings.

A key point here is that we need to ensure the participation in this enterprise of not just small, fleet, and innovative biotechnology companies. We need to broaden our attention to large, experienced companies, with multiple sources of financing, the ability to manufacture, license, and bring to market a product, and do so on a large scale in an emergency. Additional measures are needed to encourage potential research, manufacturing, and health care delivery partners to commit substantial resources and take the risks necessary to bring innovative new products to market.

The number-one threat cited by experts in our hearings and experts in a range of forums and publications is the almost boundless liability exposure associated with developing these products—and the resulting massive cost of product liability law suits. The unfortunate liability experience of Bayer, manufacturer of Cipro, bears witness to the exposure a biodefense manufacturer faces—and the litigation costs that will be incurred even when, as in the Bayer case, the manufacturer is eventually absolved.

Manufacturers of biodefense countermeasures typically risk exposure to devastating product liability lawsuits to a far greater degree than typical drug companies and for this reason are unlikely to get commercial liability insurance for countermeasure products. There are a number of reasons. For example, as Project BioShield specifically contemplates, such countermeasures may be made available without the usual battery of clinical trials required for other FDA-approved products. Safety and efficacy data often must be derived, for the most part, from animal trials because healthy humans cannot be exposed to toxic agents during testing for obvious reasons.

Further, the scope of distribution of biodefense products and their method of distribution heightens the risk of a lawsuit—even if the product is otherwise safe and effective. For example, when distributed to large numbers of potential victims, perhaps millions of Americans in an emergency, there will inevitably be harm or injuries that occur around the time of the use of the product but that are in fact associated with the inevitable pre-existing health conditions in that large population. Determining the cause of the harm and distinguishing between the product and other factors will be nearly impossible—and yet liability exposure is evident. Methods of distribution in an emergency, perhaps using less trained persons as a last resort, also increase risk of liability.

Large, responsible, successful companies are—without liability protection—

the most likely to remain on the sidelines for fear of risking corporate assets in defending lawsuits. And with other sources of revenue, other successful products, and products generally with higher profit margins, these same companies in fact act prudently in protecting their general corporate assets from unnecessary litigation associated with lower-margin biodefense products.

Even as Government has begun to purchase BioShield countermeasures, the Government's ability to limit liability has significant limitations. Under current law there are only two legal authorities that allow the Federal Government to mitigate the liability concerns of producers of countermeasures other than small pox vaccine.

The first is through Federal indemnification under Public Law 85–804. The second is through designation/certification under the SAFETY Act. Both of these measures are woefully inadequate to address the practical realities of potential litigation facing providers of countermeasures and the fiscal realities facing the Federal Government.

Protection under Public Law 85–804 and its executive order extension to biodefense products is not frequently granted. When it is, the primary limitation is that the administration typically will not address indemnification prior to award of a contract for a countermeasure—unlike the Department of Defense, which typically does address liability earlier in the process. As a result, potential providers must expend resources to compete for a contract that they may have to refuse due to the lack of liability protection. More often companies simply refuse to bid at all due to lack of certainty on the issue of liability. Numerous technical and definitional limitations on the scope of the indemnification also exist—Is the product inherently dangerous? Is it involved in national defense?—not to mention the nature of indemnification may expose the Federal Government to enormous liability exposure as awards and liability is not structured or limited in any way.

The practical utility of SAFETY Act protections to biodefense products is limited. For example, the potential liability of a provider of a vaccine that is administered prior to a bioterror attack is not addressed—leaving producers of vaccines in particular, as they are typically dispensed prior to an attack, at great risk of liability exposure. Protection also requires a burdensome pre-certification process that has not resulted yet in designation of any biotechnology products. Clearly dramatic improvements on this model are required.

The net impact of this atmosphere results in needed countermeasures not being developed and deployed, thereby exposing the economy, and the Nation as a whole, to far greater potential liability due to the lack of available effective countermeasures in the event of attack. Either way, the Federal Government is likely to bear both the human and financial cost of such an attack as it did on September 11th. But by failing to account for these costs before an attack, countermeasures will not be developed and the Nation will be more exposed to attack, costing America both lives and economic stability.

S. 3, which contains liability protections based on the SAFETY Act, attempts to address these liability concerns not only for terrorism, but also countermeasures developed and deployed to protect the Nation against naturally occurring epidemics such as SARS and pandemics such as Avian influenza. Further, liability protections would be extended to ensure that those delivering health care in an emergency, including biodefense products, receive due protection for 19 stepping up and protecting our country when it is under attack. Further, S. 3 puts some limits on the almost boundless liability exposure.

The second most significant barrier to investment in biodefense technology, according to experts testifying before the HELP committee and other public documents is the failure of current intellectual property law to adequately recognize and protect a researcher or manufacturer's investment in a technology.

The current law mechanism for this involves a combination of patent term extensions and grants of market exclusivity for a product, which permit a patent term essentially to be extended to compensate for periods of time while a countermeasure is in the regulatory review or other process.

Under current law, there are several arbitrary limits placed on the duration and nature of the patent extensions that may be granted on a pharmaceutical product. First, the total effective period of the patent from the date the drug is approved until the patent expires cannot exceed 14 years. Second, no patent extension can exceed 5 years. In addition, only partial credit for a patent extension is granted for the lengthy time the product undergoes research and development before an application is reviewed by the FDA. S. 3 would create a patent term extension authority that is not subject to these arbitrary limits. This type of incentive is also important to recoup some of the innovator or manufacturer's investment in developing the product and for diverting resources from manufacturing other more profitable drugs.

As an alternative, S. 3 provides a second type of patent provision to permit the Government to reward manufacturers who work to develop a new countermeasure use from an existing product or technology during an emergency. This provision could, for example, have been useful with the drug Cipro, used as a therapeutic for a number of reasons, but at that time not otherwise studied for use as a treatment for anthrax exposure. During the anthrax attacks, the government asked the company to step forward—the company responded by researching and developing considerable evidence that their product was indeed safe and effective for treatment following anthrax exposure. Under current law, Americans can only rely on the unselfish generosity of a company to expend these resources to provide the safety and effectiveness data we need. Under my legislation, depending on circumstances, additional incentives involving market exclusivity could be granted for up to two years for the product that was used as a countermeasure. This is an important distinction from the so-called ''wild card'' exclusivity idea, which would allow a company to extend the patent protection of a different product as a reward for stepping forward. Again, this type of incentive will encourage manufacturers to step forward in a crisis and will help them recoup their losses from diverting their research and manufacturing efforts from more profitable products.

We've heard resoundingly that our research, manufacturing, and health care delivery sectors need reasonable assurances that a market for these products will in fact exist should they invest the resources necessary to fully develop them. Under the BioShield approach the manufacturer takes the gamble for product development—the government as the sole purchaser needs to be a reliable partner. I look forward to continuing to discuss viable approaches in this area. In my view, however, it is not politically viable to have that basket of options or incentives include ''wild-card'' exclusivity—or the ability to apply a patent extension or market exclusivity to any product in a company's portfolio, regardless of whether it has any use for biodefense purposes. Today, politically, the reality is that this approach is not sustainable—even if it would serve as a powerful incentive to companies to step up and deliver much-needed biodefense products.

The role of the government in facilitating research, development, and delivery of biodefense products can be great. Unfortunately, all too often, government gets in the way. Accordingly, S. 3 also contains important regulatory reform initiatives for protecting Americans against bioterrorism. First, it has provisions that will improve the international harmonization of U.S. Food and Drug Administration regulations with those of the regulatory bodies of our allies in Europe, Canada, and other developed countries. This will help facilitate the development and approval of biodefense products, and will reduce the costs of regulation by the United States and these countries of biodefense countermeasures such as drugs, vaccines and medical devices. Streamlining and making truly effective the regulatory approaches from these developed countries will also assure the continued safety and effectiveness of these medical countermeasures. S. 3

also requires additional reviews by experts on how to improve regulation of these products.

Second, the bill includes important provisions to assure uniformity throughout the United States of biodefense product labeling and other FDA-regulatory requirements. We urgently need this provision to respond in a uniform and united way to a potential bioterrorist attack or other deadly epidemic.

Dramatically conflicting or confusing state and local labeling and composition requirements will limit the ability of Americans across the country to respond adequately and quickly. It is important to note that the provision includes language for exempting purely local matters such as pharmacy practice laws from national uniformity requirements and unique local conditions.

The Bioterror Act of 2002 took significant steps forward to address public health infrastructure needs of the country. BioShield II builds on these authorities in an effort to prioritize resources to those areas faced with the greatest threat—to build the technical expertise of the federal workforce, particularly at our premier biomedical and health organizations at NIH, FDA, and CDC—and to build private sector response capacity in various private-public arrangements designed to have credentialed, expert, and trained teams on hand to respond quickly to a crisis. Surveillance authorities here and abroad also need to be strengthened and developed—using innovative private sector analysis of prescription drug, hospital emergency room and doctor visits and other ''leading indicators.'' In short, as Richard Falkenrath of the Brookings Institution notes, ''there's no area of homeland security in which the administration has made more progress than bioterrorism, and none where we have further to go. But, it is critical to agree with Elin Gursky with the Anser Institute for Homeland Security, ''This problem won't be solved by money alone.''

We have an obligation to be prepared for the worst threat. Maybe that ''next'' attack will never come. Or maybe it will come tomorrow.

We can't know where or when it will come or what our enemies will try to do. We have to be prepared for all possibilities. Therefore, we have to have a vibrant and strong biotechnical industry, a biomedical industry, and an atmosphere here in the Federal Government which encourages the development of the vaccines and other antibodies which will allow us to address these type of threats.

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.

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

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

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 2006 AND 2007—Continued

Ms. STABENOW. Mr. President, I rise today to speak about an amendment my colleague Senator LINDSEY GRAHAM and I have submitted that would create a special trade prosecutor within the Office of the U.S. Trade Representative.

It is my understanding, working with our leader and the chairman of the Finance Committee, that we are not going to proceed with this amendment and instead will be entering into a colloquy with the chairman of the Finance Committee about his willingness to work with us to add language to create a special trade prosecutor on appropriate legislation coming to the Finance Committee to reauthorize trade laws. We look forward to working with him. I look forward to the colloquy we will be submitting for the RECORD shortly.

I thought it was important to be able to speak about this issue for a moment because I know there are many of us on both sides of the aisle who are deeply concerned about what is happening as it relates to unfair trade practices by other countries. We want to work together on a bipartisan basis in order to address this, and address this as quickly as possible. That is why I am so pleased Senator GRAHAM has joined with me as an author of this amendment. We also have a separate bill as well to do the same thing. We look forward to working with the Finance Committee in order to be able to create the prosecutor and to include legislation in a future bill coming to the Senate.

This amendment is based on the concept by Senator BAYH from Indiana. I thank him for being a serious and thoughtful voice in this debate, for his ongoing advocacy, and for providing the Senate with solutions to fix our growing trade deficit. I congratulate Senator BAYH as well.

This amendment would create a special trade prosecutor appointed by the President and confirmed by the Senate with authority to ensure compliance with trade agreements and to protect our manufacturers as well as our farmers against unfair trade practices. This prosecutor will have the authority to investigate and recommend the prosecution of cases before the WTO, as well as those under trade agreements to which the United States is a party.

Currently, we have an executive branch that is organized in such a way as to make prosecution of unfair trade cases unlikely, at best. This trade prosecutor would allow us to fix that. Coupled with the fact that our domestic manufacturing base has eroded due to unfair trade practices, and we have put our manufacturers and others in our economy in an impossible situation, we are asking our U.S. Trade Representative to do too much and the office is not able to deliver. We ask that they negotiate trade agreements with foreign nations at one moment and then turn around and enforce agreements the next, all without damaging the ability of the United States to negotiate the next trade deal. It is not working. While significant portions of our trade imbalances are not caused by lax enforcement, many of them are.

In February, the Department of Commerce reported that the merchandise trade deficit reached a record level of $666.2 billion in 2004, a 21.7-percent increase since 2003. That translates into job loss. The aggregate U.S. trade deficit, which includes both goods and services, was $617.7 billion dollars, a 24-percent increase over 2003. We have many trading partners that fulfill their obligations under our agreements, but we also have many that do not. We should address this problem with a straightforward solution, a special trade prosecutor.

Yesterday, we finally saw a glimmer of hope on the trade front as the administration began the process of imposing import quotas on shirts, trousers, and underwear. But it could have come much sooner if we had someone in the Government whose job it was to look for these violations and to recommend action.

Commerce Secretary Gutierrez, a man whom I respect and strongly supported as Secretary of Commerce, coming from the great State of Michigan, is already having a positive impact. I hope he will pursue this case until our textile industry finally gets the relief it deserves.

That is not enough. There are more U.S. industries facing similar unfair trade practices. We are proposing an institutional change that will allow us to thoroughly and vigorously investigate and prosecute these cases.

For instance, China is a textbook case of how a foreign government has used a network of illegal subsidies and government interventions in order to destroy foreign competition both in the United States as well as in many other countries.

According to the United States-China Economic and Security Commission, these actions have gone virtually unchallenged by the U.S. Government, despite the fact that China's actions are in clear violation of both U.S. trade law and WTO rules.

These anticompetitiveness actions by the Chinese Government include currency manipulation. I am very proud to have been a cosponsor of the amendment that overwhelmingly passed earlier today, bipartisan amendment, to send a very strong message to China regarding the fact we will no longer tolerate the manipulation of their currency. It is causing job loss. It is causing pressure on our American businesses. I am pleased we were able to address that.

It is estimated that currency manipulation provides as much as a 40-percent subsidy for Chinese exporters. In addition, the Chinese Government also has illegal direct Government subsidies of its state-owned textile and apparel sectors, illegal export tax rebates of about 13 percent, and the deliberate extension of billions of dollars in nonperforming or free money loans by China's central banks in order to award a competitive advantage against foreign competition.

The Commission goes on to say that in the case of China, the dramatic increase in subsidies has caused Chinese prices to drop by an average of 58 percent over the past 2 years in those product areas where the quotas have been removed.

As a result, China has begun a near monopoly share in these products over the last 24 months, gaining 60 percent of the market.

Our businesses in Michigan just ask for a level playing field. They just ask the rules be fair. It is our job to make sure they are. However, our Government has failed to file any complaints at the WTO despite the Chinese Government's repeated and widespread violations of WTO rules. This is of grave concern to colleagues on both sides of the aisle and was reflected again in the vote earlier today as it relates to China's manipulation of their currency.

Last year, as is widely reported, our Government refused to criticize China's human rights and labor rights record before the United Nations Human Rights Commission despite overwhelming evidence of human rights violations.

Our Government's inaction is costing hundreds of thousands of American jobs—I argue that is rapidly becoming millions crippling our manufacturing sector, distorting trade and investment patterns globally, and leaving hundreds of millions of Chinese workers vulnerable and mistreated, as well.

Let me give a few examples of the violations occurring. Counterfeit automotive products are a big problem in my home State of Michigan. Not only does it kill American jobs, but it has the potential to kill Americans as cheap, shoddy automotive products replace legitimate ones of higher quality. The American automotive part and components industry loses an estimated $12 billion in sales on a global basis to counterfeiting. We do not even keep statistics on the potential loss of life. We should understand if left unchecked, this penetration of counterfeit automotive products jobs has the potential to undermine the public's confidence and trust in what they are buying. We cannot let that happen.

Our amendment, the effort we will work on with the Finance Committee, will give us a voice and a watchdog so we can take appropriate action sooner, more aggressively, more appropriately.

In Michigan, we lost 51,000 manufacturing jobs from 1989–2003 due to China's unfair trade practices, according to the Economic Policy Institute.

Unfortunately, the plant closings continue in Michigan and around the Nation. Over the past three months we see example after example of the damage a ''wait and see'' attitude has on workers in this country.

Lear Corporation continues to cut jobs in Grand Rapids, a total of 300 to date, and the company promises more layoffs this summer. Also, in Grand Rapids, Steelcase will cut 600 jobs. The ripple effect of Lear Corporation's decision will lead Advanced Plastics in Schoolcraft, MI, to layoff more than 100 employees this spring.

The City of Edmore recently lost 120 high paying manufacturing jobs at the local Hitachi plant. Those jobs are moving to China.

In Alma, 260 employees at Oxford Automotive are now unemployed due to the competitive pressures in the automotive industry, a large part of which is due to current manipulation by Japan and China.

And the examples don't end there as we all know. We should not be shirking our responsibilities to enforce trade rules. This amendment helps us do that. And it helps us save American jobs.

I believe in trade and the benefits it can have for our manufacturers, farmers, and other industries. But, we need to have fair trade first and foremost.

A Special Trade Prosecutor would have the power to stand up for our manufacturers and farmers and make sure that other countries are holding up their end of their trade agreements.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

(The remarks of Mr. ALEXANDER pertaining to the introduction of S. 726 and S. 727 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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

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

The legislative clerk proceeded to call the roll.

Mr. DAYTON. 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. DAYTON. Mr. President, I rise to discuss an amendment that I have filed and will offer formally. It is a sense-of-the-Senate resolution that calls for the United Nations to give full nation membership status to Israel.

Unfortunately, and wrongly, Israel has not been granted the full status that other 190-nation members enjoy, ever since it became a nation state in 1948 and formally became a member of the United Nations in 1949. For over 50 years, until the year 2000, Israel was the only member state that was consistently denied admission into a regional group.

Even now, it is still limited to the Western European and others group in New York but not in Geneva and elsewhere. As a result, for example, Israel cannot participate in the voting for the composition of the International Court of Justice in The Hague, nor can an Israeli judge serve on that court. Yet the court is called upon, and was recently, by other nations and the General Assembly to pass judgment on the actions of Israel to protect its national borders and to secure the lives and the safety of its citizens.

Also, as a result of the denial of full status, Israel is not allowed to participate in United Nations conferences on human rights, racism, and other issues held in world locations, which is particularly important since some of those conferences unfairly discriminate against Israel in their consideration of issues they do not consider to the same extent or at all as they affect other member nation states.

My amendment says it is the sense of Congress that President Bush should direct the U.S. permanent representative to the United Nations to seek an immediate end to the persistent and deplorable inequality that is experienced by Israel in the United Nations; that Israel should be afforded the benefits of full membership in Western European and other groups in the United Nations to achieve that full participation, and that the U.S. Secretary of State should report to Congress on a regular basis on the actions of the administration to encourage Israel's full acceptance by other member states in the United Nations. Obviously this law and those requirements would apply equally to future administrations of our Government as well.

It is ironic because the United Nations created the State of Israel back in 1948, and yet it has been the body where some of the most anti-Semitic and discriminatory attacks against the democratically elected Government of the people of Israel have taken place. There have been some improvements. There have been recognitions most recently by Secretary Kofi Annan of the anti-Semitic and anti-Israel bias historically in the United Nations. Some progress has been made, but some is not full progress or acceptance, and some is not enough.

The United Nations was founded upon the principle that all member nations of the world, all of which may be engaged to some or another extent in practices or activities that other nations may disagree with, are equal members there for the purpose of resolving the differences among nations and among the peoples of the world peacefully, equitably, and hopefully in the ultimate best interests of all concerned. So by denying this great nation, a democratic government and the people of Israel, the full rights of citizenship in that world body runs contrary to the founding principles and the purpose of the United Nations. It is destructive to the attempt to resolve the differences in the Middle East peacefully, equitably, and hopefully permanently for the benefit of all concerned.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ENZI. 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 TWO GREAT AMERICANS: FRED KOREMATSU AND ERNEST CHILDERS

Mr. DURBIN. Mr. President, It is said that Pope John Paul II was probably the most widely recognized person in the entire world. We have heard many inspiring tributes to this great man, and rightly so.

I would like to take a few minutes to pay tribute to two other great men who died recently. Unlike the Pope, their names and their faces were not instantly recognizable. But they shared some of his finest qualities. They were remarkably brave men who risked much to protect transcendent truths, and who continued to defend those truths even in the twilight of their lives. In their cases, the truths were the principles that are the essence of America.

Both of these men first made their marks on American history during World War II.

Ernest Childers was a Native American, a member of the Creek Nation from Oklahoma, and a recipient of the Medal of Honor.

He was a lieutenant in the Army National Guard when he arrived on the beaches of Salerno, Italy, in September 1943. Hearing that many in his division were pinned down by enemy fire in nearby hills, he organized a group of eight soldiers to help clear a path to rescue the endangered soldiers.

An exploding enemy shell threw Lt. Childers to the ground, breaking his ankle, but he continued to advance. Ordering his soldiers to lay down a base of fire to protect him, he crawled—with his shattered ankle—toward an enemy sniper's nest.

Almost out of ammunition, he reached down and threw a rock at the snipers guessing correctly that they would mistake it for a hand grenade. He was right. When the snipers stood to run, Lt. Childers shot and killed one of them; one of his soldiers killed the other. Later that day, he singlehandedly captured an enemy soldier.

After recovering from his wounds, he was sent back into combat and fought at the Battle of Anzio, where he was wounded again. He was recovering in a military hospital when he learned that he was to receive the Medal of Honor.

He retired from the Army as a lieutenant colonel in 1965, worked briefly in Washington, then returned home to Oklahoma.

After September 11, he wrote a widely circulated column criticizing the attacks on some Arab-Americans. He wrote:

> Even though I have darker skin than some Americans, that doesn't mean I'm any less patriotic than any other American. I am appalled that people who call themselves ''Americans'' are attacking and killing other Americans simply because of their skin color.

Now let me speak of another recently lost. Fred Korematsu also suffered a great injury in World War II. In his case, however, the injury wasn't physical, and it wasn't inflicted by enemy soldiers. It was inflicted by the United States government in one of the most shameful chapters in our Nation's history.

In 1942, Mr. Korematsu was 22 years old, living in California, when the U.S. government declared 120,000 Japanese-American citizens and immigrants ''enemy aliens'' and ordered that they be forced from their homes into internment camps—prison camps.

Mr. Korematsu—who was born in California to immigrant parents—had tried twice to enlist in the military after Pearl Harbor, but was rejected for health reasons. He did everything he could think of to be accepted as American. He changed his name, and even had an operation to try to make his eyes appear rounder. Still, he was still ordered to be imprisoned at Tule Lake, an infamous internment camp in California.

His family and friends complied with the order. But Fred Korematsu resisted because, he said, he was an American, and he believed that the internments were unconstitutional.

He challenged the order all the way to the United States Supreme Court. In a decision that remains one of the most infamous decisions in its history, the Court ruled in 1944 that the internment of American citizens of Japanese descent was justified by the need to combat sabotage and espionage.

It took nearly 40 years for Fred Korematsu's conviction for opposing internment to be overturned by a U.S. District Court.

In 1988, Mr. Korematsu helped win an apology and reparations from the United States Government for internment camp survivors. A decade later, he was awarded the Presidential Medal of Freedom.

In November 2003, Mr. Korematsu did something he never expected he would have to do again in his life. He filed another brief before the Supreme Court protesting what he believed to be unconstitutional internments by our Government only this time, the detainees were being held at Guantanamo Bay, Cuba.

Mr. Korematsu's brief contained a simple plea.

> . . . to avoid repeating the mistakes of the past, this court should make clear that the United States respects constitutional and human rights, even in times of war.

Fred Korematsu died on March 30 at his home in Larkspur, CA after a long respiratory illness. He leaves his wife, Katherine, and their son and daughter.

Ernest Childers, a courageous warrior to the end, died March 17 at a hospice in Tulsa after suffering a number of strokes. He leaves his wife of 59 years, Yolanda, and their three children.

These men were recipients of the Presidential Medal of Freedom, the highest civilian honor our Nation can bestow on an individual; and the Medal of Honor, the highest military honor our Government grants.

They risked everything as young men to defend the great principles on which our Nation is based, and they continued to speak out for those principles until they died. They were truly American heroes.

Our thoughts and prayers go out to their family and friends.

THE NUCLEAR OPTION

Mr. LEAHY. Mr. President, we heard a distinguished leader of a country pushing into democracy this morning, addressing a joint meeting of the Congress over in the other body. I think every time a country moves into democracy, and its leaders and citizens come to this country, one of the things they are thrilled about is the independence of our Federal judiciary and our judiciary overall. They say in their country, if they ever want to have democracy, they have to have the independence of the judiciary.

I mention this because in recent weeks there seems to have been this escalating verbal attack by political leaders—and I must say, with all due respect, Republican political leaders—against Federal judges, including those who have been appointed by Republican Presidents, and against the Supreme Court, where most of the justices have been appointed by Republican Presidents.

The Republican leader of the House has spoken seeking vengeance against judges involved in the Terri Schiavo matter. A Senate Republican has referenced the brutal murders in the State court in Georgia and of Judge Lefkow's family in Illinois as if they were somehow connected to judicial decisions that some people do not like and which lead to pressures that explode in violence.

Now, I know all Senators, Republicans and Democrats, including the Senator who made those remarks, strongly agree there can be no justification for violence against judges or their families. In Iraq, judges are being attacked by insurgents. In Columbia, honest judges were murdered by drug-dealing thugs. That is not a circumstance we want to see anywhere in the world, especially here. We cannot tolerate or excuse or justify it here in the United States.

When I chaired the Judiciary Committee in 2001, one of the first things I did was push for passage of the Judicial Protection Act, which toughened criminal penalties for assaults against judges and their families. I sponsored it

with Senator GORDON SMITH. We enacted it. We were right to do so. Protecting our judges and Federal law enforcement officers should be a top priority for us. I think sometimes the focus on terrorism distracts us from the day-to-day dangers for judges.

I remember the autumn of 2001, when Senator Daschle and I were each sent anthrax-laced letters in an environment in which high-ranking Republican leaders had criticized us unfairly during the sensitive weeks leading up to that. People who touched the outside of the envelope addressed to me—the envelope I was supposed to open—people who simply touched it, doing their job, died as a result of that. And no perpetrator was ever arrested or convicted for these anthrax attacks by someone who may have thought himself a ''super patriot'' willing to will to make his point.

I do not want to see more attacks on our Federal and State judges. So I urge those members of the other party who are making these attacks to disavow the rhetoric and those attacks. They should not be creating an atmosphere in which anyone will feel encouraged or justified in attacking our judiciary if they do not like a particular decision.

In this regard, I thank the Senator from Texas for the comments he made Tuesday afternoon in which he expressed his regrets with regard to certain remarks he made on Monday that he says were taken out of context and misinterpreted. He has urged that the overheated rhetoric about the judiciary be toned down and acknowledged that ''[o]ur judiciary must not be politicized.''

Mr. President, I became a Member of the Senate more than 30 years ago at a time when the country was recovering from an abuse of power by President Nixon. In the wake of the Watergate scandal, many of us were elected to be a forceful check on executive power. It was a mindfulness of the danger that absolute power corrupts that the Founders designed our Constitution to contain a vital set of checks and balances among the three branches of our Federal Government. Those checks and balances have served to guarantee our freedoms for more than 200 years.

Today, Republicans are threatening to take away one of the few remaining checks on the power of the executive branch by their use of what has become known as their ''nuclear option.'' This assault on our tradition of checks and balances and on the protection of minority rights in the Senate and in our democracy should be abandoned.

The American people have begun to see this threatened partisan power grab for what it is and to realize that the threat and the potential harm are aimed at our democracy, at the independent Federal judiciary and, ultimately, at their rights and freedoms. A thoughtful editorial appeared in one of my home State's newspapers today. In that editorial, The Barre-Montpelier Times Argus observed: ''Abolishing the filibuster for judicial nominees is another, more extreme, form of intimidation.'' I ask that a copy of that editorial be included in the RECORD at the end of my statement.

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

(See exhibit 1.)

Mr. LEAHY. Eliminating the filibuster by the nuclear option would violate and destroy the Constitution's design of the Senate as an effective check on the executive. The elimination of the filibuster would reduce any incentive for a President to consult with home-State Senators or seek the advice of the Senate on lifetime appointments to the Federal judiciary. It is a leap not only toward one-party rule and absolute majoritarianism in the Senate but to an unchecked executive.

Recently Republican partisans have ratcheted up the vitriol even further with their direct threats upon the judiciary. They spare no one, neither State court judges, nor Federal judges, nor Federal judges appointed by Republican Presidents, nor the Supreme Court Justices themselves. Their goal is intimidation and subservience to an ideological agenda, rather than adherence to the rule of law. Worst of all, some Republican leaders have taken their rhetoric to a level that should concern all Americans, at a time when violence against judges, their families and courtroom personnel has shocked the nation. The Republican leader of the House has recently spoken of seeking vengeance against judges involved in the Terri Schiavo matter. I recall a similar call by that House leader in 1997 in which he called for the intimidation of judges. I spoke against it then and do so again today. It is essential that we preserve the independence of our judiciary and protect it from intimidation.

In my time in the Senate we have often faced issues directly relevant to the separation of powers and the role this body plays as a check on executive power. As ranking Democratic member of the Judiciary Committee and as a former chairman of the committee, I have invested significant time and energy on providing resources to our third branch of Government. During the 17 months I chaired the committee, the Senate confirmed 100 of President Bush's judicial nominees. In the other 34 months of the Bush administration, the Senate has confirmed but 104.

The independent, nonpartisan role that judges play in our democracy is vital. I agree with Chief Justice Rehnquist when he called the independent judiciary the ''crown jewel'' of our democracy. It is the envy of and the model for the world. In order to keep this branch of Government independent and above politics, these nominations to lifetime appointments should be of the caliber to garner wide consensus, not political divisiveness. The goal should not consistently to be to see how many controversial nominees can be confirmed by the narrowest of partisan margins. Partisan passions must be kept in check when we are addressing an independent branch of Government, and no President should seek to pack the bench with unalloyed partisans or narrow ideologues.

It is the Federal judiciary that is called upon to rein in the political branches when their actions contravene the Constitution's limits on governmental authority and restrict individual rights. It is the Federal judiciary that has stood up to the overreaching of this administration in the aftermath of the September 11 attacks. It is more and more the Federal judiciary that is being called upon to protect Americans' rights and liberties, our environment and to uphold the rule of law as the political branches under the control of one party have overreached. Federal judges should protect the rights of all Americans, not be selected to advance a partisan or personal agenda. Once the judiciary is filled with partisans beholden to the administration and willing to reinterpret the Constitution in line with the administration's demands, who will be left to protect American values and the rights of the American people? The Constitution establishes the Senate as a check and a balance on the choices of a powerful President who might seek to make the Federal judiciary an extension of his administration or a wholly-owned subsidiary of any political party.

The Senate's role in advising the executive and determining whether to consent to confirmation of particular nominees is a fundamental check and balance on the executive. It is especially important with respect to lifetime appointments to the judiciary. The Senate's rules, already adopted and in place for this Congress, continue to provide for an orderly procedure to end debate on matters before the Senate and an orderly procedure for amending the Senate rules.

Just as amending our fundamental charter, the Constitution, requires supermajorities, so amending our Senate rules does, as well. When the Senate rule for ending debate in the Senate has been amended in the past, the rules for amending those rules have been followed. Previous Senate majorities have followed the rule of law by amending rule XXII only after a supermajority has agreed to end debate on amending the rule. The nuclear option would circumvent rule XXII and would destroy the equivalent of the rule of law in the Senate.

Even the Senate's Republican majority should not be above the law. The Senate has always protected minority rights. The nuclear option would bring an end to that tradition and to the comity and cooperation on which the Senate depends. The Senate and the House were designed by the Founders to serve different functions in our Government. The nuclear option destroys the fundamental character of the Senate. Breaking so fundamental a Senate rule by brute force is lawlessness. Over

the past 2 years, the Republican majority has already bent, broken or ignored the rules governing committee consideration of judicial nominees. This year they are moving to destroy the one Senate rule left that allows the minority any protection and any ability to protect the rights of the American people.

In political speeches we all talk about the importance of the rule of law. In Iraq over the last 2 years, young Americans have given the ultimate sacrifice seeking to help establish a democracy that upholds the rule of law. The governing transitional law that the Bush administration helped design for Iraq calls for a two-thirds vote of the Iraqi legislature to select the president and vice presidents. This was created to protect the minority and encourage consensus. Just today we hear that the long period of negotiations following the Iraqi elections has yielded an agreement on the presidency council, which is the next step in forming an Iraqi government, and that the Iraqi national assembly expects to have the two-thirds vote required to proceed to name a Kurdish leader, a prominent Shiite Arab politician and a Sunni Arab leader as the president and the two vice presidents of Iraq. While we recognize and fight for consensus-building and minority protection in Iraq, Republican partisans here at home are threatening the nuclear option to remove protection for the minority in the U.S. Senate. That is wrong.

When President Bush last met earlier this year with President Putin of Russia, he spoke eloquently about the fundamental requirements of a democratic society. President Bush acknowledged that democracy relies on the sharing of power, on checks and balances, on an independent court system, on the protection of minority rights and on safeguarding human rights and human dignity. What we preach to others we should practice. Destroying the protection of minority rights, removing the Senate as a check on the President's power to appoint lifetime judges and undermining our independent Federal judiciary are inconsistent with our democratic principles and values but that is precisely what the nuclear option would do.

Breaching the Senate rules to eliminate filibusters of nominations will only produce more division, bitterness and controversy. To date the Senate has proceeded to confirm 204 lifetime appointments to the Federal judiciary by President Bush. The Senate has refused to grant its consent to only a handful of his most controversial and divisive nominees and only after public debate and the votes of a substantial number of Senators. Those who now threaten the nuclear option were willing to forestall votes on more than 60 of President Clinton's moderate and qualified judicial nominees if only one anonymous Republican Senator had a secret objection.

The way to resolve this conflict is for the President and Senate Republicans to work with all Senators and engage in genuine, bipartisan consultation aimed at the appointment of consensus nominees with reputations for fairness who can gain wide support and join the more than 200 judges confirmed during President Bush's first term. By last December, we had reduced judicial vacancies to the lowest level, lowest rate and lowest number in decades, since President Ronald Reagan was in office.

There are currently 28 judicial vacancies for which the President has delayed sending a nominee. In fact, he has sent the Senate only one new judicial nominee all year. I wish he would work with all Senators to fill those remaining vacancies rather than through his inaction and unnecessarily confrontational approach manufacture longstanding vacancies.

There are currently two of his nominees, Michael Seabright of Hawaii and Paul Crotty of New York, who the Republican leadership refuses to schedule for consideration. I believe that those nominees can be debated and will be confirmed by overwhelming bipartisan votes, if the Republican leadership of the Senate would focus on making progress instead of seeking to manufacture a crisis. They can become the first judges confirmed this year. Let us join together to debate and confirm these consensus nominees.

Rather than blowing up the Senate, let us honor the constitutional design of our system of checks and balances and fill judicial vacancies with consensus nominees without unnecessary delay.

EXHIBIT 1

[From the Times Argus, Apr. 6, 2005]

TIME TO STAND UP

Republicans and Democrats are headed for a showdown in the Senate over the Democrats' insistence that, for a handful of extreme and ill-suited judicial nominees, it will use the filibuster to block action. Sen. Patrick Leahy, ranking Democrat on the Senate Judiciary Committee, will be in the center of the fight.

Republicans have responded to the prospect of Democratic filibusters by threatening to throw out the rule allowing filibusters for judicial nominees. Democrats say that if that happens they will halt all but the most essential Senate action.

The battle over the judiciary is a central political struggle of our time. The congressional effort to meddle in the Terri Shiavo case was a prelude to the battle over the courts, and it revealed the dangerous degree to which the nation's Republican leaders intend to twist the judiciary to their will.

The party line among Republicans is that they favor judges who interpret the law rather than making it. They don't want judges imposing outcomes or crafting decisions to carry out a personal agenda.

Yet the astonishing comments by Rep. Tom DeLay, House Republican leader, show the Republicans' true aim. DeLay revealed that, above all, he wants to impose outcomes. The outcome in the Schiavo case didn't go his way so he began talking of impeaching the judges involved. Judges whose independence is curbed by that kind of intimidation will be forced into outcomes demanded by politics, not by the law.

The Schiavo case passed before judges in state and federal courts, the federal appeals court, even the U.S. Supreme Court, and all those judges, liberal and conservative, ruled that Terri Schiavo's expressed wishes, as conveyed by her husband, should prevail. There has been much debate about whether the husband was reliable and whether the medical diagnosis was correct. But those questions went to judgment in the courts. That is what courts are for. The judiciary is independent so that courts can weigh facts in a calm and reasoned fashion, free of political pressures or the enthusiasms of enflamed groups. Sometimes we don't agree with the outcome, but citizens, like judges, are not supposed to impose outcomes.

Intimidation of the judiciary was also the approach of former Attorney General John Ashcroft, who sought to discipline judges who acted counter to his wishes. Abolishing the filibuster for judicial nominees is another, more extreme, form of intimidation.

The Republican critique of the judiciary suggests they believe judges are somehow outside the democratic system, that they have no business thwarting the workings of the legislative branch. But judges are an essential part of the democratic system. For one, they are appointed by the elected executive and confirmed by elected senators. And they exist to safeguard our democratic system when the legislative or executive branches try to ride roughshod over the law.

In the Schiavo case, the executive and legislative branches sought to abolish the constitutional role of the judiciary as an independent branch. In those cases where President Bush's judicial nominees exhibit similar lack of respect for the law, senators have the duty to oppose them and to stand up against the intimidating tactics of the Republican leadership.

HONORING POPE JOHN PAUL II

Mr. MCCONNELL. Mr. President, I rise today with a heavy heart to express my sorrow on the passing of his Holiness, Pope John Paul II.

Karol Jozef Wojtyla, born in the village of Wadowice, Poland, grew up in a poor family, and was an orphan by the age of 21. But by the end of his long, energetic life, he had overseen a new outpouring of faith in the Catholic Church and a renewal of freedom around the world.

With his election in 1978, John Paul became the first non-Italian pope in over 450 years. How fitting that of all the countries to produce the next pope, he came from Poland. In 1978, Poland, like most of Eastern Europe, was straining under the yoke of Soviet domination. The Soviet Communists had dubbed religion ''the opiate of the masses,'' and purposefully destroyed churches, detained or murdered priests, and terrorized worshippers.

The last thing they wanted was a native son of Poland returning there to remind his people of the power of faith.

Despite the Polish Communist government's attempts to prevent his visit, John Paul journeyed to Poland in June 1979. When he arrived he knelt down and kissed the Earth. He made over three dozen public appearances, in Warsaw, in Krakow, even in Auschwitz, and millions of Polish Catholics defined their government to see him. John Paul reminded the world that the

power of faith was stronger than tanks. He told his listeners that Christ could not be removed from human history. He urged them, ''be not afraid.''

With his visit, John Paul reminded Eastern Europeans that no economic system was more powerful than the human spirit. Within months, the Polish solidarity movement began, and was the first crack in the Iron Curtain. Thanks to continuous pressure by the Pope and other Western leaders, the Soviet empire finally crumbled 12 years later.

John Paul knew something about the power of faith over totalitarianism. In 1944, while studying for the priesthood in Krakow, Poland, the Nazis began rounding up men to forestall an uprising against their brutal regime. They captured 8,000 in Krakow. But they missed 24-year-old Karol, by failing to look in the basement of the house he was staying in. He was down there praying.

John Paul was not a political leader, but a religious one. He was a champion of human freedom because he believed that freedom was a right granted by God. And he wanted to share that message with others. Through his travels, John Paul took the Christian faith to more people in more places than anyone else has ever done. In his 27 years as Pope, he made 104 foreign trips, the most in papal history. Fluent in seven languages, he spoke directly to people the world over.

More than any Pope before him, John Paul championed a brotherhood of faith between Christians, Jews and Muslims. He was the first pope to visit both a synagogue and a mosque. he referred to the Jewish people as 'our elder brothers.'' His goal was to establish trust and peace between the world's great religions.

In 1994, he established full diplomatic relations between the Vatican and Israel. And in the closing years of the 20th century, he issued the historic document, ''We Remember: A Reflection on the Shoah.'' In it he apologized for the Church's failure to stop the Nazi holocaust.

John Paul made history when, after so many years of working towards reconciliation, he became the first Pope to officially visit the Holy Land in 2000. He visited the sites of Jesus' birth, the Last Supper, crucifixion, burial and resurrection. In Jerusalem, he prayed at the Western Wall. Still in Jerusalem, he visited the al-Aqsa mosque, where Muslims hold that Muhammad ascended to Heaven.

John Paul recognized that worshipers of Judaism, Christianity and Islam, who all too often clash with raised fists, also share the same holy ground. By visiting these sites he reminded us that they belong to none, yet are holy to all.

John Paul was wonderful at delivering his message of love, hope and peace to millions at a time. He holds the record for having been seen, with the naked eye, by more people over his lifetime than anyone else in the world. As shepherd of the Catholic Church, he increased its number from 750 million to one billion over the globe. But he could also speak directly to just one man.

Take a man named Mehmet Ali Agca. On May 13, 1981, Agca shot the pope as he rode in a jeep driving through St. Peter's Square, and wounded him in the abdomen, right arm and left hand. John Paul was rushed to surgery and remained there for 5 hours. Part of his intestines had to be removed, and this man, a former skier, hiker and mountain climber, never fully recovered from this murderous attack.

But 2 years after the shooting, John Paul went to visit Agca in an Italian prison. The apostle and the assassin spoke face to face, and John Paul forgave Agca for attempting to kill him. In 1999, the Vatican endorsed clemency, and the Italian Government pardoned Agca a year later.

Right up until the end of his life, John Paul continued to teach us moral lessons. By continuing his duties through his ill health, he reminded us that all life has value and there is no such thing as a disposable human being.

We have lost a great moral leader, whose counsel will be missed as we continue to fight for freedom against the forces of violence, intolerance and hatred. it will be hard to fill the vacuum John Paul has left. His wisdom and fearlessness spoke not just to Catholics, but also to all Christians, Jews, Muslims, and the religions of the world. As we face a future without him, we must go forward as he did, with confidence in the human soul to find meaning amidst the chaos. And we must ''be not afraid.''

Mr. DODD. Mr. President, I rise to pay tribute to Pope John Paul II, who passed away on Saturday, April 2, 2005.

I certainly will not be able to capture Pope John Paul's entire legacy in these few words. He was a truly remarkable individual who led a truly remarkable life.

Pope John Paul II was a man who had a deep commitment to human freedom political freedom and economic freedom certainly, but more importantly, a freedom of the human soul from the bondage and burdenls of tyranny, oppression, and poverty. As a young man who came of age during World War II, he opposed Nazism. One of his first encyclicals as Pope was in support of workers' rights. During the 1980's, he was one of the leading world figures who helped bring about the end of communism. And he warned us all against the dangers of unbridled capitalism, particularly for those who are less fortunate.

Without a doubt, Pope John Paul II was the most ecumenical Pope the world has ever seen. It is fitting that his passing has sparked an outpouring of appreciation not simply from Catholics, but from people of all faiths.

John Paul II visited 129 countries outside of Italy by far the most of any Pope. He was the first Pope to visit a synagogue or a mosque. He visited the Western Wall in Israel and apologized for the Church's failure to resist and speak out against the Holocaust. Like no other Pope before him, he used his position to build bridges of understanding and respect between different faiths.

Pope John Paul II did not merely give sermons. He led by example. This was particularly evident when it came to the issue of forgiveness. Many of us often talk about forgiveness in an abstract sense. In January 1981, the Pope survived a bullet wound from a would-be assassin. Two years later, he visited and forgave the man who made an attempt on his life.

The Pope was an incredibly charismatic individual. A former actor, he used the skills he developed on stage to his advantage. I was fortunate enough to meet personally with him twice. Like so many, I was impressed not only by his thoughtfulness, and by the depth of his spiritual sentiment, but by his great human vitality, as well as his sense of humor.

In many ways, John Paul II was the first ''modern pope.'' Born in this century, he lived through a world war and saw the emergence of the new threat of terrorism. He witnessed the dawn of the space age, as well as the developments of modern air travel, the computer, and the internet. A great deal of his time was devoted to addressing the tensions that often exist between modern society and Church traditions and doctrines.

The world truly lost an extraordinary leader this past Saturday. His message of faith, hope, and peace inspired millions, even in his final days. I share in the mourning of his passing, and I add my words of tribute to those of so many who have offered them in recent days.

Mr. NELSON of Florida. Mr. President, I pay tribute to Pope John Paul II, not only as a leader of the world's 1.1 billion Catholics, but also someone who was a moral leader in our troubled world. I was privileged to have met this Pope twice in my life while representing the people of Florida. I will always remember his devotion to faith, his intellect and his charm but, mostly, I will remember his overwhelming humility.

I was struck by how a man in a position of such awesome power could be so humble. And I believe people around the world saw this, too, which is why millions came to see and hear him during his visits to 129 different countries. His words of freedom and peace penetrated the human heart.

John Paul II was also a man of great courage, who learned firsthand the suffering of the Polish people he later would come to serve. As a young man, he performed forced labor at the hands of the Nazis but challenged their rule. As the archbishop of Krakow, he defied communist rulers, telling his countrymen no one could take faith and hope from their hearts.

He used his 26-year papacy to spread the message of freedom and peace to all corners of the world, and did so with vigor. His international trips always served a higher purpose, for he always sought to bring people together as equals in God's eyes. At one large gathering of youth, the faithful chanted, ''We love you; we love you.'' When they quieted, the Pope humbly responded, ''I love you more.'' He also inspired open communication among the world's faiths, as the first Pope to enter the main Jewish synagogue in Rome and the first to enter a mosque.

When he was selected to be the church's 264th Pope, his first words to the public were: ''Be not afraid.'' Indeed, Pope John Paul II taught people around the world they need not fear those who try to oppress, nor fear those who might be different. As the world mourns his passing, we all should try to heed his words.

PRESIDENT VIKTOR YUSHCHENKO'S ADDRESS TO CONGRESS

Mr. DURBIN. Mr. President, today, Viktor Yushchenko, President of Ukraine, addressed a joint meeting of the United States Congress. I was honored to be part of the committee that escorted President Yushchenko into the House Chamber.

President Yushchenko's courage and commitment to democracy have inspired thousands of people in Illinois, and millions more in this country and throughout the world. In Illinois, we have a sizable Ukrainian-American population, particularly in Chicago. My son lives in a section of Chicago known as Ukrainian Village, and soon after President Yushchenko's election, the neighborhood was covered with orange ribbons in celebration.

Yesterday, President Yushchenko and his wife, Kathy Chumachenko-Yushchenko, a native of Chicago, visited the Windy City. I am glad they had the chance to experience our Illinois hospitality during their brief trip to the United States.

Just last month, I traveled to Ukraine as part of a bipartisan congressional delegation. There, I met with President Yushchenko and members of his government, and had the chance to see for myself a nation newly aglow in the light of democracy.

The story of President Yushchenko's election as the President of Ukraine is a story of great personal courage. It is a story of the power of democratic values and ideals. It is a story of what can be accomplished by individuals, united in peaceful protest against corruption, cronyism, and unfettered power.

President Yushchenko was elected as President of Ukraine despite a powerful array of opposing forces which, in pursuit of their ambitions, were willing to obstruct free assembly, free speech, and a free and fair democratic election. He ran for President at great risk to his own life. And he prevailed.

President Yushchenko spoke today with optimism and with hope for Ukraine's future as a democratic country. He said of his country, ''We want a government of the people, by the people, and for the people.'' This is a desire that we as Americans understand and share. I look forward to working with my colleagues in Congress and with President Yushchenko to help nurture the flame of democracy that has started to burn so brightly in Ukraine.

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

On March 1, 2005, a man was found murdered in Daly City, CA. The victim, who was dressed in women's clothing, was found with multiple stab wounds to his chest and abdomen. Police have identified gender identity and sexual orientation as possible motives.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

ZIMBABWE ELECTIONS

Mr. FEINGOLD. Mr. President, I rise to express my concern regarding the recent election in Zimbabwe, which secured sweeping powers for the ruling ZANU–PF party. These results come as no surprise. In addition to reported irregularities on voting day itself, the ruling party had waged a campaign of intimidation, coercion, and institutional manipulation well in advance of the balloting in order to ensure victory.

Last month I joined Senator MCCAIN in writing to Secretary Rice, urging her to reaffirm the United States commitment to supporting genuine democratic processes and institutions in that troubled country. The U.S. needs a post-election strategy in Zimbabwe for supporting civil society, encouraging respect for civil and political rights, and bolstering the forces fighting against corruption.

We also need to continue to plan for the future. Once Zimbabwe's corrupt leadership finally released its grasp on power, the country will require substantial international assistance to turn around its devastating economic decline and to rebuild institutions, such as the once-independent judiciary, so that the rule of law can be effectively restored. Too many Zimbabwean youths have been traumatized, pressed into service in brutal pro-ruling party militia forces, enduring serious abuse and then often becoming abusers themselves. These young men and women, too, will need support and assistance to find their way back on a path toward the futures they once dreamed of as children.

I hope that soon the people of Zimbabwe will be given a chance to freely express their will in a genuine democratic process that is free from manipulation, intimidation, and coercion. As we prepare ourselves to be good partners to the people of Zimbabwe when change finally does come, we must also take a hard look at the disappointing passivity of leaders in many southern African states who have failed to speak and act in support of basic human rights and the rule of law in their own neighborhood. These decisions raise real doubts about the commitment of these regional leaders to democracy, and over the long term, these failures threaten the prospects for stability and prosperity throughout the region. South Africa, with its painful history, its tremendous promise, and its special moral authority, might have been a powerful protector of the rights of the people of Zimbabwe. Instead, South Africa's leadership has chosen, time and again, to sweep repression and abuse in Zimbabwe under the rug and to lend support to a bullying President who would rather destroy his own country than accept the rule of law and let real power rest with the Zimbabwean people. This South African choice is perhaps one of the greatest disappointments of all.

The people of Zimbabwe have suffered through years of economic and political catastrophe. Those of us who have watched this decline feel tremendous frustration and real sadness as we observe what has happened to their country. But we must not surrender to hopelessness, and we must not give up. I continue to be deeply moved by the bravery and patriotism of Zimbabwean citizens who resist the state's repression, even at enormous personal cost. The United States must remain committed to working with them to ensure that the people of Zimbabwe succeed in their fight for freedom and genuine democracy.

BOY SCOUTS

Mr. INHOFE. Mr. President, I rise today to honor an important institution in America that has contributed greatly to the quality of our youth and is very dear to my heart and the hearts of many here—the Boy Scouts of America.

For more than 90 years, the Scouts have supported our youth and helped produce some of the best and brightest leaders in our country—as many of my colleagues can attest—and I believe we

must reaffirm our support for the vital work they have done and continue to do. Like many of my friends here, I was a Boy Scout many years ago.

As a result of the great work they do, I am pleased to be an original cosponsor of S. 642, the ''Support Our Scouts Act of 2005'', a bill that reinforces our strong commitment to the Boy Scouts.

In fact, I had at one time considered introducing my own bill on this very important matter. However, I was so pleased with the substance of this bill that I was proud to add my name as a cosponsor, and I thank my leader, Senator FRIST, for his efforts on this issue.

This bill addresses efforts by some groups to prevent federal agencies from supporting our Scouts. This bill would remove any doubts that Federal agencies can welcome Scouts and the great work they do from camping on Federal property to hosting the national jamboree every 4 years at Fort A.P. Hill.

As Senator FRIST has said, this legislation will specifically ensure that the Department of Defense can and will continue to provide Scouts the type of support it has provided in the past. Moreover, the Scouts would be permitted equal access to public facilities, forums, and programs that are open to a variety of other youth or community organizations.

Regrettably, as we all know, in recent years, the Boy Scouts have come under attack from aggressive liberal groups blatantly pushing their own social agendas.

In particular, Scouts have been the target of lawsuits by organizations that are more concerned with pushing these liberal agendas than sincerely helping our youth.

For instance, the Federal government is currently defending a lawsuit aimed at severing traditional ties between the Boy Scouts and the Departments of Defense and Housing and Urban Development.

What is more, Scouts have been excluded by certain State and local governments from utilizing public facilities, forums and programs, which are open to other groups.

It is certainly disappointing and, frankly, frustrating that we have reached a point where groups like the ACLU are far more interested in tearing down great institutions like the Boy Scouts than helping foster character and values in our young men.

I am tired of these tactics. It is very disturbing to me that these groups unabashedly attack organizations, regardless of the good they do or the support they have from the vast majority of Americans, simply to further their own subjective social agendas.

I for one, am saddened that the Boy Scouts of America has been the most recent target of these frivolous lawsuits. I reject any arguments that the Boy Scouts is anything but one of the greatest programs for character development and values-based leadership training in America today.

We must coalesce around those values that are so important to our society. We should seek to aid, not impede, groups that promote values like duty to God and country, faith and family, and public service and sacrifice, which are deeply ingrained in the oath of every scout.

To fail to support such values would allow the very fabric of America, which has brought us to this great place in history, to be destroyed.

Today, with more than 3.2 million youth members, and more than 1.2 million adult volunteers, we can certainly say that the Boy Scouts of America has positively impacted the lives of generations of boys, preparing them to be men of great character and values. Remarkably, Boy Scout membership since 1910 totals more than 110 million.

I am proud to report that in Oklahoma we have a total youth participation of nearly 75,000 boys, and in Oklahoma City alone, we have about 7,000 adult volunteers.

These young men have helped serve communities all over our State with programs like Helping Hands for Heroes, program where Scouts help military families whose loved ones are serving overseas. These young men have cut grass, cleaned homes, taken out the garbage and walked dogs. What a great service for our soldiers, sailors, airmen, and marines and their families. Our Boy Scouts have also to served as ushers and first aid responders at the University of Oklahoma football games for more than 50 years.

Notably, Scouts in my State have also shared a long and proud history of cooperation and partnership with military installations in Oklahoma.

Given all this, I hope my colleagues will join me in defending this organization and others like it. We must not be afraid to support our youth and organizations like the Boy Scouts that support them.

LIVING STRONGER, LONGER

Mr. KOHL. Mr. President, I rise today to recognize National Public Health Week and its important theme of ''Living Stronger, Longer.'' Today, seniors are leading active and healthy lifestyles unmatched by previous generations. They are working longer, eating better, and utilizing medical advances that detect and treat illnesses before it is too late. But as our aging population doubles within the next decade, new challenges await us in ensuring that supply can meet an increasing demand.

This week marks the 10th Annual National Public Health Week, focusing on Living Stronger, Longer. I am proud to join the organizations involved that advocate for seniors every day and bring vital issues to the forefront during this week-long public information campaign promoting long and healthy lives for all Americans.

Public health advancements and new treatment options are enabling Americans to live longer and longer, but many older Americans still continue to suffer from preventable and treatable health problems such as diabetes, high blood pressure and heart disease. Americans can prevent and treat many of the common health problems that hinder the enjoyment of later years if they have access to affordable health care.

I know that as I travel throughout Wisconsin, speaking to seniors' groups and individuals, I often hear their concerns about the rising costs of health care and prescription drugs. As the lead Democrat on the Senate Special Committee on Aging, I am committed to protecting seniors' access to quality health care and I am committed to making sure that Medicare is preserved as a vital health program for seniors.

One of the key components to living longer, healthier lives is access to life-saving prescription drugs. I have long been concerned about the high cost of prescription drugs, which can make it hard for Wisconsinites to afford the medicines they need to stay healthy. Today, Americans pay substantially higher prices for the same medicines that are far less expensive in many other countries. It is not fair to ask Americans to pay higher prices for the same medicines that cost a fraction of the price in other countries. That is why I support legislation to allow Americans to take advantage of lower drug prices found in other countries by legalizing the importation of FDA-approved drugs from other countries. I also support legislation to change a troublesome feature of the new Medicare prescription drug law that prohibits the Government from utilizing the tremendous purchasing power of the Medicare Program to reduce prices.

I am also concerned about the rising premiums seniors are facing in the Medicare Program. In addition to lowering the cost of prescription drugs, I will also continue to fight inefficiencies in Medicare and work to make Medicare affordable and fair for all Wisconsin seniors.

But there also benefits that are available through Medicare that seniors simply are not utilizing. In fact, one in three older Americans do not get all recommended screenings. In Wisconsin, only 44.4 percent of men and 40.6 percent of women 65 and older are getting the selected preventive services provided, recommended, and covered by Medicare. We need to encourage seniors to take advantage of the opportunities that are available to take the steps necessary to stay strong and healthy longer.

We are lucky enough to live in the most medically and economically advanced country in the world, where we have the ability to protect our citizens, prevent illness and disease, and plan ahead for a more prosperous future. There is work to be done, but as long as we can work together, solutions can be obtained and Americans' quality of life improved for generations to come.

RETIREMENT OF PROFESSOR ALAN WERTHEIMER

Mr. LEAHY. Mr. President, Vermont is a State filled with extraordinary people who lead extraordinary lives. We take great pride that despite our modest geographical size, Vermont produces people whose voices, commitment and accomplishments transcend our borders and leave a lasting impact on the world in which we live.

Later this spring, one such Vermonter will be moving on to a new chapter in his life. Professor Alan Wertheimer, the John G. McCullough Professor of Political Science at the University of Vermont, will be retiring after over 35 years of teaching.

Professor Wertheimer is a distinguished scholar, having authored a number of highly acclaimed books. He has taught thousands of students over the years, including many members of my staff. He has been active in the affairs of the university and the community. His wife Susan and their children have been by his side every step of the way.

The role of scholars in shaping our society has been debated for thousands of years. Professor Wertheimer leaves in his wake a whole generation of students who he helped grapple with some of the most difficult and complex political and philosophical questions of our time, in a relevant, provocative and memorable style.

We in Vermont owe an enormous debt to Professor Wertheimer. He chose to grace our State university with his presence for his entire academic career. Thousands of Vermonters and students from all over the country and the world have had their lives enhanced by his dedication and scholarship.

I ask unanimous consent that a recent article in the Vermont Quarterly about Professor Wertheimer be printed in the RECORD.

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

WHAT DOES PROFESSOR WERTHEIMER THINK?

(By Kevin Foley)

Bright as they are, try as they will UVM's first class of Honors College students can't always figure that one out, but they just might learn to define and defend their own thoughts in the process. Inside the Honors Ethics Seminar, where a college's debut is sparked by a venerable professor's swan song.

Alan Wertheimer's method is the question, and right now, as a high-wattage October sun pours in and illuminates the buttery walls of his Allen House honors college seminar room, the question is this: ''Is Alan Wertheimer tall?''

Well, no, not in modern-day America. But in the 18th century? Among the diminutive Bayaka, a Central African pygmy tribe? Among political theorists, where Wertheimer cuts a large figure because of decades of work illuminating crucial concepts in ethics and law like coercion? Who is to say? Perhaps Wertheimer, who goes about five-seven in his teaching clogs, really is tall.

But there's no time for that now. The professor has moved on to another proposition, another question.

Wertheimer, who is the John G. McCullough Professor of Political Science to his colleagues and ''Big Al'' to his honors students (offering another data point on the contingency of height), is ending his 37-year career at the University with a beginning: Along with philosopher Don Loeb, Wertheimer, who is retiring at the end of this academic year, developed a two-semester course in ethics that all 90 students enrolled in the new Honors College are taking. (See ''Your Honor,'' below.) The idea is to provide these talented first-year students, a diverse group of future environmental engineers, doctors, English teachers, and software developers, a shared intellectual experience that cuts across every academic discipline and profession.

But the universal applicability of ethics—we all, after all, have strong notions of right and wrong, fair and unfair, whether to hand back the overpriced grocery store's miscounted change or keep it—is also a potential trap, at least if you've got a group of 15 very young, very bright, and very vocal students. Loeb puts it this way: ''When you teach particle physics, nobody tries to come in with equally valid opinions on whether mesons have mass.'' Ethics is different: whether or not protestors should mass inspires more passionate opinions than the properties of sub-atomic matter.

But in the Honors College, emoting is not thinking. Opinion is not analysis. Instructors need to spark a lively discussion (generally an easy task with this crowd, even when the subject is Plato's Crito), but also to manage it, keeping the conversation aligned with the readings, and helping members of the class interrogate their classmates' ideas, and their own. Voicing your thoughts is great; defending them well is something else entirely. Something better. And putting logic into opinions is where Wertheimer's teaching excels.

The professor proffers another statement to the class, ''It is not wrong to download music even if it violates the law.'' The students are supposed to reply true, false, or don't know, but once again, a statement quickly morphs into an interrogatory and the discussion surges. Passions rise—was that a telltale flash of porcelain iPod earbuds in the messenger bag across the table?—as the first-years come to a somewhat sheepish consensus: when it comes to illegally downloading music, fine, true, cool. Wertheimer winces. It is early in the semester, after all. (Or was that a smile?) The seminar soon rumbles on to categorizing a statement about the existence of God. The group opinion here, just barely, is ''don't know.''

Questions, questions, questions. But few answers from Wertheimer: none today, in fact. At a different time, in the more relaxed confines of his corner office on the top floor of Old Mill, the professor sits under a Chicago Art Institute poster depicting a bright horseracing scene, and explains why.

''The job is not to answer the question,'' he says. ''It's to get them to think about it more rigorously.''

AN ORDERLY MIND

The method is the question: Reading Consent to Sexual Intercourse, Wertheimer's most recent book and a tome far less racy than its title might imply, illustrates the power of carefully chosen, interlocking queries. With a characteristic intellectual flip, Wertheimer's discussion is not so much about the obvious ''when does no mean no?''—that's morally clear, he thinks, or should be—but when does yes really mean yes.

Think about that: when does yes really mean yes? It can make your skull vibrate, even before the professor launches into nearly 300 pages of tricky cases and complicated theories. Can a retarded person truly consent to sex? A coerced one? Someone deceived, egregiously or subtly? Someone drunk? And those scenarios are only the beginning.

Wertheimer doesn't present a grand theory, an overarching vision, a huge program for social change. That's not his style. Instead, he offers a lot of thorough discussion of complicated cases, and some focused theories for hashing through them. This is not to say that the book lacks moral vision, however. Wertheimer's philosophical peregrinations leave him convinced that sexual deception, a matter largely ignored by the law, needs to be taken more seriously. Why should the law say so much about commercial deceits, when dollars are at stake, and so little about sexual lies, which cost so much emotionally?

Lawyers like to say that ''hard cases make bad law,'' and they well may, but Wertheimer's gifts for sustained, precise and dispassionate analysis at least makes them into compelling theories. The books that Wertheimer built his intellectual reputation with, Coercion and Exploitation, take similarly knotty philosophical areas and methodically think through them in ways that are useful to political theorists, philosophers, and lawyers. More than useful: One reviewer said of Exploitation that ''no one interested in the topic will be able to ignore this classic work.'' Wertheimer's scholarly appeal, says his colleague Robert Pepperman Taylor, a fellow political science professor and dean of the Honors College, comes down to the clarity and rigor of his approach.

''These are issues which people tend to wax rhetorical about, but Al brings his extremely clear analytical mind to bear on problems that can raise a lot of heat, a lot of passion, a lot of rhetoric,'' Taylor says. ''He insists that we speak clearly about these things and understand them clearly.''

Wertheimer's career, unlike his writing and thinking, hasn't always taken the clearest and most logical path from point A to B. The professor, in fact, attributes many of his professional breakthroughs to good fortune; a fellowship at Princeton led to his first book, a semester spent teaching law at the University of San Diego contributed to his latest book. Now, after stepping down from his full-time duties at UVM, Wertheimer will spend a year at the National Institutes of Health, working on issues of coercion and consent in medical research.

''Things happen,'' he says. ''Truth be told, that's the story of a lot of my career—anybody's career—things happen. Each opportunity led to new opportunities. I suppose it's true that the rich get richer; and, while I'm not exactly rich, I have gotten intellectually richer.''

SHARING THE WEALTH

In casual conversation, Wertheimer is genial and amusing, fairly soft-spoken, prone to answer questions after one of the stretches of contemplation that make him a formidable bridge player. In the classroom, he's loud and kinetic (''I think he shocks the kids a little,'' a colleague says, ''because he is passionate—very passionate—about things that maybe they never know anyone cared about'') as he explores and tests his students' logic.

''To make a class of the kind I teach go well, you need at least four or five articulate, bright students,'' Wertheimer explains. ''One or two isn't enough: You need a critical mass. If you have that, you get the others going.''

In the honors seminar, Wertheimer has his requisite fluent five and then some, and while the discussions are lively, the conversation isn't always totally satisfying for

the students. As the class spent a fall semester wrestling with abortion, inheritance, Plato, and the war in Iraq, their frequent tendency was to try to gauge what Big Al, the compact seer in the front of the room, thought. But after nearly 40 years of undergraduate teaching, Wertheimer is wily about concealing his personal views behind a Socratic screen when it suits his pedagogical purposes.

First-year honors student Kevin Ohashi, an electric-haired computer jock who spent his last two years of high school in Kathmandu, says that sphinx-like quality drove some of his classmates nuts. ''Professor Wertheimer loves to play the devil's advocate,'' Ohashi says. ''In class he would take the side that most people weren't on and propose a hypothetical situation that started tilting things his way, and then he might switch again. I thought it was great.''

Ohashi says that the result of all those hours of discussion, at least for him, wasn't a messenger bag full of new ideas or a changed sense of moral purpose. Instead, in conversations with friends from the honors floor and elsewhere, he has over time found himself defending his old ideas with more confidence and care. Ohashi's experience echoes a theme common in letters from Wertheimer's former students: They often say things like ''I never knew what it meant to think through a problem before.''

INTELLECTUAL ATMOSPHERE

The professor got involved with creating the inaugural honors seminar (hardly a relaxed way to spend one's last year before retirement) because his experiences on the UVM faculty and as a UVM parent left him convinced that the campus needed a more intellectual culture.

If we're successful, we'll have created an intellectual environment,'' he says. ''We toyed with the idea of having some variation in content between sections of the first-year seminars, but we dropped that, precisely so that people can engage in a common experience.''

Honors students live together, study together, and play together. But the honors experience operates in quieter, more personal ways as well. Rahul Mudannayake, a first-year pre-med honors student from Sri Lanka, says that some of the class readings and discussions have haunted him, especially a particular essay by the famous Princeton philosopher Peter Singer. In the essay, ''Rich and Poor,'' Singer outlines the vast discrepancies between wealth and poverty in the world, and insists that the wealthy have an obligation to assist. (Singer also visited campus to speak and meet with students in the class.) After the end of the fall semester, Mudannayake went home to Sri Lanka, just before the tsunami struck and devastated the country's coastal areas. The student did what he could, helping to ferry food and medicine to affected regions in the days after the tragedy, but the calamity made the ethical arguments he heard in the seminar, especially Singer's, immediate.

''The class has stayed with me in my life,'' Mudannayake says. ''Spending a $1.50 here on a bottle of soda is difficult, considering what I read, what I saw in Sri Lanka. The way I spend my money now is totally different, and Wertheimer and Singer are part of that.''

And here is where Al Wertheimer's questions finally end with an answer: A student thinking through the issues and making a personal choice, arrived at with rigor.

SIDEBAR 1

Your Honor

Students at the University's newest college live and learn together and, proponents of the program say, their debates, excitement and activities will enrich the entire academic atmosphere of campus.

It works like this: The campus-wide Honors College accepts about 100 of the most gifted first-year students enrolling at the University, regardless of major, and throws them together for a intense program of social events, a two-semester in-depth seminar class (for now, the ethics course developed by Wertheimer and Loeb), special lectures from big-name intellectuals and, in most cases, living on an all-honors floor at Harris/Millis.

By 2007, as successive classes enroll, the program will grow to encompass about 700 students (sophomores can apply for admission; college organizers wanted to give students who don't catch fire academically until they reach UVM a chance to participate in the program, which includes perks like priority class scheduling), supporting and extending existing college-level honors programs. Down the line, honors students will live in the new $60 million University Heights Student Residential Learning Complex, creating a Harvard or Oxford-style ''residential college.''

SIDEBAR 2

A Teacher's Tribute

On April 15, a daylong symposium in Old Mill will celebrate Alan Wertheimer's intellectual life in a manner befitting the man. Instead of gold watches and encomiums, judges, politicians and scholars will gather for a program on ethics in public life. The event will feature former Vermont Gov. Madeleine Kunin; Vermont Supreme Court Associate Justice John Dooley; and Harvard University's Arthur Applebaum, Dennis Thompson, and Nancy Rosenbaum. The discussion will range from Iraq to judicial activism and gay relationships to presidential campaign ethics. All events are free and open to the public; and, of course, Professor Wertheimer will be there doing what he does, asking questions, listening closely, weighing arguments, thoughtfully negotiating the tricky philosophical waters of politics and life.

ADDITIONAL STATEMENTS

CENTENNIAL CELEBRATION OF THE COLLEGE OF ST. CATHERINE

● Mr. DAYTON. Mr. President, I rise today to offer my heartfelt congratulations to the College of St. Catherine, in St. Paul, MN, on the celebration of its centennial year. St. Catherine is our country's largest Catholic college for women. Its numerous academic achievements would be impressive for a college of any size, but for an institution with fewer than 5,000 students, such accomplishments are downright spectacular.

Since its founding 100 years ago, the College of St. Catherine has expanded its student body from high school and lower division college students to include associate, bachelor's and graduate degree candidates in more than 60 fields. In 1937, St. Catherine became the first Catholic college to be awarded a chapter of the national honor society, Phi Beta Kappa.

Today, the College of St. Catherine continues to distinguish itself as a leading institution for women's education. Its ''Women of Substance'' series features lectures and performances of theatre, music, and dance by female speakers and artists from around the world. In the classroom, the college's new ''Centers for Excellence'' focus on the role of women in such diverse fields as public policy, spirituality, and health.

Annually, the College of St. Catherine graduates more nurses than any other college or university in Minnesota. It is second only to the much larger University of Minnesota in the number of public school teachers it has educated and placed in the State's capital city of St. Paul.

Along with all of the Minnesotans whose lives have benefited from the talents, professionalism, and leadership of St. Catherine's outstanding graduates, I would like to say thank you. The College of St. Catherine's commitment to the highest standards of academic excellence and social responsibility have enriched the lives of its students and its State's citizens for a century. I congratulate the faculty, staff, alumnae, and students of the College of St. Catherine on their 100 years of excellence. I know that they will continue their great tradition for the next 100 years.●

IN HONOR OF THE MIRACLE LEAGUE

● Mrs. BOXER. Mr. President, I take this opportunity to recognize the Miracle League, an organization dedicated to providing opportunities for all children to play baseball, regardless of their abilities.

In 1997, Coach Eddie Bagwell of the Rockdale Youth Baseball Association in Atlanta, GA, noticed a young boy in a wheelchair on the sidelines at all of the youth baseball team's practices and games. The enthusiasm and excitement that this boy had for baseball was inspiring and it was then that Coach Eddie realized that youth with disabilities ought to have the same opportunities as others to play ball.

In 1988, Coach Bagwell formed the Miracle League, a youth baseball league designed to allow children of all abilities to participate in our Nation's favorite pastime—baseball. The league started with 35 children. The following year, the number more than doubled, with 80 children clamoring to join a team. Since the Miracle League was breaking new ground, it came up with five rules to play by: every player bats once each inning; all base runners are safe; every player scores a run before the inning is over (last one up gets a home run); community volunteers serve as ''buddies'' to assist the players; and each team and each player wins every game.

As word spread quickly, Miracle League baseball teams were started across the country. In my home State of California, there are now four Miracle League teams: in Belmont, Westminster, Ventura County, and Visalia. Nationwide, there are more than 50 Miracle League teams.

I commend the Miracle League for its philosophy that ''Every Child Deserves

a Chance to Play Baseball.'' As the Miracle League begins its Spring 2005 season, I send my best wishes for a fun and exiting season. Play Ball!●

TRIBUTE TO WILLIAM McWHORTER COCHRANE

● Mrs. DOLE. Mr. President, North Carolina lost a loyal son and a devoted public servant when William McWhorter Cochrane died in Charlotte at the end of December. Bill dearly loved his home State and was often referred to as ''North Carolina's third Senator.'' He was a man of great knowledge from whom I learned so much over the span of many years, and I feel certain that folks who knew him agree that his kindness was abundant and his accomplishments were endless.

Bill attended the University of North Carolina Chapel Hill, earning a bachelor's degree in journalism in 1938 and a law degree in 1941. Upon graduation, he served as the assistant director of the UNC Institute of Government. In 1941, he joined the U.S. Naval Reserve and in 1942, he was called to active duty and served aboard the minesweeper USS *Improve* off the Mediterranean coast. He then returned to the UNC Institute of Government. In 1950, he earned an advanced law degree from Yale University and became an associate research professor of public law and government at UNC.

In 1954, when Kerr Scott was elected to the Senate, Bill moved to Washington and served as Senator Scott's executive secretary and legal counsel until the Senator's death in 1957. Bill always insisted that he intended to return to North Carolina, having originally told Senator Scott that he would stay for only one year. But, B. Everett Jordan, appointed as Scott's successor, urged Bill to stay on in Washington. He did so and served as Senator Jordan's administrative assistant for the next 14 years.

Through the years, countless North Carolinians made their way to the Russell Building. Those seeking information, advice or a job, found Bill in his office piled high with documents, copies of the CONGRESSIONAL RECORD, mementos of presidential inaugurations, and thousands of index cards. At the service for Bill in Chapel Hill, many of those who spoke told of the wise counsel Bill provided and of his help in finding a position here in Washington. I count myself among those when, as a young woman, I first came to Washington and received Bill's advice and counsel.

During the summer of 1960, I worked in Senator Jordan's office as a summer employee. Knowing that first-hand historical experiences are much treasured by young people, Bill helped me get a front-row ticket to my first national campaign. Because of Bill, I was able to join onboard Democratic Vice-Presidential nominee Lyndon B. Johnson's whistle stop tour of the South.

Although my staunchly Republican father was concerned about my riding through the South, especially through my hometown on LBJ's train, I knew Bill was giving me, this political science major, an unmatchable learning experience and I was right. I took in every single moment, watching and learning as the Johnson campaign rolled along all over the South and through my hometown of Salisbury, NC.

On the train I met both LBJ and his gracious wife, Lady Bird. Those exciting days on the LBJ express were a blur of cheering crowds, speeches and yellow roses that surely ignited my already burning interest in politics. I will forever be grateful to Bill for that experience.

Senator Jordan chaired the Senate Rules Committee for many years, but when he lost his Senate seat in 1972, Bill was appointed staff director and majority counsel of the committee. He held that position from 1972–80; from 1981–86 he was minority staff director to the committee, and from 1987 to 1994 he served as senior advisor. For 20 years he was staff director of the Joint Committee on Presidential Inaugurals, directing the inaugurations of Presidents Richard Nixon, Jimmy Carter, and Ronald Reagan.

For 30 years he served on the staff of the Joint Committee on the Library, and in 1995, James Billington the Librarian of Congress, named Bill honorary historical consultant to the Library of Congress. Dr. Billington said of Bill's service to the library, ''Bill Cochrane was one of the most knowledgeable, wise and devoted public servants I have had the pleasure of knowing. In a career that spanned three decades, as the senior staffer, institutional memory, and conscience of the Joint Committee on the Library and the Senate Committee on Rules and Administration, Bill was involved in every major library initiative, including the construction of the Madison Building, the renovation of the Jefferson and Adams Buildings, and an architect of smooth transitions from one Librarian of Congress to the next. His affection for the library and his long record of support for its mission and programs were unparalleled and will be long remembered.''

Bill's long and valued service to this body and to his home State speak to a remarkable dedication and devotion for which Bill was admired and respected by all those who knew him. It is fitting that at this time, we in the Senate recognize and remember his service. We will surely miss this wise and caring man, wearing his bow tie and smoking his pipe.

Our thoughts and prayers are with his wife, Shirley, and sons, William Daniel Cochrane and Thomas McWhorter Cochrane.●

NEW MEXICAN CONTRIBUTION TO IED COUNTERMEASURES EQUIPMENT IN IRAQ

● Mr. DOMENICI. Mr. President, I recognize and praise the outstanding contribution of Delta Group Electronics and Canberra Aqulia of Albuquerque, NM, and New Mexico State University to ongoing efforts to protect our service men and women from improvised explosive devices, IEDs, in Iraq.

One of the greatest threats to our military personal deployed in the global war on terrorism is the IED. These devices used by terrorists and insurgents in Iraq are the single greatest cause of American casualties. These remote controlled bombs are used to attack American forces individually and as part of larger assaults on patrols and convoys.

While the up-armoring of military vehicles has provided a partial solution to the problem of combating IEDs, a better solution is to prevent IEDs from exploding at all. The IED countermeasures equipment, ICE, being fielded by the U.S. Marine Corps in Iraq is designed to accomplish this goal. ICE will jam the radio signal which is used to detonate many of these devices.

Delta Group Electronics and Canberra Aquila are an integral part of making ICE available to our soldiers in Iraq. Aqulia Technologies Group Inc. has been located in New Mexico since 1971. Delta Group Electronics has been operating since 1987.

These companies have been instrumental in delivering ICE to our Armed Forces in Iraq at one-third the cost of previous IED countermeasure systems. I thank them for helping to insure that our brave soldiers fighting the global war on terror are safer from these kinds of attacks. I have no doubt that both of these companies in the future will continue to contribute significantly to the national security of our great Nation.●

RWANDAN GENOCIDE

● Mr. FEINGOLD. Mr. President, today marks the 11th anniversary of the start of the Rwandan genocide of 1994. Eleven years ago, a deliberate, centrally planned, and organized campaign of mass murder and rape was set in motion in Rwanda, and eventually it took the lives of some 800,000 men, women, and children. The victims were ethnic Tutsis and also moderate ethnic Hutus who believed in tolerance and resisted the call to participate in madness. In many ways, the entire country was victimized. Millions were displaced, and shattered state institutions are still recovering from the devastating loss of skilled personnel. Survivors have struggled to cope with their memories, and orphans have had to assume adult responsibilities in the wake of tragedy. The entire central African region has been violently unstable ever since.

As this horror unfolded, the international community, including the United States, failed the people of Rwanda, and failed to act in the face of true evil. The world had said ''never again'' to genocide. And then we abandoned the people of Rwanda to an unspeakable national nightmare.

Even as the world marks this solemn anniversary, we read ongoing reports of the crisis in Darfur, Sudan—a crisis that our President and this Congress has called a genocide. Once more, we confront a reality that exposes the inadequacy of our pledges of ''never again.'' And many will seize the anniversary of the Rwandan tragedy to rally support for more effective action in Darfur, where the international response has too often been sluggish and inadequate.

In the case of Darfur, the United States has spoken boldly. Our humanitarian response, though slow to gear up, is significant and commendable. The efforts of the African Union are laudable. But the bottom line is that neither the African Union nor the U.S. has taken effective action to protect the people of Darfur. While last week the United Nations Security Council made some progress on Darfur, much more remains to be done, and I do not believe that the United States has exerted adequate diplomatic and political effort on behalf of the people of Darfur. We ought to be able to do more—to be more forceful, more focused, more innovative, and more persuasive—to stop genocide.

So I applaud those who will work to refocus American attention on Darfur today, and I stand with them in their urgent call for a more effective response. But today, of all days, we must not forget Rwanda. We cannot pretend that Rwanda's struggles are simply in the past, or that the country exists simply to serve as a cautionary tale. The people of Rwanda still struggle today with efforts to rebuild their country, with the devastating HIV/AIDS pandemic, with the need for justice and accountability, and broadly, with fear. And though it is true that even the most conscientious policy will never erase the failures of the past, it is also true that we only compound our mistakes when we ignore the realities of Rwanda today.

Frankly, some of these realities are deeply disturbing. Crushing poverty characterizes the economic situation of far too many Rwandans, and serious repression is a dominant feature of the country's political life. The most recent State Department Human Rights Report on Rwanda cites instances of political disappearances, arbitrary arrest of opposition supporters, and harassment of independent journalists. According to the report, last year the government of Rwanda ''effectively dismantled independent human rights organizations'' and the Government declined to use its considerable influence with the RCD–G faction in Eastern Congo to effectively curtail that group's practice of killing, raping, and robbing the people of Eastern Congo on a massive scale.

Of course the government of Rwanda and the Rwandan people value order and are extremely sensitive to ethnically divisive forces. Rwanda remains a traumatized society. But not all dissent is dangerous or divisive, and history teaches us that imposing order alone is not enough to guarantee stability and security. Over the long run, suppression and intimidation can undermine security rather than protecting it, forcing healthy debates into illicit channels, and casting doubt on the legitimacy of the prevailing order. We fail to be true friends to the people of Rwanda when we fail to be honest about these issues, and to raise our voices in support of the civil and political rights of the Rwandan people.

As we remember the past today, we should resolve to pay close attention to the present. The people of Rwanda deserve more than our regret. They deserve our support for their efforts to build a more just, more free, and more secure future.●

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

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

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 3:14 p.m., a message from the House, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 34. Concurrent resolution honoring the life and contributions of Yogi Bhajan, a leader of Sikhs, and expressing condolences to the Sikh community on his passing.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3. An act to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

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–1492. A communication from the Acting Administrator, Food Safety and Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Addition of Slovakia to the List of Countries Eligible to Export Meat Products to the United States'' (Docket No. 99–018F) received on March 18, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1493. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Thiophanate-methyl; Pesticide Tolerances for Emergency Exemptions'' (FRL No. 7699–3) received on March 24, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1494. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Mesotrione; Pesticide Tolerance'' (FRL No. 7703–1) received on March 24, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1495. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Dinotefuran; Pesticide Tolerance'' (FRL No. 7695–5) received on March 24, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1496. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Bacillus thuringiensis Modified Cry3A Protein (mCry3A) and the Genetic Material Necessary for its Production in Corn; temporary Exemption From the Requirement of a Tolerance'' (FRL No. 7704–4) received on April 4, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1497. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Agricultural Bioterrorism Protection Act of 2002; Possession, Use, and Transfer of Biological Agents and Toxins'' (RIN0579–AB47) received on March 24, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1498. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Classical Swine Fever Status of Mexican States of Campeche, Quintana Roo, Sonora, and Yucatan'' (APHIS Docket No. 02–002–2) received on March 28, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1499. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Karnal Bunt; Regulated Areas'' (APHIS Docket No. 04–118–1) received on March 28, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1500. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Commuted Travel Time'' (APHIS Docket No. 04–108–1) received on March 28, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1501. A communication from the Acting Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Salable Quantities and Allotment Percentages for the 2005–2006 Marketing Year''

(FV05–985–1 FR) received on March 28, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1502. A communication from the Acting Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Grapes Grown in a Designated Area of Southeastern California; Increased Assessment Rate'' (FV05–925–1 FR) received on March 28, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1503. A communication from the Acting Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Vidalia Onions Grown in Georgia; Increased Assessment Rate'' (FV05–955–1 IFR) received on March 28, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1504. A communication from the Acting Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Onions Grown in South Texas; Decreased Assessment Rate'' (FV05–959–1 FIR) received on March 28, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1505. A communication from the Acting Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Dried Prunes Produced in California; Increased Assessment Rate'' (FV05–993–1 FR) received on March 28, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1506. A communication from the Acting Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Revision of the Salable Quantity and Allotment Percentage for Class 3 (Native) Spearmint Oil for the 2004–2005 Marketing Year'' (FV04–985–2 IFR–A2) received on March 28, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1507. A communication from the Acting Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Nectarines and Peaches Grown in California; Revision of Handling Requirements for Fresh Nectarines and Peaches'' (FV05–916–1 IFR) received on March 28, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1508. A communication from the Acting Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Domestic Dates Produced or Packed in Riverside County, California; Modification of the Qualification Requirements for Approved Manufacturers of Date Products'' (FV04–987–1 FR) received on March 28, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1509. A communication from the Acting Administrator, Agricultural Marketing Service, Dairy Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Fluid Milk Promotion Order'' (DA–04–04) received on March 28, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1510. A communication from the Architect of the Capitol, transmitting, pursuant to law, a report of all expenditures during the period April 1, 2004 through September 30, 2004 from moneys appropriated to the Architect; to the Committee on Appropriations.

EC–1511. A communication from the Chief, Office of Regulations Policy and Management, Veterans Benefits Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled ''Exclusions from Income and New Worth Computations'' (RIN2900–AM14) received on April 4, 2005; to the Committee on Veterans' Affairs.

EC–1512. A communication from the Assistant Attorney General, Department of Justice, transmitting, pursuant to law, a report relative to the Foreign Intelligence Surveillance Act of 1978; to the Committee on the Judiciary.

EC–1513. A communication from the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Agency, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Electronic Orders for Controlled Substances'' (RIN1117–AA60) received on April 4, 2005; to the Committee on the Judiciary.

EC–1514. A communication from the General Counsel, Office of Justice Programs, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Government-Wide Debarment and Suspension (Nonprocurement) and Government-Wide Requirements for Drug-Free Workplace Grants'' (RIN1121–AA57) received on March 24, 2005; to the Committee on the Judiciary.

EC–1515. A communication from Regulatory Specialist, Office of the Comptroller of the Currency, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Interagency Guidance on Response Programs for Unauthorized Access to Customer Information and Customer Notice'' (RIN1557–AC92) received on April 4, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–1516. A communication from the Regulatory Specialist, Office of the Comptroller of the Currency, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Community Reinvestment Act Regulations (Part 25)'' (RIN1557–AC86) received on April 4, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–1517. A communication from the Chief Counsel, Bureau of the Public Debt, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''31 CFR Part 351, Offering of United States Savings Bonds, Series EE'' received on April 4, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–1518. A communication from the Director, Office of Legislative Affairs, Federal Deposit Insurance Corporation (FDIC), transmitting, pursuant to law, the report of a rule entitled ''Community Reinvestment Act Regulations (Technical Amendments)'' (RIN3064–AC82) received on April 4, 20057; to the Committee on Banking, Housing, and Urban Affairs.

EC–1519. A communication from the President of the United States, transmitting, pursuant to law, a report on the extension of trade promotion authority relative to section 2103(c)(2) of the Trade Act of 2002; to the Committee on Finance.

EC–1520. A communication from the Chief, Regulations Branch, Customs and Border Protection, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Electronic Transmission of Passenger and Crew Manifests for Vessels and Aircraft'' (RIN1651–AA37) received on April 4, 2005; to the Committee on Finance.

EC–1521. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''National Median Gross Income for 2005'' (Rev. Proc. 2005–15) received April 4, 2005; to the Committee on Finance.

EC–1522. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''April–June 2005 Bond Factor Amounts'' (Rev. Rul. 2005–16) received April 4, 2005; to the Committee on Finance.

EC–1523. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Designated IRS Officer or Employee Under Section 7602(a)(2) of the Internal Revenue Code'' (RIN1545–BA89) received April 4, 2005; to the Committee on Finance.

EC–1524. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Revenue Ruling: Suitable for Use'' (Rev. Rul. 2005–19) received April 4, 2005; to the Committee on Finance.

EC–1525. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Announcement and Report Concerning Advance Pricing Agreements'' (Announcement 2005–27) received April 4, 2005; to the Committee on Finance.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. COCHRAN, from the Committee on Appropriations, with an amendment in the nature of a substitute and an amendment to the title:

H.R. 1268. Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes (Rept. No. 109–52).

By Mr. INHOFE, from the Committee on Environment and Public Works, without amendment:

S. 732. A bill to authorize funds to Federal aid highways, highway safety programs, and transit programs, and for other purposes (Rept. No. 109–53).

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. ROBERTS (for himself and Mr. LUGAR):

S. 713. A bill to amend the Internal Revenue Code of 1986 to provide for collegiate housing and infrastructure grants; to the Committee on Finance.

By Mr. SMITH (for himself, Mr. INOUYE, Ms. SNOWE, Mr. DORGAN, Mr. SUNUNU, Mr. BURNS, Mr. LAUTENBERG, and Mr. STEVENS):

S. 714. A bill to amend section 227 of the Communications Act of 1934 (47 U.S.C. 227) relating to the prohibition on junk fax transmissions; to the Committee on Commerce, Science, and Transportation.

By Mr. HARKIN (for himself, Mr. DAYTON, Mr. DURBIN, and Mr. LAUTENBERG):

S. 715. A bill to amend the Internal Revenue Code of 1986 to encourage investment in facilities using wind to produce electricity, and for other purposes; to the Committee on Finance.

By Mr. AKAKA (for himself, Mr. ROCKEFELLER, and Mr. CONRAD):

S. 716. A bill to amend title 38, United States Code, to enhance services provided by vet centers, to clarify and improve the provision of bereavement counseling by the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

By Mrs. LINCOLN (for herself and Ms. COLLINS):

S. 717. A bill to amend title XVIII of the Social Security Act to provide coverage for kidney disease education services under the medicare program, and for other purposes; to the Committee on Finance.

By Mr. BIDEN (for himself, Mr. SPECTER, Mr. MCCONNELL, Mrs. MURRAY, Mr. DAYTON, Mr. CHAMBLISS, Mr. CORZINE, and Ms. CANTWELL):

S. 718. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to provide standards and procedures to guide both State and local law enforcement agencies and law enforcement officers during internal investigations, interrogation of law enforcement officers, and administrative disciplinary hearings, and to ensure accountability of law enforcement officers, to guarantee the due process rights of law enforcement officers, and to require States to enact law enforcement discipline, accountability, and due process laws; to the Committee on the Judiciary.

By Mr. SARBANES (for himself and Ms. MIKULSKI):

S. 719. A bill to extend Corridor O of the Appalachian Development Highway System from its current southern terminus at I–68 near Cumberland to Corridor H, which stretches from Weston, West Virginia, to Strasburg, Virginia; to the Committee on Environment and Public Works.

By Mr. BINGAMAN (for himself and Mr. SMITH):

S. 720. A bill to amend the Internal Revenue Code of 1986 to eliminate unnecessary paperwork burdens on government and small businesses by reducing the number of excise tax returns filed by small taxpayers that pay the Federal excise tax on wines and beer; to the Committee on Finance.

By Mr. VITTER:

S. 721. A bill to authorize the Secretary of the Army to carry out a program for ecosystem restoration for the Louisiana Coastal Area, Louisiana; to the Committee on Environment and Public Works.

By Mr. SANTORUM:

S. 722. A bill to amend the Internal Revenue Code of 1986 to reduce the tax on beer to its pre-1991 level; to the Committee on Finance.

By Ms. SNOWE (for herself, Mr. BOND, and Mr. BINGAMAN):

S. 723. A bill to amend the Internal Revenue Code of 1986 to allow small businesses to set up simple cafeteria plans to provide nontaxable employee benefits to their employees, to make changes in the requirements for cafeteria plans, flexible spending accounts, and benefits provided under such plans or accounts, and for other purposes; to the Committee on Finance.

By Mr. DODD (for himself, Mr. DURBIN, and Mr. SALAZAR):

S. 724. A bill to improve the No Child Left Behind Act of 2001, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DODD (for himself, Ms. SNOWE, Mr. KENNEDY, Ms. COLLINS, Mrs. MURRAY, Mr. DURBIN, Mrs. CLINTON, Mr. INOUYE, Mr. LEVIN, Mr. LAUTENBERG, and Mr. JOHNSON):

S. 725. A bill to improve the Child Care Access Means Parents in School Program; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ALEXANDER (for himself and Mr. JOHNSON):

S. 726. A bill to promote the conservation and production of natural gas; to the Committee on Energy and Natural Resources.

By Mr. ALEXANDER (for himself and Mr. JOHNSON):

S. 727. A bill to provide tax incentives to promote the conservation and production of natural gas; to the Committee on Finance.

By Mr. BOND (for himself, Mr. INHOFE, Mr. VITTER, Mr. WARNER, Mr. VOINOVICH, Mr. ISAKSON, Mr. THUNE, Ms. MURKOWSKI, Mr. OBAMA, Ms. LANDRIEU, Mr. GRASSLEY, Mr. HARKIN, Mr. TALENT, Mr. CORNYN, Mr. COCHRAN, Mr. DOMENICI, and Mr. COLEMAN):

S. 728. A bill to provide for the consideration and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes; to the Committee on Environment and Public Works.

By Mr. DURBIN:

S. 729. A bill to establish the Food Safety Administration to protect the public health by preventing food-borne illness, ensuring the safety of food, improving research on contaminants leading to food-borne illness, and improving security of food from intentional contamination, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. LEAHY (for himself and Ms. SNOWE):

S. 730. A bill to amend the Clean Air Act to establish requirements concerning the operation of fossil fuel-fired electric utility steam generating units, commercial and industrial boiler units, solid waste incineration units, medical waste incinerators, hazardous waste combustors, chlor-alkali plants, and Portland cement plants to reduce emissions of mercury to the environment, and for other purposes; to the Committee on Environment and Public Works.

By Mr. CONRAD (for himself, Mr. BURNS, Mr. JOHNSON, Mr. DORGAN, Mr. KOHL, Mr. DOMENICI, Mr. BINGAMAN, and Mr. THUNE):

S. 731. A bill to recruit and retain more qualified individuals to teach in Tribal Colleges or Universities; to the Committee on Indian Affairs.

By Mr. INHOFE:

S. 732. A bill to authorize funds to Federal aid highways, highway safety programs, and transit programs, and for other purposes; from the Committee on Environment and Public Works; placed on the calendar.

By Mr. VITTER:

S. 733. A bill to amend the Outer Continental Shelf Lands Act to provide a domestic offshore energy reinvestment program, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. VITTER:

S. 734. A bill to provide for agreements between Federal agencies to partner or transfer funds to accomplish erosion goals relating to the coastal area of Louisiana, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. VITTER:

S. 735. A bill to amend the Submerged Lands Act to make the seaward boundaries of the States of Louisiana, Alabama, and Mississippi equivalent to the seaward boundaries of the State of Texas and the Gulf Coast of Florida; to the Committee on Energy and Natural Resources.

By Mr. VITTER:

S. 736. A bill to amend the Outer Continental Shelf Lands Act to promote uses on the Outer Continental Shelf; to the Committee on Energy and Natural Resources.

By Mr. CRAIG (for himself, Mr. DURBIN, Mr. SUNUNU, Mr. FEINGOLD, Ms. MURKOWSKI, and Mr. SALAZAR):

S. 737. A bill to amend the USA PATRIOT ACT to place reasonable limitations on the use of surveillance and the issuance of search warrants, and for other purposes; to the Committee on the Judiciary.

By Mr. SPECTER:

S. 738. A bill to provide relief for the cotton shirt industry; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. FRIST (for himself and Mr. ALEXANDER):

S. Res. 97. A resolution commending Patricia Sue Head Summitt, head women's basketball coach at the University of Tennessee, for three decades of excellence as a proven leader, motivated teacher, and established champion; considered and agreed to.

By Mr. BURR (for himself and Mrs. DOLE):

S. Res. 98. A resolution commending the University of North Carolina men's basketball team for winning the 2005 National Collegiate Athletic Association Division I Men's Basketball Championship; considered and agreed to.

By Mr. LAUTENBERG (for himself, Mr. LEVIN, Mr. SARBANES, and Mr. LIEBERMAN):

S. Res. 99. A resolution expressing the sense of the Senate to condemn the inhumane and unnecessary slaughter of small cetaceans, including Dall's porpoise, the bottlenose dolphin, Risso's dolphin, false killer whales, pilot whales, the striped dolphin, and the spotted dolphin in certain nations; to the Committee on Foreign Relations.

By Mr. DORGAN (for himself and Mr. BYRD):

S. Res. 100. A resolution disapproving the request of the President for extension under section 2103(c)(1)(B)(i) of the Bipartisan Trade Promotion Authority Act of 2002, of the trade promotion authorities under that Act; to the Committee on Finance.

By Mr. SANTORUM (for himself, Mr. SPECTER, and Mr. LAUTENBERG):

S. Res. 101. A resolution recognizing the 50th anniversary of the development of the Salk polio vaccine and its importance in eradicating the incidence of polio; considered and agreed to.

ADDITIONAL COSPONSORS

S. 132

At the request of Mrs. LINCOLN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 132, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for premiums on mortgage insurance.

At the request of Mr. SMITH, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 132, supra.

S. 185

At the request of Mr. NELSON of Florida, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 185, a bill to amend title 10, United States Code, to repeal the requirement for the reduction of certain Survivor Benefit Plan annuities by the amount of dependency and indemnity compensation and to modify the effective date for paid-up coverage under the Survivor Benefit Plan.

S. 217

At the request of Mr. BINGAMAN, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 217, a bill to amend title 49, United States Code, to preserve the essential air service program.

S. 224

At the request of Mr. KENNEDY, the names of the Senator from New York (Mr. SCHUMER) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 224, a bill to extend the period for COBRA coverage for victims of the terrorist attacks of September 11, 2001.

S. 241

At the request of Ms. SNOWE, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 241, a bill to amend section 254 of the Communications Act of 1934 to provide that funds received as universal service contributions and the universal service support programs established pursuant to that section are not subject to certain provisions of title 31, United States Code, commonly known as the Antideficiency Act.

S. 267

At the request of Mr. CRAIG, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 267, a bill to reauthorize the Secure Rural Schools and Community Self-Determination Act of 2000, and for other purposes.

S. 333

At the request of Mr. SANTORUM, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 333, a bill to hold the current regime in Iran accountable for its threatening behavior and to support a transition to democracy in Iran.

S. 339

At the request of Mr. REID, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Wyoming (Mr. THOMAS) were added as cosponsors of S. 339, a bill to reaffirm the authority of States to regulate certain hunting and fishing activities.

S. 382

At the request of Mr. ENSIGN, the names of the Senator from Nebraska (Mr. NELSON), the Senator from New Hampshire (Mr. GREGG), the Senator from Michigan (Mr. LEVIN), the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from Vermont (Mr. JEFFORDS), the Senator from California (Mrs. BOXER) and the Senator from Colorado (Mr. ALLARD) were added as cosponsors of S. 382, a bill to amend title 18, United States Code, to strengthen prohibitions against animal fighting, and for other purposes.

S. 461

At the request of Mr. ROCKEFELLER, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 461, a bill to amend title 37, United States Code, to require that a member of the uniformed services who is wounded or otherwise injured while serving in a combat zone continue to be paid monthly military pay and allowances, while the member recovers from the wound or injury, at least equal to the monthly military pay and allowances the member received immediately before receiving the wound or injury, to continue the combat zone tax exclusion for the member during the recovery period, and for other purposes.

S. 467

At the request of Mr. DODD, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 467, a bill to extend the applicability of the Terrorism Risk Insurance Act of 2002.

S. 484

At the request of Mr. WARNER, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. 484, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 495

At the request of Mr. CORZINE, the names of the Senator from Maryland (Ms. MIKULSKI) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 495, a bill to impose sanctions against perpetrators of crimes against humanity in Darfur, Sudan, and for other purposes.

S. 513

At the request of Mr. GREGG, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 513, a bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions.

S. 521

At the request of Ms. CANTWELL, her name was added as a cosponsor of S. 521, a bill to amend the Public Health Service Act to direct the Secretary of Health and Human Services to establish, promote, and support a comprehensive prevention, research, and medical management referral program for hepatitis C virus infection.

S. 548

At the request of Mr. CONRAD, the names of the Senator from Wyoming (Mr. ENZI), the Senator from Montana (Mr. BAUCUS), the Senator from Minnesota (Mr. COLEMAN) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 548, a bill to amend the Food Security Act of 1985 to encourage owners and operators of privately-held farm, ranch, and forest land to voluntarily make their land available for access by the public under programs administered by States and tribal governments.

S. 566

At the request of Mr. ROCKEFELLER, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 566, a bill to continue State coverage of medicaid prescription drug coverage to medicare dual eligible beneficiaries for 6 months while still allowing the medicare part D benefit to be implemented as scheduled.

S. 577

At the request of Ms. COLLINS, the names of the Senator from Minnesota (Mr. DAYTON) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 577, a bill to promote health care coverage for individuals participating in legal recreational activities or legal transportation activities.

S. 583

At the request of Ms. LANDRIEU, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 583, a bill to amend the Internal Revenue Code of 1986 to provide for the proper tax treatment of certain disaster mitigation payments.

S. 602

At the request of Ms. MIKULSKI, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 602, a bill to amend the Public Health Service Act to fund breakthroughs in Alzheimer's disease research while providing more help to caregivers and increasing public education about prevention.

S. 654

At the request of Mr. LEAHY, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 654, a bill to prohibit the expulsion, return, or extradition of persons by the United States to countries engaging in torture, and for other purposes.

S. 657

At the request of Mr. ENSIGN, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 657, a bill to amend title XVIII of the Social Security Act to make a technical correction in the definition of outpatient speech-language pathology services.

S. 679

At the request of Mr. COLEMAN, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 679, a bill to amend title 10, United States Code, to require the registration

of contractors' taxpayer identification numbers in the Central Contractor Registry database of the Department of Defense, and for other purposes.

S. 702

At the request of Mr. BAUCUS, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 702, a bill to amend the Internal Revenue Code of 1986 to repeal the occupational taxes relating to distilled spirits, wine, and beer.

S. CON. RES. 16

At the request of Mr. BINGAMAN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. Con. Res. 16, a concurrent resolution conveying the sympathy of Congress to the families of the young women murdered in the State of Chihuahua, Mexico, and encouraging increased United States involvement in bringing an end to these crimes.

S. RES. 31

At the request of Mr. COLEMAN, the names of the Senator from Montana (Mr. BURNS) and the Senator from Utah (Mr. HATCH) were added as cosponsors of S. Res. 31, a resolution expressing the sense of the Senate that the week of August 7, 2005, be designated as ''National Health Center Week'' in order to raise awareness of health services provided by community, migrant, public housing, and homeless health centers, and for other purposes.

S. RES. 83

At the request of Mr. SANTORUM, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. Res. 83, a resolution commemorating the 65th Anniversary of the Black Press of America.

S. RES. 85

At the request of Mr. THOMAS, the names of the Senator from Florida (Mr. MARTINEZ), the Senator from Montana (Mr. BAUCUS) and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of S. Res. 85, a resolution designating July 23, 2005, and July 22, 2006, as ''National Day of the American Cowboy''.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SMITH (for himself, Mr. INOUYE, Ms. SNOWE, Mr. DORGAN, Mr. SUNUNU, Mr. BURNS, Mr. LAUTENBERG, and Mr. STEVENS):

S. 714. A bill to amend section 227 of the Communications Act of 1934 (47 U.S.C. 227) relating to the prohibition on junk fax transmissions; to the Committee on Commerce, Science, and Transportation.

Mr. SMITH. Mr. President, I rise today with Senator INOUYE and other colleagues to introduce the ''Junk Fax Prevention Act of 2005.'' This bill will strengthen existing laws by providing consumers the ability to prevent unsolicited fax advertisements and provide greater Congressional oversight of enforcement efforts by the Federal Communications Commission (FCC). This bill will also help businesses by allowing them to continue to send faxes to their customers in a manner that has proven successful with both businesses and consumers.

In July of 2003, the FCC reconsidered its Telephone Consumer Protection Act (TCPA) rules and elected to eliminate the ability for businesses to contact their customers even where there exists an established business relationship. The effect of the FCC's rule would be to prevent a business from sending a fax solicitation to any person, whether it is a supplier or customer, without first obtaining prior written consent. This approach, while seemingly sensible, would impose significant costs on businesses in the form of extensive record keeping. Recognizing the problems created by this rule, the Commission has twice delayed the effective date, with the current extension of stay expiring on June 30, 2005.

The purpose of this legislation is to preserve the established business relationship exception currently recognized under the TCPA. In addition, this bill will allow consumers to opt out of receiving further unsolicited faxes. This is a new consumer protection that does not exist under the TCPA today.

We believe that this bipartisan bill strikes the appropriate balance in providing significant protections to consumers from unwanted unsolicited fax advertisements and preserves the many benefits that result from legitimate fax communications.

In the 108th Congress, this legislation passed both the Senate and House but was not signed into law prior to the adjournment of Congress. We hope that both the Senate and House can pass this legislation in a timely manner, prior to June 30, 2005, when the FCC's stay expires.

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. 714

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 ''Junk Fax Prevention Act of 2005''.

SEC. 2. PROHIBITION ON FAX TRANSMISSIONS CONTAINING UNSOLICITED ADVERTISEMENTS.

(a) PROHIBITION.—Section 227(b)(1)(C) of the Communications Act of 1934 (47 U.S.C. 227(b)(1)(C)) is amended to read as follows:

''(C) to use any telephone facsimile machine, computer, or other device to send, to a telephone facsimile machine, an unsolicited advertisement, unless—

''(i) the unsolicited advertisement is from a sender with an established business relationship with the recipient; and

''(ii) the unsolicited advertisement contains a notice meeting the requirements under paragraph (2)(D), except that the exception under clauses (i) and (ii) shall not apply with respect to an unsolicited advertisement sent to a telephone facsimile machine by a sender to whom a request has been made not to send future unsolicited advertisements to such telephone facsimile machine that complies with the requirements under paragraph (2)(E); or''.

(b) DEFINITION OF ESTABLISHED BUSINESS RELATIONSHIP.—Section 227(a) of the Communications Act of 1934 (47 U.S.C. 227(a)) is amended—

(1) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively; and

(2) by inserting after paragraph (1) the following:

''(2) The term 'established business relationship', for purposes only of subsection (b)(1)(C)(i), shall have the meaning given the term in section 64.1200 of title 47, Code of Federal Regulations, as in effect on January 1, 2003, except that—

''(A) such term shall include a relationship between a person or entity and a business subscriber subject to the same terms applicable under such section to a relationship between a person or entity and a residential subscriber; and

''(B) an established business relationship shall be subject to any time limitation established pursuant to paragraph (2)(G)).''.

(c) REQUIRED NOTICE OF OPT-OUT OPPORTUNITY.—Section 227(b)(2) of the Communications Act of 1934 (47 U.S.C. 227(b)(2)) is amended—

(1) in subparagraph (B), by striking ''and'' at the end;

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

(3) by adding at the end the following:

''(D) shall provide that a notice contained in an unsolicited advertisement complies with the requirements under this subparagraph only if—

''(i) the notice is clear and conspicuous and on the first page of the unsolicited advertisement;

''(ii) the notice states that the recipient may make a request to the sender of the unsolicited advertisement not to send any future unsolicited advertisements to a telephone facsimile machine or machines and that failure to comply, within the shortest reasonable time, as determined by the Commission, with such a request meeting the requirements under subparagraph (E) is unlawful;

''(iii) the notice sets forth the requirements for a request under subparagraph (E);

''(iv) the notice includes—

''(I) a domestic contact telephone and facsimile machine number for the recipient to transmit such a request to the sender; and

''(II) a cost-free mechanism for a recipient to transmit a request pursuant to such notice to the sender of the unsolicited advertisement; the Commission shall by rule require the sender to provide such a mechanism and may, in the discretion of the Commission and subject to such conditions as the Commission may prescribe, exempt certain classes of small business senders, but only if the Commission determines that the costs to such class are unduly burdensome given the revenues generated by such small businesses;

''(v) the telephone and facsimile machine numbers and the cost-free mechanism set forth pursuant to clause (iv) permit an individual or business to make such a request during regular business hours; and

''(vi) the notice complies with the requirements of subsection (d);''.

(d) REQUEST TO OPT-OUT OF FUTURE UNSOLICITED ADVERTISEMENTS.—Section 227(b)(2) of the Communications Act of 1934 (47 U.S.C. 227(b)(2)), as amended by subsection (c), is further amended by adding at the end the following:

''(E) shall provide, by rule, that a request not to send future unsolicited advertisements to a telephone facsimile machine complies with the requirements under this subparagraph only if—

''(i) the request identifies the telephone number or numbers of the telephone facsimile machine or machines to which the request relates;

''(ii) the request is made to the telephone or facsimile number of the sender of such an unsolicited advertisement provided pursuant to subparagraph (D)(iv) or by any other method of communication as determined by the Commission; and

''(iii) the person making the request has not, subsequent to such request, provided express invitation or permission to the sender, in writing or otherwise, to send such advertisements to such person at such telephone facsimile machine;''.

(e) AUTHORITY TO ESTABLISH NONPROFIT EXCEPTION.—Section 227(b)(2) of the Communications Act of 1934 (47 U.S.C. 227(b)(2)), as amended by subsections (c) and (d), is further amended by adding at the end the following:

''(F) may, in the discretion of the Commission and subject to such conditions as the Commission may prescribe, allow professional or trade associations that are tax-exempt nonprofit organizations to send unsolicited advertisements to their members in furtherance of the association's tax-exempt purpose that do not contain the notice required by paragraph (1)(C)(ii), except that the Commission may take action under this subparagraph only—

''(i) by regulation issued after public notice and opportunity for public comment; and

''(ii) if the Commission determines that such notice required by paragraph (1)(C)(ii) is not necessary to protect the ability of the members of such associations to stop such associations from sending any future unsolicited advertisements; and''.

(f) AUTHORITY TO ESTABLISH TIME LIMIT ON ESTABLISHED BUSINESS RELATIONSHIP EXCEPTION.—Section 227(b)(2) of the Communications Act of 1934 (47 U.S.C. 227(b)(2)), as amended by subsections (c), (d), and (e) of this section, is further amended by adding at the end the following:

''(G)(i) may, consistent with clause (ii), limit the duration of the existence of an established business relationship, however, before establishing any such limits, the Commission shall—

''(I) determine whether the existence of the exception under paragraph (1)(C) relating to an established business relationship has resulted in a significant number of complaints to the Commission regarding the sending of unsolicited advertisements to telephone facsimile machines;

''(II) determine whether a significant number of any such complaints involve unsolicited advertisements that were sent on the basis of an established business relationship that was longer in duration than the Commission believes is consistent with the reasonable expectations of consumers;

''(III) evaluate the costs to senders of demonstrating the existence of an established business relationship within a specified period of time and the benefits to recipients of establishing a limitation on such established business relationship; and

''(IV) determine whether with respect to small businesses, the costs would not be unduly burdensome; and

''(ii) may not commence a proceeding to determine whether to limit the duration of the existence of an established business relationship before the expiration of the 18-month period that begins on the date of the enactment of the Junk Fax Prevention Act of 2005.''.

(g) UNSOLICITED ADVERTISEMENT.—Section 227(a)(5) of the Communications Act of 1934, as so redesignated by subsection (b)(1), is amended by inserting '', in writing or otherwise'' before the period at the end.

(h) REGULATIONS.—Except as provided in section 227(b)(2)(G)(ii) of the Communications Act of 1934 (as added by subsection (f)), not later than 270 days after the date of enactment of this Act, the Federal Communications Commission shall issue regulations to implement the amendments made by this section.

SEC. 3. FCC ANNUAL REPORT REGARDING JUNK FAX ENFORCEMENT.

Section 227 of the Communications Act of 1934 (47 U.S.C. 227) is amended by adding at the end the following:

''(g) JUNK FAX ENFORCEMENT REPORT.—The Commission shall submit an annual report to Congress regarding the enforcement during the past year of the provisions of this section relating to sending of unsolicited advertisements to telephone facsimile machines, which report shall include—

''(1) the number of complaints received by the Commission during such year alleging that a consumer received an unsolicited advertisement via telephone facsimile machine in violation of the Commission's rules;

''(2) the number of citations issued by the Commission pursuant to section 503 during the year to enforce any law, regulation, or policy relating to sending of unsolicited advertisements to telephone facsimile machines;

''(3) the number of notices of apparent liability issued by the Commission pursuant to section 503 during the year to enforce any law, regulation, or policy relating to sending of unsolicited advertisements to telephone facsimile machines;

''(4) for each notice referred to in paragraph (3)—

''(A) the amount of the proposed forfeiture penalty involved;

''(B) the person to whom the notice was issued;

''(C) the length of time between the date on which the complaint was filed and the date on which the notice was issued; and

''(D) the status of the proceeding;

''(5) the number of final orders imposing forfeiture penalties issued pursuant to section 503 during the year to enforce any law, regulation, or policy relating to sending of unsolicited advertisements to telephone facsimile machines;

''(6) for each forfeiture order referred to in paragraph (5)—

''(A) the amount of the penalty imposed by the order;

''(B) the person to whom the order was issued;

''(C) whether the forfeiture penalty has been paid; and

''(D) the amount paid;

''(7) for each case in which a person has failed to pay a forfeiture penalty imposed by such a final order, whether the Commission referred such matter for recovery of the penalty; and

''(8) for each case in which the Commission referred such an order for recovery—

''(A) the number of days from the date the Commission issued such order to the date of such referral;

''(B) whether an action has been commenced to recover the penalty, and if so, the number of days from the date the Commission referred such order for recovery to the date of such commencement; and

''(C) whether the recovery action resulted in collection of any amount, and if so, the amount collected.''.

SEC. 4. GAO STUDY OF JUNK FAX ENFORCEMENT.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study regarding complaints received by the Federal Communications Commission concerning unsolicited advertisements sent to telephone facsimile machines, which study shall determine—

(1) the mechanisms established by the Commission to receive, investigate, and respond to such complaints;

(2) the level of enforcement success achieved by the Commission regarding such complaints;

(3) whether complainants to the Commission are adequately informed by the Commission of the responses to their complaints; and

(4) whether additional enforcement measures are necessary to protect consumers, including recommendations regarding such additional enforcement measures.

(b) ADDITIONAL ENFORCEMENT REMEDIES.—In conducting the analysis and making the recommendations required under subsection (a)(4), the Comptroller General shall specifically examine—

(1) the adequacy of existing statutory enforcement actions available to the Commission;

(2) the adequacy of existing statutory enforcement actions and remedies available to consumers;

(3) the impact of existing statutory enforcement remedies on senders of facsimiles;

(4) whether increasing the amount of financial penalties is warranted to achieve greater deterrent effect; and

(5) whether establishing penalties and enforcement actions for repeat violators or abusive violations similar to those established under section 1037 of title 18, United States Code, would have a greater deterrent effect.

(c) REPORT.—Not later than 270 days after the date of enactment of this Act, the Comptroller General shall submit a report on the results of the study under this section to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives.

By Mr. HARKIN (for himself, Mr. DAYTON, Mr. DURBIN, and Mr. LAUTENBERG):

S. 715. A bill to amend the Internal Revenue Code of 1986 to encourage investment in facilities using wind to produce electricity, and for other purposes; to the Committee on Finance.

Mr. HARKIN. Mr. President, I am introducing today the Wind Power Tax Incentives Act of 2005. I am pleased to be joined by Senators DAYTON, DURBIN and LAUTENBURG. This legislation makes it easier for farmers and others around the country to invest in wind power for commercial electricity production. Wind power is a clean, economical, and reliable source of renewable energy abundant on farms and in rural areas of Iowa and elsewhere.

With this legislation we can help farmers help themselves by developing a new source of income, and help the rest of the country in the production of renewable energy. Farmers are ready to take on this challenge. A recent study found that 93 percent of corn producers support wind energy. They also strongly support the 2002 farm bill's historic energy title.

This regulation complements the farm bill's energy programs and other wind power initiatives currently being

considered by this body, and is strongly supported by the American Wind Energy Association and John Deere. Our bill changes Federal tax law to make the section 45 wind production tax credit more widely available to farmers, farm cooperatives, and other investors. Section 45 of the Federal tax code provides a tax credit, currently 1.8 cents per kilowatt-hour, for electricity produced and sold during the first ten years of the life of a wind turbine. The credit has been extraordinarily successful in spurring greater installation of new wind power capacity, making this sustainable energy source economically feasible. However, certain barriers have prevented many farmers and other investors from qualifying for the credit, thus impeding their participation.

It is time to allow full participation by farmers and other investors in this important tax incentive. Our legislation removes barriers by making two important changes to the tax code.

First, under current tax law most losses, deductions, and credits from passive investments cannot affect wages or other income or reduce taxes on such income. So a farmer who passively invests in wind energy could not use the credits to offset taxes on farm income. This bill creates an exception to passive loss restrictions for an interest in a wind facility that qualifies for the section 45 credit. The wind facility's loss or tax credits could then offset the income or taxes arising from the taxpayer's farming business. Existing law provides an even broader exception for oil and gas investments, but in contrast to existing law, our proposed exception for wind investment applies only to those with income under $1 million, in order to avoid potential windfalls or abuse.

Second, the bill allows cooperatives to invest in qualified wind facilities and pass through the section 45 credits to cooperative members. This will allow farmers to join together and pool their resources in a cooperative and still take advantage of the credit.

When we first introduced this bill in the 108th Congress, it also contained a measure providing alternative minimum tax (AMT) relief. This important piece of the equation was incorporated late last year in the American Jobs Creation Act, and passed into law. But there's more to be done.

The benefits of this legislation are obvious. Increased renewable energy production lessens our dependence on foreign oil, provides environmental and public health gains, bolsters farm income, creates jobs and boosts economic growth, especially in rural areas. The Nation must move toward energy security, and domestically produced wind power, along with other forms of renewable energy like biofuels, plays an important part in this endeavor.

I want to thank Senators DAYTON, DURBIN and LAUTENBURG for co-sponsoring this legislation with me. Their leadership in this area will be instrumental to moving the bill forward. I am hopeful we can pass this legislation soon to help secure a brighter renewable energy future for our Nation's farmers and all citizens.

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. 715

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 ''Wind Power Tax Incentives Act of 2005''.

SEC. 2. OFFSET OF PASSIVE ACTIVITY LOSSES AND CREDITS OF AN ELIGIBLE TAXPAYER FROM WIND ENERGY FACILITIES.

(a) IN GENERAL.—Section 469 of the Internal Revenue Code of 1986 (relating to passive activity losses and credits limited) is amended—

(1) by redesignating subsections (l) and (m) as subsections (m) and (n), respectively; and

(2) by inserting after subsection (k) the following:

''(l) OFFSET OF PASSIVE ACTIVITY LOSSES AND CREDITS FROM WIND ENERGY FACILITIES.—

''(1) IN GENERAL.—Subsection (a) shall not apply to the portion of the passive activity loss, or the deduction equivalent (within the meaning of subsection (j)(5)) of the portion of the passive activity credit, for any taxable year which is attributable to all interests of an eligible taxpayer in qualified facilities described in section 45(d)(1).

''(2) ELIGIBLE TAXPAYER.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'eligible taxpayer' means, with respect to any taxable year, a taxpayer the adjusted gross income (taxable income in the case of a corporation) of which does not exceed $1,000,000.

''(B) RULES FOR COMPUTING ADJUSTED GROSS INCOME.—Adjusted gross income shall be computed in the same manner as under subsection (i)(3)(F).

''(C) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as a single taxpayer for purposes of this paragraph.

''(D) PASS-THRU ENTITIES.—In the case of a pass-thru entity, this paragraph shall be applied at the level of the person to which the credit is allocated by the entity.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to facilities placed in service after the date of the enactment of this Act.

SEC. 3. APPLICATION OF CREDIT TO COOPERATIVES.

(a) IN GENERAL.—Section 45(e) of the Internal Revenue Code of 1986 (relating to definitions and special rules) is amended by adding at the end the following:

''(10) ALLOCATION OF CREDIT TO SHAREHOLDERS OF COOPERATIVE.—

''(A) ELECTION TO ALLOCATE.—

''(i) IN GENERAL.—In the case of a cooperative organization described in section 1381(a), any portion of the credit determined under subsection (a) for the taxable year may, at the election of the organization, be apportioned pro rata among shareholders of the organization on the basis of the capital contributions of the shareholders to the organization.

''(ii) FORM AND EFFECT OF ELECTION.—An election under clause (i) for any taxable year shall be made on a timely filed return for such year. Such election, once made, shall be irrevocable for such taxable year.

''(B) TREATMENT OF ORGANIZATIONS AND PATRONS.—The amount of the credit apportioned to any shareholders under subparagraph (A)—

''(i) shall not be included in the amount determined under subsection (a) with respect to the organization for the taxable year, and

''(ii) shall be included in the amount determined under subsection (a) for the taxable year of the shareholder with or within which the taxable year of the organization ends.

''(C) SPECIAL RULES FOR DECREASE IN CREDITS FOR TAXABLE YEAR.—If the amount of the credit of a cooperative organization determined under subsection (a) for a taxable year is less than the amount of such credit shown on the return of the cooperative organization for such year, an amount equal to the excess of—

''(i) such reduction, over

''(ii) the amount not apportioned to such shareholders under subparagraph (A) for the taxable year, shall be treated as an increase in tax imposed by this chapter on the organization. Such increase shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this subpart or subpart A, B, E, or G.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

By Mr. AKAKA (for himself, Mr. ROCKEFELLER, and Mr. CONRAD):

S. 716. A bill to amend title 38, United States Code, to enhance services provided by vet centers, to clarify and improve the provision of bereavement counseling by the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

Mr. AKAKA. Mr. President, I rise today to introduce the ''Vet Center Enhancement Act of 2005.'' This legislation would enhance care and services provided through Vet Centers. Since their establishment over 25 years ago, Vet Centers have become a safe place in the community where more and more veterans and their families have turned for assistance and services. This legislation would provide resources that Vet Centers need to serve and reach out to the growing number of Operation Enduring Freedom and Operation Iraqi Freedom (OEF/OIF) veterans and surviving family members.

The legislation would allow the Department of Veterans Affairs (VA) to hire an additional 50 Global War on Terror outreach coordinators, strike the three-year authorization provision for these outreach workers, clarify that Vet Centers can provide bereavement counseling to family members including parents, and provide more funding for the Vet Center program.

In February 2004, VA authorized the Vet Center program to hire 50 OEF/OIF veterans to conduct outreach to their fellow Global War on Terrorism veterans. There are still many OEF/OIF veterans in need of readjustment services, which requires more workers. This legislation would authorize the hiring of 50 additional outreach coordinators to reach this underserved population of veterans. In addition, this legislation would also repeal the three-

year authorization provision placed on these positions.

The number of brave servicemembers who die while defending freedom continues to rise, leaving many surviving family members in need for help. Under current law, VA has the authority to provide bereavement counseling to the immediate family. However, it is necessary to clarify that parents of a deceased servicemember qualify for this bereavement counseling and that such care could be provided at Vet Centers. This legislation would make the clarifications.

A recent article in the Washington Post detailed a mother's experience after her son was killed in Iraq and how she finally felt relief at an unexpected place, a Vet Center. The article also provided information concerning the Vet Center bereavement program and discussed the need for clarification of the Vet Center bereavement care program. This article paints a clear picture of the distress that surviving family members endure as a result of the death of a beloved soldier. I ask unanimous consent that the text of The Washington Post article be printed in the RECORD.

As the War on Terrorism persists, the number of veterans seeking readjustment counseling and related mental health services through Vet Centers will continue to grow. Experts predict that as many as 30 percent of those returning servicemembers may need psychiatric care. For these returning servicemembers who have suffered psychological wounds, the stigma surrounding these types of wounds creates a barrier that often times prevents them from seeking the care they need. Vet Centers, which have licensed mental health professionals, provide a means to overcome this barrier because of the center's location in the community and because veteran staff members can relate to the experiences of the veterans seeking services. In 2004, Vet Centers cared for 9,597 OEF/OIF veterans and 2005 projections are that Vet Centers will see 12,656 OEF/OIF veterans.

Despite increases in the number of veterans coming for care to Vet Centers, the budget for the program has remained stagnant. This legislation would authorize funding for the program from $93 million to $180 million.

We must make the readjustment period for the returning service members and the surviving family members of deceased servicemembers as smooth as possible.

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

[From the Washington Post, Feb. 24, 2005]

VA PROGRAM OFFERS SOLACE TO CIVILIANS

(By David Finkel)

Her son had been killed in Iraq, and Hope Veverka needed someone to talk to.

''It was so horrific, the pain,'' said Veverka, the mother of Army Pfc. Brandon Sapp, who died in August when he drove his vehicle over a remote-controlled bomb. ''I didn't want it to destroy me.''

Unable to sleep, Veverka, 45, tried a hospice-based program for dealing with grief. Unable to stop thinking about the person who was the last to see her son while deliberately pushing a detonator, she talked to friends and attended a support group for parents who lost children. All helped somewhat, she says, but it was in an unexpected place—a readjustment center for veterans—where she finally felt some relief.

''These guys, they have served,'' Veverka said of the counselors she sees weekly at the Department of Veterans Affairs' Vet Center near her home in West Palm Beach, Fla. ''They get it. I can just talk, and they understand.''

More and more relatives of service members who died are learning the same thing, that because of a new bereavement program, vet centers are not just for veterans anymore. In August 2003, as the number of fatalities in Iraq passed the 250 mark, the 206 vet centers across the United States began offering counseling and bereavement services to immediate relatives of anyone in the military to die while on active duty.

The program marks the first time that non-veterans have been eligible for a benefit previously restricted to veterans. Before the program began, civilian family members might go to a vet center as part of a living veteran's counseling but had to go elsewhere if they needed counseling of their own.

''It's a big deal,'' said Alfonso Batres, chief of the VA's Office of Readjustment Counseling. ''And the families are so grateful that anything is being done.''

The program, which is free and allows unlimited visits, had 367 participants in connection with 252 deaths as of Feb. 1. Eighty-six of the 367 were spouses, 119 were mothers, 64 were fathers, 60 were siblings, 37 were children and one was a grandparent.

Batres says the numbers would be higher, but privacy concerns prohibit counselors from contacting people to see whether they are interested in getting help. Instead, initial contact must come from the family members.

Typically, relatives are referred to the program by military casualty-assistance officers, who are the ones to notify them of the death of their loved ones. A civilian organization called TAPS, the Tragedy Assistance Program for Survivors, which offers around-the-clock grief counseling and peer support—but does not have professionally trained counselors as at a vet center—also refers people to the program.

''It's really, really significant,'' TAPS founder and chairman Bonnie Carroll said of the VA's decision to treat family members. ''From our perspective, it has just been revolutionary.''

Batres says that implementing the program has not been problem-free. Especially in the early months, he says, some counselors complained that they already had more to do than they could handle. Others were concerned that expanding the centers' mandate to non-veterans could create a bad precedent.

The provisional status of the program has also been unsettling to some. Batres says he had hoped to get the program authorized by Congress, which would have given it a sense of permanence, but instead it was approved as an unfunded initiative at the discretion of the secretary of the VA.

Nonetheless, Batres says, as the months have gone by, the nature of the work has changed the misgivings of his staff into a shared sense of mission. ''It's akin to going to a disaster site'' is how he describes the work. ''This is a death site. It's almost like going into a sacred place.''

Joe Griffis, a counselor at the vet center in Lake Worth, Fla., agrees that this first venture into treating non-veterans is worthwhile. ''We're here to help the veteran,'' he said, ''and when they've been killed, it's the closest we can get to them to give them that service.''

Griffis says he has treated family members connected to five deaths, four of which occurred from enemy fire and one by suicide.

''They come in with grief, with a great sense of loss, often with guilt feelings about what they could have done, angry at the government, angry at God, angry at the child himself,'' he said of his clients, most of whom have been parents.

Rather than diagnosing a condition, he says, his goal is to ''let them ventilate all of their feelings. Their anger. Their grief. Their sadness. No matter what it's about. And let them have a feeling of relief before they walk out of the session.''

Veverka, who is one of Griffis's clients, says that is exactly what has happened to her in her weekly sessions.

''There was something lacking,'' she said of the support groups she attended in the first days after her son's death, where she found herself undifferentiated from the parents whose child had died of leukemia and the parents whose child had been killed crossing a street. ''It was only addressing half of my emotions. I needed something with the military.''

Try the vet center, someone suggested.

''So I went,'' she said of a place so familiar to her now that counselors have hung a photograph of her son for her to see every time she walks in the door, ''and it ended up being the door I needed.''

By Mr. BIDEN (for himself, Mr. SPECTER, Mr. MCCONNELL, Mrs. MURRAY, Mr. DAYTON, Mr. CHAMBLISS, Mr. CORZINE, and Ms. CANTWELL):

S. 718. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to provide standards and procedures to guide both State and local law enforcement agencies and law enforcement officers during internal investigations, interrogation of law enforcement officers, and administrative disciplinary hearings, and to ensure accountability of law enforcement officers, to guarantee the due process rights of law enforcement officers, and to require States to enact law enforcement discipline, accountability, and due process laws; to the Committee on the Judiciary.

Mr. BIDEN. Mr. President, I rise to introduce the State and Local Law Enforcement Discipline, Accountability, and Due Process Act of 2005, along with Senator SPECTER, Senator MCCONNELL, Senator CHAMBLISS, Senator DAYTON, Senator MURRAY, Senator CORZINE, and Senator CANTWELL.

These are trying times for the men and women on our front lines who provide our domestic security and public safety—our Nation's law enforcement personnel. In fact, our men and women in blue are facing what I have called a perfect storm. First, they are being called upon to undertake more responsibilities than ever before. They are being required to undertake homeland security duties that weren't required before September 11, and, at the same time, the FBI is reprogramming its field agents from crime to terrorism

cases. While I don't disagree that this shift in resources is appropriate, it undoubtedly leaves a gap in law enforcement efforts to combat drugs and crime, and State and local agencies must fill this gap. At the same time, budget shortages at the local level are forcing personnel lay-offs, an increasing use of overtime to meet demand, and the forced elimination of critical crime prevention programs. Local law enforcement is struggling to keep up with service calls. To add insult to injury, Federal assistance for State and local law enforcement has been reduced by billions over the last 2 years—with the proposed elimination of the COPS hiring program—a proven initiative that has been hailed as one of the keys to the crime-drop of the nineties. Quite simply, we are asking law enforcement to do more with less, and I believe that public safety is being compromised as a result of Congress's unfortunate choices on the Federal budget.

We may argue about the Federal responsibility to provide financial assistance to State and local law enforcement, however, few will dispute the sacrifices that our men and women in law enforcement make for our nation. Indeed, they face one of the most difficult work environments imaginable—an average of 165 police officers are killed in the line of duty every year. Our Nation's law enforcement officers put themselves in harms way on a daily basis to ensure the safety of their fellow citizens and the domestic security of our Nation. Nevertheless, many times these brave officers do not receive basic rights if they become involved in internal police investigations or administrative hearings. According to the National Association of Police Organizations, ''[i]n roughly half of the states in this country, officers enjoy some legal protections against false accusations and abusive conduct, but hundreds of thousands of officers have very limited due process rights and confront limitations on their exercise of other rights, such as the right to engage in political activities.'' Similarly, the Fraternal Order of Police notes that, ''[i]n a startling number of jurisdictions throughout this country, law enforcement officers have no procedural or administrative protections whatsoever; in fact, they can be, and frequently are, summarily dismissed from their jobs without explanation. Officers who lose their careers due to administrative or political expediency almost always find it impossible to find new employment in public safety. An officer's reputation, once tarnished by accusation, is almost impossible to restore.''

The legislation that we introduce today, which is endorsed by the Fraternal Order of Police and of the National Association of Police Organizations, seeks to provide officers with certain basic protections in those jurisdictions where such workplace protections are not currently provided. First, this bill allows law enforcement officials to engage in political activities when they are off-duty. Second, it provides standards and procedures to guide State and local law enforcement agencies during internal investigations, interrogations, and administrative disciplinary hearings. Additionally, it calls upon States to develop and enforce these disciplinary procedures. The bill would preempt State laws which confer fewer rights than those provided for in the legislation, but it would not preempt any State or local laws that confer rights or protections that are equal to or exceed the rights and protections afforded in the bill. For example, my own State of Delaware has a law enforcement officers' bill of rights, and those procedures would not be impacted by the provisions of this bill.

This bill will also include important provisions that will enhance the ability of citizens to hold their local police departments accountable. The legislation includes provisions that will ensure citizen complaints against police officers are investigated and that citizens are informed of the outcome of these investigations. The bill balances the rights of police officers with the rights of citizens to raise valid concerns about the conduct of some of these officers. In addition, I have consulted with constitutional experts who have opined that the bill is consistent with Congress' powers under the Commerce Clause and that it does not run afoul of the Supreme Court's Tenth Amendment jurisprudence.

I would also like to note that I understand the objections that many management groups, including the International Association of Chiefs of Police, have to this measure. I have discussed this with them, and I've pledged that their views will be heard and considered as this bill is debated in Congress. It is my view that we must bridge this gap. Without a meeting of the minds between police management and union officials, the enactment of a meaningful law enforcement officers' bill of rights will be difficult. Law enforcement officials are facing unprecedented challenges, and management and labor simply must work together on this issue and the numerous other issues facing the law enforcement community.

I urge my colleagues to join Senators SPECTER, MCCONNELL, CHAMBLISS, DAYTON, MURRAY, CORZINE, CANTWELL, and me in providing all of the Nation's law enforcement officers with the basic rights they deserve.

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. 718

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 ''State and Local Law Enforcement Discipline, Accountability, and Due Process Act of 2005''.

SEC. 2. FINDINGS AND DECLARATION OF PURPOSE AND POLICY.

(a) FINDINGS.—Congress finds that—

(1) the rights of law enforcement officers to engage in political activity or to refrain from engaging in political activity, except when on duty, or to run as candidates for public office, unless such service is found to be in conflict with their service as officers, are activities protected by the first amendment of the United States Constitution, as applied to the States through the 14th amendment of the United States Constitution, but these rights are often violated by the management of State and local law enforcement agencies;

(2) a significant lack of due process rights of law enforcement officers during internal investigations and disciplinary proceedings has resulted in a loss of confidence in these processes by many law enforcement officers, including those unfairly targeted for their labor organization activities or for their aggressive enforcement of the laws, demoralizing many rank and file officers in communities and States;

(3) unfair treatment of officers has potentially serious long-term consequences for law enforcement by potentially deterring or otherwise preventing officers from carrying out their duties and responsibilities effectively and fairly;

(4) the lack of labor-management cooperation in disciplinary matters and either the perception or the actuality that officers are not treated fairly detrimentally impacts the recruitment of and retention of effective officers, as potential officers and experienced officers seek other careers, which has serious implications and repercussions for officer morale, public safety, and labor-management relations and strife and can affect interstate and intrastate commerce, interfering with the normal flow of commerce;

(5) there are serious implications for the public safety of the citizens and residents of the United States which threatens the domestic tranquility of the United States because of a lack of statutory protections to ensure—

(A) the due process and political rights of law enforcement officers;

(B) fair and thorough internal investigations and interrogations of and disciplinary proceedings against law enforcement officers; and

(C) effective procedures for receipt, review, and investigation of complaints against officers, fair to both officers and complainants; and

(6) resolving these disputes and problems and preventing the disruption of vital police services is essential to the well-being of the United States and the domestic tranquility of the Nation.

(b) DECLARATION OF POLICY.—Congress declares that it is the purpose of this Act and the policy of the United States to—

(1) protect the due process and political rights of State and local law enforcement officers and ensure equality and fairness of treatment among such officers;

(2) provide continued police protection to the general public;

(3) provide for the general welfare and ensure domestic tranquility; and

(4) prevent any impediments to the free flow of commerce, under the rights guaranteed under the United States Constitution and Congress' authority thereunder.

SEC. 3. DISCIPLINE, ACCOUNTABILITY, AND DUE PROCESS OF OFFICERS.

(a) IN GENERAL.—Part H of title I of the Omnibus Crime Control and Safe Streets Act

of 1968 (42 U.S.C. 3781 et seq.) is amended by adding at the end the following:

"SEC. 820. DISCIPLINE, ACCOUNTABILITY, AND DUE PROCESS OF STATE AND LOCAL LAW ENFORCEMENT OFFICERS.

''(a) DEFINITIONS.—In this section:

''(1) DISCIPLINARY ACTION.—The term 'disciplinary action' means any adverse personnel action, including suspension, reduction in pay, rank, or other employment benefit, dismissal, transfer, reassignment, unreasonable denial of secondary employment, or similar punitive action taken against a law enforcement officer.

''(2) DISCIPLINARY HEARING.—The term 'disciplinary hearing' means an administrative hearing initiated by a law enforcement agency against a law enforcement officer, based on an alleged violation of law, that, if proven, would subject the law enforcement officer to disciplinary action.

''(3) EMERGENCY SUSPENSION.—The term 'emergency suspension' means the temporary action by a law enforcement agency of relieving a law enforcement officer from the active performance of law enforcement duties without a reduction in pay or benefits when the law enforcement agency, or an official within that agency, determines that there is probable cause, based upon the conduct of the law enforcement officer, to believe that the law enforcement officer poses an immediate threat to the safety of that officer or others or the property of others.

''(4) INVESTIGATION.—The term 'investigation'—

''(A) means an action taken to determine whether a law enforcement officer violated a law by a public agency or a person employed by a public agency, acting alone or in cooperation with or at the direction of another agency, or a division or unit within another agency, regardless of a denial by such an agency that any such action is not an investigation; and

''(B) includes—

''(i) asking questions of any other law enforcement officer or non-law enforcement officer;

''(ii) conducting observations;

''(iii) reviewing and evaluating reports, records, or other documents; and

''(iv) examining physical evidence.

''(5) LAW ENFORCEMENT OFFICER.—The terms 'law enforcement officer' and 'officer' have the meaning given the term 'law enforcement officer' in section 1204, except the term does not include a law enforcement officer employed by the United States, or any department, agency, or instrumentality thereof.

''(6) PERSONNEL RECORD.—The term 'personnel record' means any document, whether in written or electronic form and irrespective of location, that has been or may be used in determining the qualifications of a law enforcement officer for employment, promotion, transfer, additional compensation, termination or any other disciplinary action.

''(7) PUBLIC AGENCY AND LAW ENFORCEMENT AGENCY.—The terms 'public agency' and 'law enforcement agency' each have the meaning given the term 'public agency' in section 1204, except the terms do not include the United States, or any department, agency, or instrumentality thereof.

''(8) SUMMARY PUNISHMENT.—The term 'summary punishment' means punishment imposed—

''(A) for a violation of law that does not result in any disciplinary action; or

''(B) for a violation of law that has been negotiated and agreed upon by the law enforcement agency and the law enforcement officer, based upon a written waiver by the officer of the rights of that officer under subsection (i) and any other applicable law or constitutional provision, after consultation with the counsel or representative of that officer.

''(b) APPLICABILITY.—

''(1) IN GENERAL.—This section sets forth the due process rights, including procedures, that shall be afforded a law enforcement officer who is the subject of an investigation or disciplinary hearing.

''(2) NONAPPLICABILITY.—This section does not apply in the case of—

''(A) an investigation of specifically alleged conduct by a law enforcement officer that, if proven, would constitute a violation of a statute providing for criminal penalties; or

''(B) a nondisciplinary action taken in good faith on the basis of the employment related performance of a law enforcement officer.

''(c) POLITICAL ACTIVITY.—

''(1) RIGHT TO ENGAGE OR NOT TO ENGAGE IN POLITICAL ACTIVITY.—Except when on duty or acting in an official capacity, a law enforcement officer shall not be prohibited from engaging in political activity or be denied the right to refrain from engaging in political activity.

''(2) RIGHT TO RUN FOR ELECTIVE OFFICE.—A law enforcement officer shall not be—

''(A) prohibited from being a candidate for an elective office or from serving in such an elective office, solely because of the status of the officer as a law enforcement officer; or

''(B) required to resign or take an unpaid leave from employment with a law enforcement agency to be a candidate for an elective office or to serve in an elective office, unless such service is determined to be in conflict with or incompatible with service as a law enforcement officer.

''(3) ADVERSE PERSONNEL ACTION.—An action by a public agency against a law enforcement officer, including requiring the officer to take unpaid leave from employment, in violation of this subsection shall be considered an adverse personnel action within the meaning of subsection (a)(1).

''(d) EFFECTIVE PROCEDURES FOR RECEIPT, REVIEW, AND INVESTIGATION OF COMPLAINTS AGAINST LAW ENFORCEMENT OFFICERS.—

''(1) COMPLAINT PROCESS.—Not later than 1 year after the effective date of this section, each law enforcement agency shall adopt and comply with a written complaint procedure that—

''(A) authorizes persons from outside the law enforcement agency to submit written complaints about a law enforcement officer to—

''(i) the law enforcement agency employing the law enforcement officer; or

''(ii) any other law enforcement agency charged with investigating such complaints;

''(B) sets forth the procedures for the investigation and disposition of such complaints;

''(C) provides for public access to required forms and other information concerning the submission and disposition of written complaints; and

''(D) requires notification to the complainant in writing of the final disposition of the complaint and the reasons for such disposition.

''(2) INITIATION OF AN INVESTIGATION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), an investigation based on a complaint from outside the law enforcement agency shall commence not later than 15 days after the receipt of the complaint by—

''(i) the law enforcement agency employing the law enforcement officer against whom the complaint has been made; or

''(ii) any other law enforcement agency charged with investigating such a complaint.

''(B) EXCEPTION.—Subparagraph (A) does not apply if—

''(i) the law enforcement agency determines from the face of the complaint that each allegation does not constitute a violation of law; or

''(ii) the complainant fails to comply substantially with the complaint procedure of the law enforcement agency established under this section.

''(3) COMPLAINANT OR VICTIM CONFLICT OF INTEREST.—The complainant or victim of the alleged violation of law giving rise to an investigation under this subsection may not conduct or supervise the investigation or serve as an investigator.

''(e) NOTICE OF INVESTIGATION.—

''(1) IN GENERAL.—Any law enforcement officer who is the subject of an investigation shall be notified of the investigation 24 hours before the commencement of questioning of such officer or to otherwise being required to provide information to an investigating agency.

''(2) CONTENTS OF NOTICE.—Notice given under paragraph (1) shall include—

''(A) the nature and scope of the investigation;

''(B) a description of any allegation contained in a written complaint;

''(C) a description of each violation of law alleged in the complaint for which suspicion exists that the officer may have engaged in conduct that may subject the officer to disciplinary action; and

''(D) the name, rank, and command of the officer or any other individual who will be conducting the investigation.

''(f) RIGHTS OF LAW ENFORCEMENT OFFICERS PRIOR TO AND DURING QUESTIONING INCIDENTAL TO AN INVESTIGATION.—If a law enforcement officer is subjected to questioning incidental to an investigation that may result in disciplinary action against the officer, the following minimum safeguards shall apply:

''(1) COUNSEL AND REPRESENTATION.—

''(A) IN GENERAL.—Any law enforcement officer under investigation shall be entitled to effective counsel by an attorney or representation by any other person who the officer chooses, such as an employee representative, or both, immediately before and during the entire period of any questioning session, unless the officer consents in writing to being questioned outside the presence of counsel or representative.

''(B) PRIVATE CONSULTATION.—During the course of any questioning session, the officer shall be afforded the opportunity to consult privately with counsel or a representative, if such consultation does not repeatedly and unnecessarily disrupt the questioning period.

''(C) UNAVAILABILITY OF COUNSEL.—If the counsel or representative of the law enforcement officer is not available within 24 hours of the time set for the commencement of any questioning of that officer, the investigating law enforcement agency shall grant a reasonable extension of time for the law enforcement officer to obtain counsel or representation.

''(2) REASONABLE HOURS AND TIME.—Any questioning of a law enforcement officer under investigation shall be conducted at a reasonable time when the officer is on duty, unless exigent circumstances compel more immediate questioning, or the officer agrees in writing to being questioned at a different time, subject to the requirements of subsections (e) and paragraph (1).

''(3) PLACE OF QUESTIONING.—Unless the officer consents in writing to being questioned elsewhere, any questioning of a law enforcement officer under investigation shall take place—

''(A) at the office of the individual conducting the investigation on behalf of the

law enforcement agency employing the officer under investigation; or

''(B) the place at which the officer under investigation reports for duty.

''(4) IDENTIFICATION OF QUESTIONER.—Before the commencement of any questioning, a law enforcement officer under investigation shall be informed of—

''(A) the name, rank, and command of the officer or other individual who will conduct the questioning; and

''(B) the relationship between the individual conducting the questioning and the law enforcement agency employing the officer under investigation.

''(5) SINGLE QUESTIONER.—During any single period of questioning of a law enforcement officer under investigation, each question shall be asked by or through 1 individual.

''(6) REASONABLE TIME PERIOD.—Any questioning of a law enforcement officer under investigation shall be for a reasonable period of time and shall allow reasonable periods for the rest and personal necessities of the officer and the counsel or representative of the officer, if such person is present.

''(7) NO THREATS, FALSE STATEMENTS, OR PROMISES TO BE MADE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), no threat against, false or misleading statement to, harassment of, or promise of reward to a law enforcement officer under investigation shall be made to induce the officer to answer any question, give any statement, or otherwise provide information.

''(B) EXCEPTION.—The law enforcement agency employing a law enforcement officer under investigation may require the officer to make a statement relating to the investigation by explicitly threatening disciplinary action, including termination, only if—

''(i) the officer has received a written grant of use and derivative use immunity or transactional immunity by a person authorized to grant such immunity; and

''(ii) the statement given by the law enforcement officer under such an immunity may not be used in any subsequent criminal proceeding against that officer.

''(8) RECORDING.—

''(A) IN GENERAL.—All questioning of a law enforcement officer under an investigation shall be recorded in full, in writing or by electronic device, and a copy of the transcript shall be provided to the officer under investigation before any subsequent period of questioning or the filing of any charge against that officer.

''(B) SEPARATE RECORDING.—To ensure the accuracy of the recording, an officer may utilize a separate electronic recording device, and a copy of any such recording (or the transcript) shall be provided to the public agency conducting the questioning, if that agency so requests.

''(9) USE OF HONESTY TESTING DEVICES PROHIBITED.—No law enforcement officer under investigation may be compelled to submit to the use of a lie detector, as defined in section 2 of the Employee Polygraph Protection Act of 1988 (29 U.S.C. 2001).

''(g) NOTICE OF INVESTIGATIVE FINDINGS AND DISCIPLINARY RECOMMENDATION AND OPPORTUNITY TO SUBMIT A WRITTEN RESPONSE.—

''(1) NOTICE.—Not later than 30 days after the conclusion of an investigation under this section, the person in charge of the investigation or the designee of that person shall notify the law enforcement officer who was the subject of the investigation, in writing, of the investigative findings and any recommendations for disciplinary action.

''(2) OPPORTUNITY TO SUBMIT WRITTEN RESPONSE.—

''(A) IN GENERAL.—Not later than 30 days after receipt of a notification under paragraph (1), and before the filing of any charge seeking the discipline of such officer or the commencement of any disciplinary proceeding under subsection (h), the law enforcement officer who was the subject of the investigation may submit a written response to the findings and recommendations included in the notification.

''(B) CONTENTS OF RESPONSE.—The response submitted under subparagraph (A) may include references to additional documents, physical objects, witnesses, or any other information that the law enforcement officer believes may provide exculpatory evidence.

''(h) DISCIPLINARY HEARINGS.—

''(1) NOTICE OF OPPORTUNITY FOR HEARING.—Except in a case of summary punishment or emergency suspension (subject to subsection (k)), before the imposition of any disciplinary action the law enforcement agency shall notify the officer that the officer is entitled to a due process hearing by an independent and impartial hearing officer or board.

''(2) REQUIREMENT OF DETERMINATION OF VIOLATION.—No disciplinary action may be taken against a law enforcement officer unless an independent and impartial hearing officer or board determines, after a hearing and in accordance with the requirements of this subsection, that the law enforcement officer committed a violation of law.

''(3) TIME LIMIT.—No disciplinary charge may be brought against a law enforcement officer unless—

''(A) the charge is filed not later than the earlier of—

''(i) 1 year after the date on which the law enforcement agency filing the charge had knowledge or reasonably should have had knowledge of an alleged violation of law; or

''(ii) 90 days after the commencement of an investigation; or

''(B) the requirements of this paragraph are waived in writing by the officer or the counsel or representative of the officer.

''(4) NOTICE OF HEARING.—Unless waived in writing by the officer or the counsel or representative of the officer, not later than 30 days after the filing of a disciplinary charge against a law enforcement officer, the law enforcement agency filing the charge shall provide written notification to the law enforcement officer who is the subject of the charge, of—

''(A) the date, time, and location of any disciplinary hearing, which shall be scheduled in cooperation with the law enforcement officer, or the counsel or representative of the officer, and which shall take place not earlier than 30 days and not later than 60 days after notification of the hearing is given to the law enforcement officer under investigation;

''(B) the name and mailing address of the independent and impartial hearing officer, or the names and mailing addresses of the independent and impartial hearing board members; and

''(C) the name, rank, command, and address of the law enforcement officer prosecuting the matter for the law enforcement agency, or the name, position, and mailing address of the person prosecuting the matter for a public agency, if the prosecutor is not a law enforcement officer.

''(5) ACCESS TO DOCUMENTARY EVIDENCE AND INVESTIGATIVE FILE.—Unless waived in writing by the law enforcement officer or the counsel or representative of that officer, not later than 15 days before a disciplinary hearing described in paragraph (4)(A), the law enforcement officer shall be provided with—

''(A) a copy of the complete file of the predisciplinary investigation; and

''(B) access to and, if so requested, copies of all documents, including transcripts, records, written statements, written reports, analyses, and electronically recorded information that—

''(i) contain exculpatory information;

''(ii) are intended to support any disciplinary action; or

''(iii) are to be introduced in the disciplinary hearing.

''(6) EXAMINATION OF PHYSICAL EVIDENCE.—Unless waived in writing by the law enforcement officer or the counsel or representative of that officer—

''(A) not later than 15 days before a disciplinary hearing, the prosecuting agency shall notify the law enforcement officer or the counsel or representative of that officer of all physical, non-documentary evidence; and

''(B) not later than 10 days before a disciplinary hearing, the prosecuting agency shall provide a reasonable date, time, place, and manner for the law enforcement officer or the counsel or representative of the law enforcement officer to examine the evidence described in subparagraph (A).

''(7) IDENTIFICATION OF WITNESSES.—Unless waived in writing by the law enforcement officer or the counsel or representative of the officer, not later than 15 days before a disciplinary hearing, the prosecuting agency shall notify the law enforcement officer or the counsel or representative of the officer, of the name and address of each witness for the law enforcement agency employing the law enforcement officer.

''(8) REPRESENTATION.—During a disciplinary hearing, the law enforcement officer who is the subject of the hearing shall be entitled to due process, including—

''(A) the right to be represented by counsel or a representative;

''(B) the right to confront and examine all witnesses against the officer; and

''(C) the right to call and examine witnesses on behalf of the officer.

''(9) HEARING BOARD AND PROCEDURE.—

''(A) IN GENERAL.—A State or local government agency, other than the law enforcement agency employing the officer who is subject of the disciplinary hearing, shall—

''(i) determine the composition of an independent and impartial disciplinary hearing board;

''(ii) appoint an independent and impartial hearing officer; and

''(iii) establish such procedures as may be necessary to comply with this section.

''(B) PEER REPRESENTATION ON DISCIPLINARY HEARING BOARD.—A disciplinary hearing board that includes employees of the law enforcement agency employing the law enforcement officer who is the subject of the hearing, shall include not less than 1 law enforcement officer of equal or lesser rank to the officer who is the subject of the hearing.

''(10) SUMMONSES AND SUBPOENAS.—

''(A) IN GENERAL.—The disciplinary hearing board or independent hearing officer—

''(i) shall have the authority to issue summonses or subpoenas, on behalf of—

''(I) the law enforcement agency employing the officer who is the subject of the hearing; or

''(II) the law enforcement officer who is the subject of the hearing; and

''(ii) upon written request of either the law enforcement agency or the officer, shall issue a summons or subpoena, as appropriate, to compel the appearance and testimony of a witness or the production of documentary evidence.

''(B) EFFECT OF FAILURE TO COMPLY WITH SUMMONS OR SUBPOENA.—With respect to any failure to comply with a summons or a subpoena issued under subparagraph (A)—

''(i) the disciplinary hearing officer or board shall petition a court of competent jurisdiction to issue an order compelling compliance; and

''(ii) subsequent failure to comply with such a court order issued pursuant to a petition under clause (i) shall—

''(I) be subject to contempt of a court proceedings according to the laws of the jurisdiction within which the disciplinary hearing is being conducted; and

''(II) result in the recess of the disciplinary hearing until the witness becomes available to testify and does testify or is held in contempt.

''(11) CLOSED HEARING.—A disciplinary hearing shall be closed to the public unless the law enforcement officer who is the subject of the hearing requests, in writing, that the hearing be open to specified individuals or to the general public.

''(12) RECORDING.—All aspects of a disciplinary hearing, including pre-hearing motions, shall be recorded by audio tape, video tape, or transcription.

''(13) SEQUESTRATION OF WITNESSES.—Either side in a disciplinary hearing may move for and be entitled to sequestration of witnesses.

''(14) TESTIMONY UNDER OATH.—The hearing officer or board shall administer an oath or affirmation to each witness, who shall testify subject to the laws of perjury of the State in which the disciplinary hearing is being conducted.

''(15) FINAL DECISION ON EACH CHARGE.—

''(A) IN GENERAL.—At the conclusion of the presentation of all the evidence and after oral or written argument, the hearing officer or board shall deliberate and render a written final decision on each charge.

''(B) FINAL DECISION ISOLATED TO CHARGE BROUGHT.—The hearing officer or board may not find that the law enforcement officer who is the subject of the hearing is liable for disciplinary action for any violation of law as to which the officer was not charged.

''(16) BURDEN OF PERSUASION AND STANDARD OF PROOF.—The burden of persuasion or standard of proof of the prosecuting agency shall be—

''(A) by clear and convincing evidence as to each charge alleging false statement or representation, fraud, dishonesty, deceit, moral turpitude, or criminal behavior on the part of the law enforcement officer who is the subject of the charge; and

''(B) by a preponderance of the evidence as to all other charges.

''(17) FACTORS OF JUST CAUSE TO BE CONSIDERED BY THE HEARING OFFICER OR BOARD.—A law enforcement officer who is the subject of a disciplinary hearing shall not be found guilty of any charge or subjected to any disciplinary action unless the disciplinary hearing board or independent hearing officer finds that—

''(A) the officer who is the subject of the charge could reasonably be expected to have had knowledge of the probable consequences of the alleged conduct set forth in the charge against the officer;

''(B) the rule, regulation, order, or procedure that the officer who is the subject of the charge allegedly violated is reasonable;

''(C) the charging party, before filing the charge, made a reasonable, fair, and objective effort to discover whether the officer did in fact violate the rule, regulation, order, or procedure as charged;

''(D) the charging party did not conduct the investigation arbitrarily or unfairly, or in a discriminatory manner, against the officer who is the subject of the charge, and the charge was brought in good faith; and

''(E) the proposed disciplinary action reasonably relates to the seriousness of the alleged violation and to the record of service of the officer who is the subject of the charge.

''(18) NO COMMISSION OF A VIOLATION.—If the officer who is the subject of the disciplinary hearing is found not to have committed the alleged violation—

''(A) the matter is concluded;

''(B) no disciplinary action may be taken against the officer;

''(C) the personnel record of that officer shall not contain any reference to the charge for which the officer was found not guilty; and

''(D) any pay and benefits lost or deferred during the pendency of the disposition of the charge shall be restored to the officer as though no charge had ever been filed against the officer, including salary or regular pay, vacation, holidays, longevity pay, education incentive pay, shift differential, uniform allowance, lost overtime, or other premium pay opportunities, and lost promotional opportunities.

''(19) COMMISSION OF A VIOLATION.—

''(A) IN GENERAL.—If the officer who is the subject of the charge is found to have committed the alleged violation, the hearing officer or board shall make a written recommendation of a penalty to the law enforcement agency employing the officer or any other governmental entity that has final disciplinary authority, as provided by applicable State or local law.

''(B) PENALTY.—The employing agency or other governmental entity may not impose a penalty greater than the penalty recommended by the hearing officer or board.

''(20) APPEAL.—Any officer who has been found to have committed an alleged violation may appeal from a final decision of a hearing officer or hearing board to a court of competent jurisdiction or to an independent neutral arbitrator to the extent available in any other administrative proceeding under applicable State or local law, or a collective bargaining agreement.

''(i) WAIVER OF RIGHTS.—

''(1) IN GENERAL.—An officer who is notified that the officer is under investigation or is the subject of a charge may, after such notification, waive any right or procedure guaranteed by this section.

''(2) WRITTEN WAIVER.—A written waiver under this subsection shall be—

''(A) in writing; and

''(B) signed by—

''(i) the officer, who shall have consulted with counsel or a representative before signing any such waiver; or

''(ii) the counsel or representative of the officer, if expressly authorized by subsection (h).

''(j) SUMMARY PUNISHMENT.—Nothing in this section shall preclude a public agency from imposing summary punishment.

''(k) EMERGENCY SUSPENSION.—Nothing in this section may be construed to preclude a law enforcement agency from imposing an emergency suspension on a law enforcement officer, except that any such suspension shall—

''(1) be followed by a hearing in accordance with the requirements of subsection (h); and

''(2) not deprive the affected officer of any pay or benefit.

''(l) RETALIATION FOR EXERCISING RIGHTS.—There shall be no imposition of, or threat of, disciplinary action or other penalty against a law enforcement officer for the exercise of any right provided to the officer under this section.

''(m) OTHER REMEDIES NOT IMPAIRED.—Nothing in this section may be construed to impair any other right or remedy that a law enforcement officer may have under any constitution, statute, ordinance, order, rule, regulation, procedure, written policy, collective bargaining agreement, or any other source.

''(n) DECLARATORY OR INJUNCTIVE RELIEF.—A law enforcement officer who is aggrieved by a violation of, or is otherwise denied any right afforded by, the Constitution of the United States, a State constitution, this section, or any administrative rule or regulation promulgated pursuant thereto, may file suit in any Federal or State court of competent jurisdiction for declaratory or injunctive relief to prohibit the law enforcement agency from violating or otherwise denying such right, and such court shall have jurisdiction, for cause shown, to restrain such a violation or denial.

''(o) PROTECTION OF LAW ENFORCEMENT OFFICER PERSONNEL FILES.—

''(1) RESTRICTIONS ON ADVERSE MATERIAL MAINTAINED IN OFFICERS' PERSONNEL RECORDS.—

''(A) IN GENERAL.—Unless the officer has had an opportunity to review and comment, in writing, on any adverse material generated after the effective date of the State and Local Law Enforcement Discipline, Accountability, and Due Process Act of 2005 to be included in a personnel record relating to the officer, no law enforcement agency or other governmental entity may—

''(i) include the adverse material in that personnel record; or

''(ii) possess or maintain control over the adverse material in any form as a personnel record within the law enforcement agency or elsewhere in the control of the employing governmental entity.

''(B) RESPONSIVE MATERIAL.—Any responsive material provided by an officer to adverse material included in a personnel record pertaining to the officer shall be—

''(i) attached to the adverse material; and

''(ii) released to any person or entity to whom the adverse material is released in accordance with law and at the same time as the adverse material is released.

''(2) RIGHT TO INSPECTION OF, AND RESTRICTIONS ON ACCESS TO INFORMATION IN, THE OFFICER'S OWN PERSONNEL RECORDS.—

''(A) IN GENERAL.—Subject to subparagraph (B), a law enforcement officer shall have the right to inspect all of the personnel records of the officer not less than annually.

''(B) RESTRICTIONS.—A law enforcement officer shall not have access to information in the personnel records of the officer if the information—

''(i) relates to the investigation of alleged conduct that, if proven, would constitute or have constituted a definite violation of a statute providing for criminal penalties, but as to which no formal charge was brought;

''(ii) contains letters of reference for the officer;

''(iii) contains any portion of a test document other than the results;

''(iv) is of a personal nature about another officer, and if disclosure of that information in non-redacted form would constitute a clearly unwarranted intrusion into the privacy rights of that other officer; or

''(v) is relevant to any pending claim brought by or on behalf of the officer against the employing agency of that officer that may be discovered in any judicial or administrative proceeding between the officer and the employer of that officer.

''(p) STATES' RIGHTS.—

''(1) IN GENERAL.—Nothing in this section may be construed—

''(A) to preempt any State or local law, or any provision of a State or local law, in effect on the date of enactment of the State and Local Law Enforcement Discipline, Accountability, and Due Process Act of 2005, that confers a right or a protection that equals or exceeds the right or protection afforded by this section; or

''(B) to prohibit the enactment of any State or local law that confers a right or protection that equals or exceeds a right or protection afforded by this section.

''(2) STATE OR LOCAL LAWS PREEMPTED.—A State or local law, or any provision of a State or local law, that confers fewer rights or provides less protection for a law enforcement officer than any provision in this section shall be preempted by this section.

''(q) COLLECTIVE BARGAINING AGREEMENTS.—Nothing in this section may be construed to—

''(1) preempt any provision in a mutually agreed-upon collective bargaining agreement, in effect on the date of enactment of the State and Local Law Enforcement Discipline, Accountability, and Due Process Act of 2005, that provides for substantially the same or a greater right or protection afforded under this section; or

''(2) prohibit the negotiation of any additional right or protection for an officer who is subject to any collective bargaining agreement.''.

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after the item relating to section 819 the following:

''Sec. 820. Discipline, accountability, and due process of State and local law enforcement officers''.

SEC. 4. PROHIBITION OF FEDERAL CONTROL OVER STATE AND LOCAL CRIMINAL JUSTICE AGENCIES.

Nothing in this Act or the amendments made by this Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control of any police force or any criminal justice agency of any State or any political subdivision thereof.

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall take effect with respect to each State on the earlier of—

(1) 2 years after the date of enactment of this Act; or

(2) the conclusion of the second legislative session of the State that begins on or after the date of enactment of this Act.

By Mr. SARBANES (for himself and Ms. MIKULSKI):

S. 719. A bill to extend Corridor O of the Appalachian Development Highway System from its currnet southern terminus at I–68 near Cumberland to Corridor H, which stretches from Weston, West Virginia, to Strasburg, Virginia; to the Committee on Environment and Public Works.

Mr. SARBANES. Mr. President, today I am introducing legislation to add a 35.5 mile segment of a proposed new highway, extending south of Interstate 68 near Cumberland, MD to Corridor H in West Virginia, to the Appalachian Development Highway System (ADHS). Joining me in co-sponsoring this legislation is my colleague Senator MIKULSKI.

The development of a north-south Appalachian highway corridor has long been a priority for elected officials, community leaders and citizens in the Potomac Highlands region of western Maryland, West Virginia and neighboring Pennsylvania counties. At least two Maryland State economic development task forces over the last decade have identified a north-south corridor as their leading priority for the region. In order to help determine the need, potential alignments as well as the projected economic benefits and the social, transportation and environmental impacts of upgrading north-south corridors, six years ago, I helped secure a grant from the Federal Highway Administration to support a multi-state study. That study was completed in 2001 and identified two corridors as having the greatest potential for benefiting Appalachian economic development the US 219 Corridor in the north from I–68 in Maryland to the Pennsylvania Turnpike and the US 220 Corridor in south from Corridor H in West Virginia to I–68 in Maryland. The study also found that upgrading US 220 South of Interstate 68 would support the largest number of potential new jobs, 7,800–8,600 jobs, with the highest relative growth—19 percent—of any of the corridors and have fewer impacts than the alternatives.

While US 220 north of I–68 is part of the ADHS, the segment south of the interstate is not currently part of the system, although it serves Appalachia. This area in Allegany County, MD—a county that has experienced some of the highest rates of unemployment and poverty in the State—has been targeted for economic development and job growth in the ''One Maryland'' economic development program. Major employers in the area—American Woodmark, Aliant Techsystems and MeadWestvaco—as well as others that might look at this region for the location of their next plant currently depend on a two-lane roadway running through residential neighborhoods and commercial areas. The area is well served by an important east and west corridor, I–68 (ADHS Corridor E), but North South transportation is inadequate and hampers the economic prosperity potential of Allegany and Garrett Counties and many of the surrounding Pennsylvania and West Virginia communities.

Over the past four years, and with additional funding provided by the Congress in the Fiscal 2003 Transportation Appropriations bill, Maryland and West Virginia have been undertaking a detailed project planning phase of the 35.5 mile segment of US 220 south that was recommended in the feasibility study. Improvements which have been proposed include a four-lane divided highway, most of which would be on a new alignment, with at-grade intersections. Fifteen miles of the proposed road improvements are in Maryland and 20.5 miles in West Virginia.

These upgrades would increase safety and alleviate traffic congestion between Cumberland and Keyser and provide an important link to the 83.2 miles of Appalachian Development Highways in Maryland and in the system of 28 corridors throughout the 13 Appalachian States. The corridor would interconnect several important ADHS corridors including the East-West Corridors P in Pennsylvania, E (I–68) in Maryland & West Virginia, H in West Virginia and Virginia along with the ADHS North-South Corridor O and Corridor N from Pennsylvania to the North. Currently ARC Corridors O & N dead end at I–68, and the closest interstate quality road continuing south is I–81 seventy miles east, or I–79 that is seventy miles to the west. The new Appalachian highway would also provide important linkages to the bi-State, Maryland and West Virginia, Greater Cumberland Airport, rail facilities in the area, and population centers of Cumberland, Maryland, Keyser, West Virginia, Romney, West Virginia, and Moorefield, West Virginia.

The Congress recognized the need to help bring the Appalachian Region into the mainstream of the American economy in 1965 when it created the Appalachian Region Commission and authorized the Appalachian Development Highway System. Now, some 40 years later, with the original ADHS more than 85 percent complete or under construction, it is time to provide critical linkages to the east-west ADHS corridors, population centers, other intermodal facilities such as air and rail, and the existing interstate system and to further boost the region's opportunity to advance towards economic parity. I hope that the Congress will swiftly approve this legislation.

By Mr. VITTER:

S. 721. A bill to authorize the Secretary of the Army to carry out a program for ecosystem restoration for the Louisiana Coastal Area, Louisiana; to the Committee on Environment and Public Works.

Mr. VITTER. 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. 721

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

SECTION. 1. LOUISIANA COASTAL AREA ECOSYSTEM RESTORATION, LOUISIANA.

(a) IN GENERAL.—The Secretary may carry out a program for ecosystem restoration, Louisiana Coastal Area, Louisiana, substantially in accordance with the report of the Chief of Engineers, dated January 31, 2005.

(b) PRIORITIES.—

(1) IN GENERAL.—In carrying out the program under subsection (a), the Secretary shall give priority to—

(A) any portion of the program identified in the report described in subsection (a) as a critical restoration feature;

(B) any Mississippi River diversion project that—

(i) protects a major population area of the Pontchartain, Pearl, Breton Sound, Barataria, or Terrebonne Basin; and

(ii) produces an environmental benefit to the coastal area of the State of Louisiana or the State of Mississippi; and

(C) any barrier island, or barrier shoreline, project that—

(i) is carried out in conjunction with a Mississippi River diversion project; and

(ii) protects a major population area.

(c) NON-FEDERAL SHARE.—

(1) CREDIT FOR INTEGRAL WORK.—The Secretary shall provide credit (including in-kind

credit) toward the non-Federal share for the cost of any work carried out by the non-Federal interest on a project that is part of the program under subsection (a) if the Secretary determines that the work is integral to the project.

(2) CARRYOVER OF CREDITS.—A credit provided under paragraph (1) may be carried over between authorized projects in the Louisiana Coastal Area ecosystem restoration program.

(3) NONGOVERNMENTAL ORGANIZATIONS.—A nongovernmental organization shall be eligible to contribute all or a portion of the non-Federal share of the cost of a project under this section.

(d) COMPREHENSIVE PLAN.—

(1) IN GENERAL.—The Secretary, in coordination with the Governor of the State of Louisiana, shall—

(A) develop a plan for protecting, preserving, and restoring the coastal Louisiana ecosystem; and

(B) not later than 1 year after the date of enactment of this Act, and every 5 years thereafter, submit to Congress the plan, or an update of the plan.

(2) INCLUSIONS.—The comprehensive plan shall include a description of—

(A) the framework of a long-term program that provides for the comprehensive protection, conservation, and restoration of the wetlands, estuaries (including the Barataria-Terrebonne estuary), barrier islands, shorelines, and related land and features of the coastal Louisiana ecosystem, including protection of a critical resource, habitat, or infrastructure from the effects of a coastal storm, a hurricane, erosion, or subsidence;

(B) the means by which a new technology, or an improved technique, can be integrated into the program under subsection (a); and

(C) the role of other Federal agencies and programs in carrying out the program under subsection (a).

(3) CONSIDERATION.—In developing the comprehensive plan, the Secretary shall consider the advisability of integrating into the program under subsection (a)—

(A) a related Federal or State project carried out on the date on which the plan is developed;

(B) an activity in the Louisiana Coastal Area; or

(C) any other project or activity identified in—

(i) the Mississippi River and Tributaries program;

(ii) the Louisiana Coastal Wetlands Conservation Plan;

(iii) the Louisiana Coastal Zone Management Plan; or

(iv) the plan of the State of Louisiana entitled ''Coast 2050: Toward a Sustainable Coastal Louisiana''.

(e) TASK FORCE.—

(1) ESTABLISHMENT.—There is established a task force to be known as the ''Coastal Louisiana Ecosystem Protection and Restoration Task Force'' (referred to in this subsection as the ''Task Force'').

(2) MEMBERSHIP.—The Task Force shall consist of the following members (or, in the case of the head of a Federal agency, a designee at the level of Assistant Secretary or an equivalent level):

(A) The Secretary.

(B) The Secretary of the Interior.

(C) The Secretary of Commerce.

(D) The Administrator of the Environmental Protection Agency.

(E) The Secretary of Agriculture.

(F) The Secretary of Transportation.

(G) The Secretary of Energy.

(H) The Secretary of Homeland Security.

(I) 3 representatives of the State of Louisiana appointed by the Governor of that State.

(3) DUTIES.—The Task Force shall make recommendations to the Secretary regarding—

(A) policies, strategies, plans, programs, projects, and activities for addressing conservation, protection, restoration, and maintenance of the coastal Louisiana ecosystem;

(B) financial participation by each agency represented on the Task Force in conserving, protecting, restoring, and maintaining the coastal Louisiana ecosystem, including recommendations—

(i) that identify funds from current agency missions and budgets; and

(ii) for coordinating individual agency budget requests; and

(C) the comprehensive plan under subsection (d).

(4) WORKING GROUPS.—The Task Force may establish such working groups as the Task Force determines to be necessary to assist the Task Force in carrying out this subsection.

(5) APPLICATION OF THE FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Task Force or any working group of the Task Force.

(f) MISSISSIPPI RIVER GULF OUTLET.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall develop a plan for modifying the Mississippi River Gulf Outlet that addresses—

(A) wetland losses attributable to the Mississippi River Gulf Outlet;

(B) channel bank erosion;

(C) hurricane storm surges;

(D) saltwater intrusion;

(E) navigation interests; and

(F) environmental restoration.

(2) REPORT.—If the Secretary determines necessary, the Secretary, in conjunction with the Chief of Engineers, shall submit to Congress a report recommending modifications to the Mississippi River Gulf Outlet, including measures to prevent the intrusion of saltwater into the Outlet.

(g) SCIENCE AND TECHNOLOGY.—

(1) IN GENERAL.—The Secretary shall establish a coastal Louisiana ecosystem science and technology program.

(2) PURPOSES.—The purposes of the program established by paragraph (1) shall be—

(A) to identify any uncertainty relating to the physical, chemical, geological, biological, and cultural baseline conditions in coastal Louisiana;

(B) to improve knowledge of the physical, chemical, geological, biological, and cultural baseline conditions in coastal Louisiana; and

(C) to identify and develop technologies, models, and methods to carry out this subsection.

(3) WORKING GROUPS.—The Secretary may establish such working groups as the Secretary determines to be necessary to assist the Secretary in carrying out this subsection.

(4) CONTRACTS AND COOPERATIVE AGREEMENTS.—In carrying out this subsection, the Secretary may enter into a contract or cooperative agreement with an individual or entity (including a consortium of academic institutions in Louisiana and Mississippi) with scientific or engineering expertise in the restoration of aquatic and marine ecosystems for coastal restoration and enhancement through science and technology.

(h) ANALYSIS OF BENEFITS.—

(1) IN GENERAL.—Notwithstanding section 209 of the Flood Control Act of 1970 (42 U.S.C. 1962–2) or any other provision of law, in carrying out an activity to conserve, protect, restore, or maintain the coastal Louisiana ecosystem, the Secretary may determine that the environmental benefits provided by the program under this section outweigh the disadvantage of an activity under this section.

(2) DETERMINATION OF COST-EFFECTIVENESS.—If the Secretary determines that an activity under this section is cost-effective, no further economic justification for the activity shall be required.

(i) APPORTIONMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary, in consultation with the non-Federal interest, shall enter into a contract with the National Academy of Sciences under which the National Academy of Sciences shall conduct a study.

(2) IDENTIFICATION OF CAUSES AND SOURCES.—The study under paragraph (1) shall, to the maximum extent practicable, identify—

(A) each cause of degradation of the Louisiana Coastal Area ecosystem that is attributable to an action by the Secretary;

(B) an apportionment of the sources of such degradation;

(C) any potential reduction in the amount of Federal emergency response funds that would occur as a result of ecosystem restoration in the Louisiana Coastal Area; and

(D) the reduction in costs associated with protection and maintenance of infrastructure that is threatened or damaged as a result of coastal erosion in Louisiana that would occur as a result of ecosystem restoration in the Louisiana Coastal Area.

(j) REPORT.—Not later than July 1, 2006, the Secretary, in conjunction with the Chief of Engineers, shall submit to Congress a report describing the features included in table 3 of the report described in subsection (a).

(k) PROJECT MODIFICATIONS.—

(1) REVIEW.—The Secretary, in cooperation with any non-Federal interest, shall review each federally-authorized water resources project in the coastal Louisiana area in existence on the date of enactment of this Act to determine whether—

(A) each project is in accordance with the program under subsection (a); and

(B) the project could contribute to ecosystem restoration under subsection (a) through modification of the operations or features of the project.

(2) PUBLIC NOTICE AND COMMENT.—Before modifying an operation or feature of a project under paragraph (1)(B), the Secretary shall provide an opportunity for public notice and comment.

(3) REPORT.—

(A) IN GENERAL.—Before modifying an operation or feature of a project under paragraph (1)(B), the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report describing the modification.

(B) INCLUSION.—A report under paragraph (2)(B) shall include such information relating to the timeline and cost of a modification as the Secretary determines to be relevant.

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out modifications under this subsection $10,000,000.

Mr. SANTORUM. Mr. President, today I am introducing legislation to amend the Internal Revenue Code of 1986 to reduce the tax on beer to its pre-1991 level. In 1990, Congress raised taxes on luxury items like expensive cars, fur coats, jewelry, yachts and private airplanes and doubled the Federal excise tax on beer.

This was the single largest tax increase on beer in American history and resulted in some 60,000 people losing

their jobs in brewing, distributing, retailing and related industries. The tax burden on beer is higher than the average consumer good in the American economy, an astounding 44 percent of its retail price. As a result of this tax increase the Government collects approximately seven times more in beer taxes than the Nation's brewers make in profits.

The doubling of the beer excise tax in 1990 was regressive, and therefore unfair, because it hits lower income taxpayers the hardest. Most beer consumers have household incomes below $40,000. Regular beer drinkers—Americans raising a family—are the people most affected by the increase in the Federal excise tax on beer. Lowering the beer tax means more money in the pockets of these hard-working men and women.

The beer excise tax was first enacted as an emergency measure to help finance the Civil War. It is an anachronism in our tax code. Since its enactment, dozens of corporate and payroll taxes have been imposed on brewers just as they have on other businesses. Yet the beer excise tax remains. A rollback of just the 1990 beer tax increase would also help maintain good-paying American manufacturing jobs and will create new opportunities and a boost to the economy. The U.S. system of alcohol beverage control has been the maintenance of a domestic presence for the industry with independent supplier, wholesale and retail tiers. Brewers, wholesalers and retailers are heavily regulated and to the extent the U.S. maintains a strong domestic industry, the Federal, State and local agencies will continue to ensure accountability and responsible business practices.

The brewing industry has a major presence in many U.S. cities and provides a significant source of manufacturing jobs. The industry directly and indirectly accounts for close to 2.5 million jobs nationwide—a reduction of the beer tax would help brewers maintain or grow their workforce. Brewing, wholesaling and retail combined contribute over 41,000 jobs to the economy of my home State of Pennsylvania.

All of the other luxury taxes enacted in 1990 have been repealed. Yet the beer tax increase remains in place. It is time to roll back the Federal excise tax increase on beer and provide another measure of tax relief to America's working men and women. The Federal Government will still collect almost $3.7 billion in excise taxes and the industry will pay an additional $21 billion in Federal, State, and local taxes. This is a modest and reasonable measure of tax relief to a significant American industry.

By Ms. SNOWE (for herself, Mr. BOND, and Mr. BINGAMAN):

S. 723. A bill to amend the Internal Revenue Code of 1986 to allow small businesses to set up simple cafeteria plans to provide nontaxable employee benefits to their employees, to make changes in the requirements for cafeteria plans, flexible spending accounts, and benefits provided under such plans or accounts, and for other purposes; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise today to introduce the SIMPLE Cafeteria Plan Act of 2005'' to increase the access to quality, affordable health care for millions of small business owners and their employees. I am pleased that my good friend from Missouri, Senator BOND, as well as my good friend Senator BINGAMAN from New Mexico have agreed to co-sponsor this critical piece of legislation.

Regrettably, our Nation's healthcare system is in the midst of a crisis. Each year, more and more Americans are unable to purchase health insurance, and there are no signs that things are improving. As evidence, the United States Census Bureau estimates that nearly 47 million people did not have health insurance coverage for all of 2002. Sadly, this number rose from 41.2 million uninsured persons in 2001—a 14.6 percent increase.

As if these numbers on a national scale are not alarming enough, the results are even more troubling when we look specifically at the small business sector of our economy. Analysis conducted by the Employee Benefit Research Institute, a nonpartisan group dedicated to ensuring that all workers have access to affordable health care, suggests that the highest rates of uninsured occur among either self-employed workers or workers whose employer employees fewer than 25 persons. When compared to workers in firms that employ 1,000 or more employees, where just 12.6 percent of those workers do not have health insurance, it becomes clear that the majority of uninsured Americans work for small enterprises. Clearly, these numbers suggest that there is a direct correlation among those persons who do not have health insurance and the size of their employer.

The question, then, is why are our Nation's small businesses, which are our country's job creators and the true engine of our national economy, so disadvantaged when it comes to purchasing health insurance.

The main reason that small business owners are not able to offer their employees health insurance is because many small business owners are able to pay only a portion of their employees' health insurance premiums or, even worse, cannot afford to provide any health insurance or other employee benefits at all. As a result, many small business workers must acquire health insurance from the private sector rather than the work place—an unfair, and far more expensive alternative.

Clearly, we have a problem on our hands. While we can debate among ourselves why this crisis exists and how we ended up here, what is not open for debate is that we need to start identifying ways to fix the system because it is simply unconscionable to do nothing while more and more Americans find themselves without health care.

As you know, I re-introduced a bill earlier this year that will go a long ways towards improving the situation by creating Associated Health Plans for small businesses. In general, this bill would permit small businesses throughout the country to band together for purposes of obtaining an insurance quote from an insurance company. By pooling these businesses together, they would pay lower premiums because of the increased risk pool.

Again, this bill would increase the number of Americans that would be able to afford health insurance because their insurance premiums would be based on a more reasonable number. The bill I am introducing today builds upon this and goes a step further by putting more small business owners and their employees on a level playing field when compared to workers of a larger company.

Specifically, many large companies and even the Federal government enable their employees to purchase health insurance and other qualified benefits with taxfree dollars. Larger companies are able to do this by qualifying for certain employee benefit delivery mechanisms under the tax code.

One such delivery mechanism is a cafeteria plan. As the name suggests, cafeteria plans are programs whereby employers offer their employees the opportunity to purchase certain qualified benefits of their choosing. The key here is that the employer provides the opportunity for the employee to purchase the benefit, and the employee is then free to chose whether to participate and which benefits to buy. Under current law, qualified benefits include health insurance, dependent-care reimbursement, and life and disability insurance. Typically, employer contributions, employee contributions, or a combination of the two fund these plans.

Cafeteria plans offer valuable benefits to employees and are popular for many reasons. Specifically, they offer employees great flexibility in selecting their desired benefits while enabling them to disregard those benefits that do not fit their particular needs. Participating employees are also able to exclude any wages that they contribute to a cafeteria plan from their Federal taxable income, Social Security, and Medicare, which means they are using more valuable pre-tax dollars to buy these benefits. Moreover, the employees are usually purchasing these benefits at a lower cost because employers are oftentimes able to obtain a reduced price for the benefits through a group rate after they establish a cafeteria plan.

Cafeteria plans also provide employers with valuable benefits, most notably as a recruiting tool. It certainly stands to reason that if more small business owners are able to offer their employees the chance to enjoy a variety of employee benefits, these owners

then will be more likely to attract, recruit, and retain more talented workers, which will ultimately increase the firm's business output. Too often, we hear that small businesses loose skilled employees to larger companies simply because a big firm is able to offer a more attractive benefit package. Given that small businesses are responsible for a majority of the new jobs created in this country, we need to reverse that trend, and this bill will go a long way in rectifying this inequity.

Clearly, cafeteria plans play a critical role in our Nation's health care system and economy in general. The problem, though, is that in order for companies to qualify for the tax benefits that cafeteria plans provide, they must satisfy strict nondiscrimination rules under the tax code. These rules exist to ensure that the benefits offered to highly compensated employees are offered to non-highly compensated employees as well. The rules also strive to ensure that non-highly compensated employees in fact receive a substantial portion of the benefits provided under the plan.

Now I want to be clear when I say that these non-discrimination rules serve a legitimate purpose. Indeed, we need to be sure that employers are not able to game the tax system by implementing these cafeteria plans, and that the cafeteria plans that qualify for preferential tax treatment are used by a majority of the employees in the company.

However, what I find to be unacceptable is the way the tax code attempts to implement this policy under the existing rules. Currently, many small businesses simply cannot satisfy these mechanical rules because, through no fault of their own, they have relatively few employees and a high proportion of owners or highly compensated individuals. As such, were a small business to create a cafeteria plan and violate the non-discrimination rules, certain workers within the company would be subject to a penalty and would be required to include a substantial portion of their contributions in their taxable income.

Consequently, many small companies simply do not even bother to implement a cafeteria plan for fear that they will violate the non-discrimination rules. According to the Employer's Council on Flexible Compensation, while 38.36 million U.S. workers had access to cafeteria plans in 1999, only 19 percent of those workers were employees of small businesses.

To improve the current situation, the bill I am introducing today will allow and encourage more small businesses to offer employees the opportunity to purchase health insurance with tax-free dollars just as larger companies and the federal government do. My bill accomplishes this by creating a Simple Cafeteria Plan, which is modeled after the Savings Incentive Match Plan for Employees (SIMPLE) pension plan. As with the SIMPLE pension plan, a small business employer that is willing to make a minimum contribution for all employees or who is willing to match contributions will be permitted to waive the non-discrimination rules that currently prevent these owners from otherwise offering these benefits. This structure has worked extraordinarily well in the pension area with little risk of abuse, and I am confident that it will be just as successful when it comes to broad-based benefits offered through cafeteria plans.

Under the SIMPLE Cafeteria Plan, small companies will not have to struggle with satisfying the burdensome non-discrimination rules that often prevent them from offering valuable employee benefits to their workers. As a result, more small business employers will be able to provide their workers with the employee benefits that are often reserved for larger employers and that are otherwise unavailable because of the non-discrimination rules.

In addition my bill will expand the types of qualified benefits that will be able to be offered under ALL cafeteria plans—both those that qualify under existing law as well as the new SIMPLE cafeteria plans that will be created. Specifically, my bill modifies the rules governing benefits offered under cafeteria plans, such as flexible spending accounts and dependent-care assistance plans that many larger employers offer their employees. These modifications will increase the likelihood that employees of small businesses will utilize the available benefits and that will increase the benefits provided for all employees.

For example, current rules impose a ''use it or lose it'' requirement with respect to flexible spending arrangement contributions. This means that the employee forfeits any money he or she contributes to the account but does not use during the plan. My bill would change that rule and allow employees to carry over up to $500 remaining in their account to the next plan year. The bill would also permit employees to carry-over any unused funds to a retirement account such as a 401(k) plan.

In either case, any carried over contributions will reduce the amount that the employee otherwise would be able to contribute to the spending arrangement in the following year so that the carry-over option will not produce a greater dollar benefit for any employee. As a result, more employees are likely to participate in these spending arrangements because they will ultimately be able to use any funds that they contribute without any fear of forfeiting them simply because the funds were not used in the year of contribution.

Additionally, this legislation modifies rules that pertain to employer-provided, dependent-care assistance plans. First, it would increase the current $5,000 annual contribution limitation of these plans to $10,000 if the contributing employee claims two or more dependents on his or her tax return. This increase is significant because it will provide these taxpayers with an opportunity to care for not only their children but also an elderly family member who is a dependent of an employee—a scenario that will become increasingly more likely as the current baby-boomer generation continues to age.

Second, this bill would amend the current non-discrimination rules that dependent-care assistance plans must satisfy. As is often the case with the majority of small business owners who cannot, through any fault of their own, satisfy the non-discrimination rules for establishing a cafeteria plan, these rules often prevent the owner from offering this valuable benefit to their employees. To remedy this inequity, this bill would change the current mechanical thresholds such that more small businesses can provide dependent-care assistance plans to their employees but in a manner that does not encourage the type of abuse that the non-discrimination rules are intended to prevent.

Small businesses are the backbone of the American economy. According to the Small Business Administration, small businesses represent 99 percent of all employers, employ 51 percent of the private-sector workforce, and contribute 51 percent of the private-sector output. It is therefore critical that small businesses owners are able to offer their employees the benefits that cafeteria plans provide so that more of our nation's workers have the opportunity to purchase quality healthcare and provide security for their families.

The ''SIMPLE Cafeteria Plan Act of 2005'' achieves those objectives, and it does so in a manner that the employers and employees are able to afford. Although the use of pre-tax dollars to acquire these benefits reduces current federal revenues, the opportunity to provide small business employees these same benefits to workers and their families rather than relying on the public sector more than justifies this minimal investment. Therefore, I urge my colleagues to join me in supporting this important legislation as we work with you to enact this bill into law.

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. 723

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

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the ''SIMPLE Cafeteria Plan Act of 2005'' .

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act 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 Internal Revenue Code of 1986.

SEC. 2. ESTABLISHMENT OF SIMPLE CAFETERIA PLANS FOR SMALL BUSINESSES.

(a) IN GENERAL.—Section 125 (relating to cafeteria plans) is amended by redesignating

subsections (h) and (i) as subsections (i) and (j), respectively, and by inserting after subsection (g) the following new subsection:

''(h) SIMPLE CAFETERIA PLANS FOR SMALL BUSINESSES.—

''(1) IN GENERAL.—An eligible employer maintaining a simple cafeteria plan with respect to which the requirements of this subsection are met for any year shall be treated as meeting any applicable nondiscrimination requirement with respect to benefits provided under the plan during such year.

''(2) SIMPLE CAFETERIA PLAN.—For purposes of this subsection, the term 'simple cafeteria plan' means a cafeteria plan—

''(A) which is established and maintained by an eligible employer, and

''(B) with respect to which the contribution requirements of paragraph (3), and the eligibility and participation requirements of paragraph (4), are met.

''(3) CONTRIBUTIONS REQUIREMENTS.—

''(A) IN GENERAL.—The requirements of this paragraph are met if, under the plan—

''(i) the employer makes matching contributions on behalf of each employee who is eligible to participate in the plan and who is not a highly compensated or key employee in an amount equal to the elective plan contributions of the employee to the plan to the extent the employee's elective plan contributions do not exceed 3 percent of the employee's compensation, or

''(ii) the employer is required, without regard to whether an employee makes any elective plan contribution, to make a contribution to the plan on behalf of each employee who is not a highly compensated or key employee and who is eligible to participate in the plan in an amount equal to at least 2 percent of the employee's compensation.

''(B) MATCHING CONTRIBUTIONS ON BEHALF OF HIGHLY COMPENSATED AND KEY EMPLOYEES.—The requirements of subparagraph (A)(i) shall not be treated as met if, under the plan, the rate of matching contribution with respect to any elective plan contribution of a highly compensated or key employee at any rate of contribution is greater than that with respect to an employee who is not a highly compensated or key employee.

''(C) SPECIAL RULES.—

''(i) TIME FOR MAKING CONTRIBUTIONS.—An employer shall not be treated as failing to meet the requirements of this paragraph with respect to any elective plan contributions of any compensation, or employer contributions required under this paragraph with respect to any compensation, if such contributions are made no later than the 15th day of the month following the last day of the calendar quarter which includes the date of payment of the compensation.

''(ii) FORM OF CONTRIBUTIONS.—Employer contributions required under this paragraph may be made either to the plan to provide benefits offered under the plan or to any person as payment for providing benefits offered under the plan.

''(iii) ADDITIONAL CONTRIBUTIONS.—Subject to subparagraph (B), nothing in this paragraph shall be treated as prohibiting an employer from making contributions to the plan in addition to contributions required under subparagraph (A).

''(D) DEFINITIONS.—For purposes of this paragraph—

''(i) ELECTIVE PLAN CONTRIBUTION.—The term 'elective plan contribution' means any amount which is contributed at the election of the employee and which is not includible in gross income by reason of this section.

''(ii) HIGHLY COMPENSATED EMPLOYEE.—The term 'highly compensated employee' has the meaning given such term by section 414(q).

''(iii) KEY EMPLOYEE.—The term 'key employee' has the meaning given such term by section 416(i).

''(4) MINIMUM ELIGIBILITY AND PARTICIPATION REQUIREMENTS.—

''(A) IN GENERAL.—The requirements of this paragraph shall be treated as met with respect to any year if, under the plan—

''(i) all employees who had at least 1,000 hours of service for the preceding plan year are eligible to participate, and

''(ii) each employee eligible to participate in the plan may, subject to terms and conditions applicable to all participants, elect any benefit available under the plan.

''(B) CERTAIN EMPLOYEES MAY BE EXCLUDED.—For purposes of subparagraph (A)(i), an employer may elect to exclude under the plan employees—

''(i) who have less than 1 year of service with the employer as of any day during the plan year,

''(ii) who have not attained the age of 21 before the close of a plan year,

''(iii) who are covered under an agreement which the Secretary of Labor finds to be a collective bargaining agreement if there is evidence that the benefits covered under the cafeteria plan were the subject of good faith bargaining between employee representatives and the employer, or

''(iv) who are described in section 410(b)(3)(C) (relating to nonresident aliens working outside the United States).

A plan may provide a shorter period of service or younger age for purposes of clause (i) or (ii).

''(5) ELIGIBLE EMPLOYER.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'eligible employer' means, with respect to any year, any employer if such employer employed an average of 100 or fewer employees on business days during either of the 2 preceding years. For purposes of this subparagraph, a year may only be taken into account if the employer was in existence throughout the year.

''(B) EMPLOYERS NOT IN EXISTENCE DURING PRECEDING YEAR.—If an employer was not in existence throughout the preceding year, the determination under subparagraph (A) shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current year.

''(C) GROWING EMPLOYERS RETAIN TREATMENT AS SMALL EMPLOYER.—If—

''(i) an employer was an eligible employer for any year (a 'qualified year'), and

''(ii) such employer establishes a simple cafeteria plan for its employees for such year, then, notwithstanding the fact the employer fails to meet the requirements of subparagraph (A) for any subsequent year, such employer shall be treated as an eligible employer for such subsequent year with respect to employees (whether or not employees during a qualified year) of any trade or business which was covered by the plan during any qualified year. This subparagraph shall cease to apply if the employer employs an average of 200 more employees on business days during any year preceding any such subsequent year.

''(D) SPECIAL RULES.—The rules of section 220(c)(4)(D) shall apply for purposes of this paragraph.

''(6) APPLICABLE NONDISCRIMINATION REQUIREMENT.—For purposes of this subsection, the term 'applicable nondiscrimination requirement' means any requirement under subsection (b) of this section, section 79(d), section 105(h), or paragraph (2), (3), (4), or (8) of section 129(d).

''(7) COMPENSATION.—The term 'compensation' has the meaning given such term by section 414(s).''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 2004.

SEC. 3. MODIFICATIONS OF RULES APPLICABLE TO CAFETERIA PLANS.

(a) APPLICATION TO SELF-EMPLOYED INDIVIDUALS.—

(1) IN GENERAL.—Section 125(d) (defining cafeteria plan) is amended by adding at the end the following new paragraph:

''(3) EMPLOYEE TO INCLUDE SELF-EMPLOYED.—

''(A) IN GENERAL.—The term 'employee' includes an individual who is an employee within the meaning of section 401(c)(1) (relating to self-employed individuals).

''(B) LIMITATION.—The amount which may be excluded under subsection (a) with respect to a participant in a cafeteria plan by reason of being an employee under subparagraph (A) shall not exceed the employee's earned income (within the meaning of section 401(c)) derived from the trade or business with respect to which the cafeteria plan is established.''

(2) APPLICATION TO BENEFITS WHICH MAY BE PROVIDED UNDER CAFETERIA PLAN.—

(A) GROUP-TERM LIFE INSURANCE.—Section 79 (relating to group-term life insurance provided to employees) is amended by adding at the end the following new subsection:

''(f) EMPLOYEE INCLUDES SELF-EMPLOYED.—

''(1) IN GENERAL.—For purposes of this section, the term 'employee' includes an individual who is an employee within the meaning of section 401(c)(1) (relating to self-employed individuals).

''(2) LIMITATION.—The amount which may be excluded under the exceptions contained in subsection (a) or (b) with respect to an individual treated as an employee by reason of paragraph (1) shall not exceed the employee's earned income (within the meaning of section 401(c)) derived from the trade or business with respect to which the individual is so treated.''

(B) ACCIDENT AND HEALTH PLANS.—Section 105(g) is amended to read as follows:

''(g) EMPLOYEE INCLUDES SELF-EMPLOYED.—

''(1) IN GENERAL.—For purposes of this section, the term 'employee' includes an individual who is an employee within the meaning of section 401(c)(1) (relating to self-employed individuals).

''(2) LIMITATION.—The amount which may be excluded under this section by reason of subsection (b) or (c) with respect to an individual treated as an employee by reason of paragraph (1) shall not exceed the employee's earned income (within the meaning of section 401(c)) derived from the trade or business with respect to which the accident or health insurance was established.''

(C) CONTRIBUTIONS BY EMPLOYERS TO ACCIDENT AND HEALTH PLANS.—

(i) IN GENERAL.—Section 106, as amended by subsection (b), is amended by adding after subsection (b) the following new subsection:

''(c) EMPLOYER TO INCLUDE SELF-EMPLOYED.—

''(1) IN GENERAL.—For purposes of this section, the term 'employee' includes an individual who is an employee within the meaning of section 401(c)(1) (relating to self-employed individuals).

''(2) LIMITATION.—The amount which may be excluded under subsection (a) with respect to an individual treated as an employee by reason of paragraph (1) shall not exceed the employee's earned income (within the meaning of section 401(c)) derived from the trade or business with respect to which the accident or health insurance was established.''

(ii) CLARIFICATION OF LIMITATIONS ON OTHER COVERAGE.—The first sentence of section 162(l)(2)(B) is amended to read as follows:

''Paragraph (1) shall not apply to any taxpayer for any calendar month for which the taxpayer participates in any subsidized health plan maintained by any employer (other than an employer described in section 401(c)(4)) of the taxpayer or the spouse of the taxpayer.

(b) LONG-TERM CARE INSURANCE PERMITTED TO BE OFFERED UNDER CAFETERIA PLANS AND FLEXIBLE SPENDING ARRANGEMENTS.—

(1) CAFETERIA PLANS.—The last sentence of section 125(f) (defining qualified benefits) is amended to read as follows: ''Such term shall include the payment of premiums for any qualified long-term care insurance contract (as defined in section 7702B) to the extent the amount of such payment does not exceed the eligible long-term care premiums (as defined in section 213(d)(10)) for such contract''.

(2) FLEXIBLE SPENDING ARRANGEMENTS.—Section 106 (relating to contributions by employer to accident and health plans) is amended by striking subsection (c).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 4. MODIFICATION OF RULES APPLICABLE TO FLEXIBLE SPENDING ARRANGEMENTS.

(a) IN GENERAL.—Section 125, as amended by section 2, is amended by redesignating subsections (i) and (j) as subsections (j) and (k), respectively, and by inserting after subsection (h) the following new subsection:

''(i) SPECIAL RULES APPLICABLE TO FLEXIBLE SPENDING ARRANGEMENTS.—

''(1) IN GENERAL.—For purposes of this title, a plan or other arrangement shall not fail to be treated as a flexible spending or similar arrangement solely because under the plan or arrangement—

''(A) the amount of the reimbursement for covered expenses at any time may not exceed the balance in the participant's account for the covered expenses as of such time,

''(B) except as provided in paragraph (4)(A)(ii), a participant may elect at any time specified by the plan or arrangement to make or modify any election regarding the covered benefits, or the level of covered benefits, of the participant under the plan, and

''(C) a participant is permitted access to any unused balance in the participant's accounts under such plan or arrangement in the manner provided under paragraph (2) or (3).

''(2) CARRYOVERS AND ROLLOVERS OF UNUSED BENEFITS IN HEALTH AND DEPENDENT CARE ARRANGEMENTS.—

''(A) IN GENERAL.—A plan or arrangement may permit a participant in a health flexible spending arrangement or dependent care flexible spending arrangement to elect—

''(i) to carry forward any aggregate unused balances in the participant's accounts under such arrangement as of the close of any year to the succeeding year, or

''(ii) to have such balance transferred to a plan described in subparagraph (E).

Such carryforward or transfer shall be treated as having occurred within 30 days of the close of the year.

''(B) DOLLAR LIMIT ON CARRYFORWARDS.—

''(i) IN GENERAL.—The amount which a participant may elect to carry forward under subparagraph (A)(i) from any year shall not exceed $500. For purposes of this paragraph, all plans and arrangements maintained by an employer or any related person shall be treated as 1 plan.

''(ii) COST-OF-LIVING ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2005, the $500 amount under clause (i) shall be increased by an amount equal to—

''(I) $500, multiplied by

''(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting '2004' for '1992' in subparagraph (B) thereof.

If any dollar amount as increased under this clause is not a multiple of $100, such amount shall be rounded to the next lowest multiple of $100.

''(C) EXCLUSION FROM GROSS INCOME.—No amount shall be required to be included in gross income under this chapter by reason of any carryforward or transfer under this paragraph.

''(D) COORDINATION WITH LIMITS.—

''(i) CARRYFORWARDS.—The maximum amount which may be contributed to a health flexible spending arrangement or dependent care flexible spending arrangement for any year to which an unused amount is carried under this paragraph shall be reduced by such amount.

''(ii) ROLLOVERS.—Any amount transferred under subparagraph (A)(ii) shall be treated as an eligible rollover under section 219, 223(f)(5), 401(k), 403(b), or 457, whichever is applicable, except that—

''(I) the amount of the contributions which a participant may make to the plan under any such section for the taxable year including the transfer shall be reduced by the amount transferred, and

''(II) in the case of a transfer to a plan described in clause (ii) or (iii) of subparagraph (E), the transferred amounts shall be treated as elective deferrals for such taxable year.

''(E) PLANS.—A plan is described in this subparagraph if it is—

''(i) an individual retirement plan,

''(ii) a qualified cash or deferred arrangement described in section 401(k),

''(iii) a plan under which amounts are contributed by an individual's employer for an annuity contract described in section 403(b),

''(iv) an eligible deferred compensation plan described in section 457, or

''(v) a health savings account described in section 223.

''(3) DISTRIBUTION UPON TERMINATION.—

''(A) IN GENERAL.—A plan or arrangement may permit a participant (or any designated heir of the participant) to receive a cash payment equal to the aggregate unused account balances in the plan or arrangement as of the date the individual is separated (including by death or disability) from employment with the employer maintaining the plan or arrangement.

''(B) INCLUSION IN INCOME.—Any payment under subparagraph (A) shall be includible in gross income for the taxable year in which such payment is distributed to the employee.

''(4) TERMS RELATING TO FLEXIBLE SPENDING ARRANGEMENTS.—

''(A) FLEXIBLE SPENDING ARRANGEMENTS.—

''(i) IN GENERAL.—For purposes of this subsection, a flexible spending arrangement is a benefit program which provides employees with coverage under which specified incurred expenses may be reimbursed (subject to reimbursement maximums and other reasonable conditions).

''(ii) ELECTIONS REQUIRED.—A plan or arrangement shall not be treated as a flexible spending arrangement unless a participant may at least 4 times during any year make or modify any election regarding covered benefits or the level of covered benefits.

''(B) HEALTH AND DEPENDENT CARE ARRANGEMENTS.—The terms 'health flexible spending arrangement' and 'dependent care flexible spending arrangement' means any flexible spending arrangement (or portion thereof) which provides payments for expenses incurred for medical care (as defined in section 213(d)) or dependent care (within the meaning of section 129), respectively.''

(b) CONFORMING AMENDMENT.—

(1) The heading for section 125 is amended by inserting ''AND FLEXIBLE SPENDING ARRANGEMENTS'' after ''PLANS''.

(2) The item relating to section 125 in the table of sections for part III of subchapter B of chapter 1 is amended by inserting ''and flexible spending arrangements'' after ''plans''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 2004.

SEC. 5. RULES RELATING TO EMPLOYER-PROVIDED HEALTH AND DEPENDENT CARE BENEFITS.

(a) HEALTH BENEFITS.—Section 106, as amended by section 3, is amended by adding at the end the following new subsection:

''(e) LIMITATION ON CONTRIBUTIONS TO HEALTH FLEXIBLE SPENDING ARRANGEMENTS.—

''(1) IN GENERAL.—Gross income of an employee for any taxable year shall include employer-provided coverage provided through 1 or more health flexible spending arrangements (within the meaning of section 125(i)) to the extent that the amount otherwise excludable under subsection (a) with regard to such coverage exceeds the applicable dollar limit for the taxable year.

''(2) APPLICABLE DOLLAR LIMIT.—For purposes of this subsection—

''(A) IN GENERAL.—The applicable dollar limit for any taxable year is an amount equal to the sum of—

''(i) $7,500, plus

''(ii) if the arrangement provides coverage for 1 or more individuals in addition to the employee, an amount equal to one-third of the amount in effect under clause (i) (after adjustment under subparagraph (B)).

''(B) COST-OF-LIVING ADJUSTMENT.—In the case of taxable years beginning in any calendar year after 2005, the $7,500 amount under subparagraph (A) shall be increased by an amount equal to—

''(i) $7,500, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting '2004' for '1992' in subparagraph (B) thereof.

If any dollar amount as increased under this subparagraph is not a multiple of $100, such dollar amount shall be rounded to the next lowest multiple of $100.''

(b) DEPENDENT CARE.—

(1) EXCLUSION LIMIT.—

(A) IN GENERAL.—Section 129(a)(2) (relating to limitation on exclusion) is amended—

(i) by striking ''$5,000'' and inserting ''the applicable dollar limit'', and

(ii) by striking ''$2,500'' and inserting ''one-half of such limit''.

(B) APPLICABLE DOLLAR LIMIT.—Section 129(a) is amended by adding at the end the following new paragraph:

''(3) APPLICABLE DOLLAR LIMIT.—For purposes of this subsection—

''(A) IN GENERAL.—The applicable dollar limit is $5,000 ($10,000 if dependent care assistance is provided under the program to 2 or more qualifying individuals of the employee).

''(B) COST-OF-LIVING ADJUSTMENTS.—

''(i) $5,000 AMOUNT.—In the case of taxable years beginning after 2005, the $5,000 amount under subparagraph (A) shall be increased by an amount equal to—

''(I) $5,000, multiplied by

''(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting '2004' for '1992' in subparagraph (B) thereof.

If any dollar amount as increased under this clause is not a multiple of $100, such dollar amount shall be rounded to the next lowest multiple of $100.

''(ii) $10,000 AMOUNT.—The $10,000 amount under subparagraph (A) for taxable years beginning after 2005 shall be increased to an

amount equal to twice the amount the $5,000 amount is increased to under clause (i).''

(2) AVERAGE BENEFITS TEST.—

(A) IN GENERAL.—Section 129(d)(8)(A) (relating to benefits) is amended—

(i) by striking ''55 percent'' and inserting ''60 percent'', and

(ii) by striking ''highly compensated employees'' the second place it appears and inserting ''employees receiving benefits''.

(B) SALARY REDUCTION AGREEMENTS.—Section 129(d)(8)(B) (relating to salary reduction agreements) is amended—

(i) by striking ''$25,000'' and inserting ''$30,000'', and

(ii) by adding at the end the following: ''In the case of years beginning after 2005, the $30,000 amount in the first sentence shall be adjusted at the same time, and in the same manner, as the applicable dollar amount is adjusted under subsection (a)(3)(B).''

(3) PRINCIPAL SHAREHOLDERS OR OWNERS.—Section 129(d)(4) (relating to principal shareholders and owners) is amended by adding at the end the following: ''In the case of any failure to meet the requirements of this paragraph for any year, amounts shall only be required by reason of the failure to be included in gross income of the shareholders or owners who are members of the class described in the preceding sentence.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

By Mr. DODD (for himself, Mr. DURBIN, and Mr. SALAZAR):

S. 724. A bill to improve the No Child Left Behind Act of 2001, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, today I am pleased to introduce with Senators DURBIN and SALAZAR a very important piece of legislation, ''The No Child Left Behind Reform Act.'' This legislation makes three basic changes to the No Child Left Behind Act which was signed into law in January of 2002.

The No Child Left Behind Act received the support of this Senator and eighty-six of our colleagues. Like most, if not all, of our colleagues who supported this bill, I supported it because I care about improving the quality of education in America for all of our children. I believed that this law would help to achieve that goal by establishing more rigorous standards for measuring student achievement, by helping teachers do a better job of instructing students, and last but not least, by providing the resources desperately needed by our schools for even the most basic necessities to help put the reforms we passed into place.

Regrettably, the high hopes that I and many others had for this law have not been realized. The law is being implemented by the Administration in a manner that is inflexible, unreasonable and unhelpful to students. Furthermore, the law is not only failing to help teachers do their best in the classroom, it also reflects, along with other Administration policies and pronouncements, a neglect and even hostility towards members of the teaching profession.

Worse still, the Administration's promise of sufficient resources to implement No Child Left Behind's much needed reforms is a promise that has yet to be kept. Indeed, the current budget proposed by the Bush Administration underfunds No Child Left Behind by $12 billion. Since passage three years ago, the law has been funded at a level that is more than $39 billion below what was promised when the President signed the Act into law.

As a result of the failures of the current Administration to fulfill its commitment to our nation's school children under this law, those children and their teachers are today shouldering new and noteworthy hardships. Throughout the State of Connecticut, for example, students, teachers, administrators and parents are struggling to implement requirements that are often confusing, inflexible and unrealistic. And they are struggling to do so without the additional resources they were promised to put them into place. According to a recent report put together by the Connecticut State Department of Education, through 2008, it will cost the State of Connecticut $41.6 million over and above what the Federal Government is going to supply to meet the requirements of No Child Left Behind. Of that $41.6 million, $8 million will need to spent on testing alone. That is a significant amount of money—a significant amount of money that is going to fall on Connecticut taxpayers trying to simultaneously pay for their mortgage, basic health care and the rising cost of their children's tuition.

As I have said on numerous occasions in the past, resources without reforms are a waste of money. By the same token, reforms without resources are a false promise—a false promise that has left students and their teachers grappling with new burdens and little help to bear them.

The legislation I am introducing today proposes to make three changes to the No Child Left Behind Act. These changes will ease current burdens on our students, our teachers and our administrators without dismantling the fundamental underpinnings of the law.

First, the No Child Left Behind Reform Act will allow schools to be given credit for performing well on measures other than test scores when calculating student achievement. Test scores are an important measure of student knowledge. However, they are not the only measure. There are others. These include dropout rates, the number of students who participate in advanced placement courses, and individual student improvement over time. Unfortunately, current law does not allow schools to use these additional ways to gauge school success in a constructive manner. Additional measures can only be used to further indicate how a school is failing, not how a school is succeeding. This legislation will allow schools to earn credit for succeeding.

Second, the No Child Left Behind Reform Act will allow schools to target school choice and supplemental services to the students that actually demonstrate a need for them. As the current law is being implemented by the Administration, if a school is in need of improvement, it is expected to offer school choice and supplemental services to all students—even if not all students have demonstrated a need for them. That strikes me as a wasteful and imprecise way to help a school improve student performance. For that reason, this legislation will allow schools to target resources to the students that actually demonstrate that they need them. Clearly, this is the most efficient way to maximize their effect.

Finally, the No Child Left Behind Reform Act introduces a greater degree of reasonableness to the teacher certification process. As it is being implemented, the law requires teachers to be ''highly qualified'' to teach every subject that they teach. Certainly none of us disagree with this policy as a matter of principle. But as a matter of practice, it is causing confusion and hardship for teachers, particularly secondary teachers and teachers in small school districts. For example, as the law is being implemented by the Administration, a high school science teacher could be required to hold degrees in biology, physics and chemistry to be considered highly qualified. In small schools where there may be only one 7th or 8th grade teacher teaching all subjects, these teachers could similarly be required to hold degrees in every subject area.

Such requirements are unreasonable at a time when excellent teachers are increasingly hard to find. The legislation I introduce today will allow states to create a single assessment to cover multiple subjects for middle grade level teachers and allow states to issue a broad certification for science and social studies.

In my view, the changes I propose will provide significant assistance to schools struggling to comply with the No Child Left Behind law all across America. As time marches on and more deadlines set by this law approach—including additional testing, a highly qualified teacher in every classroom and 100% proficiency for all students—we have a responsibility to reassess the law and do what we can to make sure that it is implemented in a reasonable manner. In doing so, we must also preserve the basic tenets of the law—providing a world class education for all American students and closing the achievement gap across demographic and socioeconomic lines. Again, no child should left behind—no special education student, no English language learning student, no minority student and no low-income student. I stand by this commitment.

Obviously, funding this law is beyond the scope of this bill. I would note, however, that efforts to increase education funding to authorized levels have thus far been unsuccessful. Despite this, I remain committed to work to change this outcome as well. Clearly, our children deserve the resources

needed to make their dreams for a better education a reality.

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. 724

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 ''No Child Left Behind Reform Act''.

SEC. 2. ADEQUATE YEARLY PROGRESS.

(a) DEFINITION OF ADEQUATE YEARLY PROGRESS.—Section 1111(b)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)) is amended—

(1) in subparagraph (C)(vii)—

(A) by striking ''such as'';

(B) by inserting ''such as measures of individual or cohort growth over time based on the academic assessments implemented in accordance with paragraph (3),'' after ''described in clause (v),''; and

(C) by striking ''attendance rates,''; and

(2) in subparagraph (D)—

(A) by striking clause (ii);

(B) by striking ''the State'' and all that follows through ''ensure'' and inserting ''the State shall ensure''; and

(C) by striking ''; and'' and inserting a period.

(b) ACADEMIC ASSESSMENT AND LOCAL EDUCATIONAL AGENCY AND SCHOOL IMPROVEMENT.—Section 1116(a)(1)(B) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(a)(1)(B)) is amended by striking '', except that'' and all that follows through ''action or restructuring''.

SEC. 3. GRANTS FOR INCREASING DATA CAPACITY FOR PURPOSES OF AYP.

Subpart 1 of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) is amended by adding at the end the following:

''SEC. 1120C. GRANTS FOR INCREASING DATA CAPACITY FOR PURPOSES OF AYP.

''(a) GRANT AUTHORITY.—The Secretary may award grants, on a competitive basis, to State educational agencies to enable the State educational agencies—

''(1) to develop or increase the capacity of data systems for accountability purposes; and

''(2) to award subgrants to increase the capacity of local educational agencies to upgrade, create, or manage information databases for the purpose of measuring adequate yearly progress.

''(b) PRIORITY.—In awarding grants under this section the Secretary shall give priority to State educational agencies that have created, or are in the process of creating, a growth model or proficiency index as part of their adequate yearly progress determination.

''(c) STATE USE OF FUNDS.—Each State that receives a grant under this section shall use—

''(1) not more than 20 percent of the grant funds for the purpose of increasing the capacity of, or creating, State databases to collect information related to adequate yearly progress; and

''(2) not less than 80 percent of the grant funds to award subgrants to local educational agencies within the State to enable the local educational agencies to carry out the authorized activities described in subsection (d).

''(d) AUTHORIZED ACTIVITIES.—Each local educational agency that receives a subgrant under this section shall use the subgrant funds to increase the capacity of the local educational agency to upgrade databases or create unique student identifiers for the purpose of measuring adequate yearly progress, by—

''(1) purchasing database software or hardware;

''(2) hiring additional staff for the purpose of managing such data;

''(3) providing professional development or additional training for such staff; and

''(4) providing professional development or training for principals and teachers on how to effectively use such data to implement instructional strategies to improve student achievement.

''(e) STATE APPLICATION.—Each State educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(f) LEA APPLICATION.—Each local educational agency desiring a subgrant under this section shall submit an application to the State educational agency at such time, in such manner, and containing such information as the State educational agency may require. Each such application shall include, at a minimum, a demonstration of the local educational agency's ability to put such a database in place.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this part $80,000,000 for each of fiscal years 2006, 2007, and 2008.''

SEC. 4. TARGETING TRANSFER OPTIONS AND SUPPLEMENTAL SERVICES.

(a) TARGETING TRANSFER OPTIONS AND SUPPLEMENTAL SERVICES.—Section 1116 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316) is amended—

(1) in paragraphs (1)(E)(i), (5)(A), (7)(C)(i), and (8)(A)(i) of subsection (b), by striking the term ''all students enrolled in the school'' each place such term appears and inserting ''all students enrolled in the school, who are members of a group described in section 1111(b)(2)(C)(v) that fails to make adequate yearly progress as defined in the State's plan under section 1111(b)(2),'';

(2) in subsection (b)(1), by adding at the end the following:

''(G) MAINTENANCE OF LEAST RESTRICTIVE ENVIRONMENT.—A student who is eligible to receive services under the Individuals with Disabilities Education Act and who uses the option to transfer under subparagraph (E), paragraph (5)(A), (7)(C)(i), or (8)(A)(i), or subsection (c)(10)(C)(vii), shall be placed and served in the least restrictive environment appropriate, in accordance with the Individuals with Disabilities Education Act.'';

(3) in clause (vii) of subsection (c)(10)(C), by inserting '', who are members of a group described in section 1111(b)(2)(C)(v) that fails to make adequate yearly progress as defined in the State's plan under section 1111(b)(2),'' after ''Authorizing students''; and

(4) in subparagraph (A) of subsection (e)(12), by inserting '', who is a member of a group described in section 1111(b)(2)(C)(v) that fails to make adequate yearly progress as defined in the State's plan under section 1111(b)(2)'' after ''under section 1113(c)(1)''.

(b) STUDENT ALREADY TRANSFERRED.—A student who transfers to another public school pursuant to section 1116(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(b)) before the effective date of this section and the amendments made by this section, may continue enrollment in such public school after the effective date of this section and the amendments made by this section.

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall be effective for each fiscal year for which the amount appropriated to carry out title I of the Elementary and Secondary Education Act of 1965 for the fiscal year, is less than the amount authorized to be appropriated to carry out such title for the fiscal year.

SEC. 5. DEFINITION OF HIGHLY QUALIFIED TEACHERS.

Section 9101(23)(B)(ii) of the Elementary and Secondary Act of 1965 (20 U.S.C. 7801(23)(B)(ii)) is amended—

(1) in subclause (I), by striking ''or'' after the semicolon;

(2) in subclause (II), by striking ''and'' after the semicolon; and

(3) by adding at the end the following:

''(III) in the case of a middle school teacher, passing a State approved middle school generalist exam when the teacher receives the teacher's license to teach middle school in the State;

''(IV) obtaining a State social studies certificate that qualifies the teacher to teach history, geography, economics, and civics in middle or secondary schools, respectively, in the State; or

''(V) obtaining a State science certificate that qualifies the teacher to teach earth science, biology, chemistry, and physics in middle or secondary schools, respectively, in the State; and''.

By Mr. DODD (for himself, Ms. SNOWE, Mr. KENNEDY, Ms. COLLINS, Mrs. MURRAY, Mr. DURBIN, Mrs. CLINTON, Mr. INOUYE, Mr. LEVIN, Mr. LAUTENBERG, and Mr. JOHNSON):

S. 725. A bill a improve the Child Care Access Means Parents in School Program; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. PresIdent, I am pleased to rise today with Senators SNOWE, KENNEDY, COLLINS, MURRAY, DURBIN, CLINTON, INOUYE, LEVIN, LAUTENBERG and JOHNSON to introduce legislation which would supply greatly needed support to college students struggling to balance their roles as parents with their roles as students. The Child Care Access Means Parents in School Act (CCAMPIS) would increase access to, support for, and retention of low-income, nontraditional students who are struggling to complete college degrees while caring for their children.

The typical college student is no longer an 18-year-old recent high school graduate. According to a 2002 study by the National Center for Education Statistics, only 27 percent of undergraduates meet the ''traditional'' undergraduate criteria of earning a high school diploma, enrolling full-time, depending on parents for financial support and not working or working part-time. This means that 73 percent of today's students are considered non-traditional in some way. Clearly, non-traditional students—older students, students with children and students with various job and life experiences—are filling the ranks of college classes. Why? Because they recognize the importance of college to future success. It is currently estimated that a full-time worker with a bachelor's degree earns about 60 percent more than a full-time worker with only a high school diploma. This amounts to a lifetime gap in earnings of more than $1 million.

Today's non-traditional students face barriers unheard of by traditional college students of earlier years. Many are parents and must provide for their children while in school. Access to affordable, quality and convenient child care is a necessity for these students. But obtaining the child care that they need is often difficult because of their limited income and non-traditional schedules, compounded by declining assistance for child care through other supports. Campus-based child care can fill the gap. It is conveniently located, available during the right hours, and of high quality and lower cost. Unfortunately, it is unavailable at many campuses. Even when programs do exist, they are often available to only a fraction of the eligible students. That is where the Dodd-Snowe CCAMPIS Act comes in.

The Dodd-Snowe CCAMPIS Act increases and expands the availability of campus-based child care in three ways. First, it raises the minimum grant amount from $10,000 to $30,000. For most institutions of higher education, $10,000 has proven too small relative to the cost and effort required to complete a federal application.

Second, the Dodd-Snowe CCAMPIS Act ensures that a wider range of students are able to access services. Present language defines low-income students as students eligible to receive a Federal Pell Grant. This language excludes graduate students, international students, and students who may be low-income but make slightly more than is allowed to qualify for Pell grants. CCAMPIS will open eligibility for these additional populations.

Third, the CCAMPIS Act raises the program's current authorization level from $45 million to $75 million so that we not only expand existing programs, but create new ones as well.

Research demonstrates that campus-based child care is of high quality and that it increases the educational success of both parents and students. Furthermore, recipients of campus-based child care assistance who are on public assistance are more likely to never return to welfare and to obtain jobs paying good wages.

Currently, there are approximately 1,850 campus-based child care programs but over 6,000 colleges and universities eligible to participate in the CCAMPIS program. Currently, CCAMPIS funds only 427 programs in states and the District of Columbia. Meanwhile, the number of non-traditional students across America is increasing. As these numbers increase, the need for campus-based child care will increase as well.

Just last week in Connecticut, I went to Eastern Connecticut State University where I met a number of students who would benefit from this legislation. One woman is attending part-time as an accounting major. She works as a restaurant supervisor and just gave birth to her first child. She is balancing work, family and school. Another woman is a junior social work major with two children. Having already received an associate's degree, she is now working towards a bachelor's degree to increase her competitiveness in the job market. A third woman is pursuing her second degree in physical and health education. A stay-at-home mom prior to re-enrolling, she has three children at home. These are the students that need our assistance—hard working parents trying to improve their lot in life for the good of their children.

This is a modest measure that will make a major difference to students. It will offer them new hope for starting and staying in school. I am hopeful that it can be considered and enacted as part of the Higher Education Act. I look forward to working with my colleagues to move this important measure forward.

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. 725

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

SECTION 1. CHILD CARE ACCESS MEANS PARENTS IN SCHOOL PROGRAM.

(a) MINIMUM GRANT.—Section 419N(b)(2)(B) of the Higher Education Act of 1965 (20 U.S.C. 1070e(b)(2)(B)) is amended by striking ''$10,000'' and inserting ''$30,000''.

(b) DEFINITION OF LOW-INCOME STUDENT.—Section 419N(b)(7) of such Act is amended to read as follows:

''(7) DEFINITION OF LOW-INCOME STUDENT.—For the purpose of this section, the term 'low-income student' means a student who—

''(A) is eligible to receive a Federal Pell Grant for the fiscal year for which the determination is made; or

''(B) would otherwise be eligible to receive a Federal Pell Grant for the fiscal year for which the determination is made, except that the student fails to meet the requirements of—

''(i) section 401(c)(1) because the student is enrolled in a graduate or first professional course of study; or

''(ii) section 484(a)(5) because the student is in the United States for a temporary purpose.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 419N(g) of such Act is amended by striking ''$45,000,000 for fiscal year 1999'' and inserting ''$75,000,000 for fiscal year 2006''.

By Mr. ALEXANDER (for himself and Mr. JOHNSON):

S. 726. A bill to promote the conservation and production of natural gas; to the Committee on Energy and Natural Resources.

By Mr. ALEXANDER (for himself and Mr. JOHNSON):

S. 727. A bill to provide tax incentives to promote the conservation and production of natural gas; to the Committee on Finance.

Mr. ALEXANDER. Mr. President, today I am introducing the Natural Gas Price Reduction Act of 2005 and the ''Tax Provisions for Natural Gas Price Reduction Act of 2005.'' I send to the desk two pieces of legislation. One is the substantive provisions of the bill and one is the tax provisions of the bill.

Mr. President, I offer the legislation on behalf of myself and the Senator from South Dakota, Mr. JOHNSON, who is the lead Democratic sponsor on the legislation. I do so with appreciation to the chairman of our Energy and Natural Resources Committee, Chairman PETE DOMENICI, and the staff of that committee who have worked very closely with us on the development of this comprehensive piece of legislation, and with thanks to my own staff, Sharon Segner, who has worked on it for several months.

This is a piece of legislation to address aggressively and comprehensively the rising cost of natural gas in the United States. This is legislation for the blue-collar worker, for the American farmer, and for the American homeowner.

Natural gas prices in the United States are at record levels. We have gone from having the lowest natural gas prices in the industrial world to the highest. These high prices are threatening millions of our jobs. Our farmers are getting a 10-percent pay cut. Homeowners are having a hard time paying their heating and cooling bills because of our contradictory policies.

Our policies boil down to this: We are restricting the supply of natural gas, and we are encouraging the use of natural gas. You do not have to go very far in an economics class at the University of Oklahoma or the University of Tennessee to know that if you restrict supply and encourage demand, the inevitable result is higher prices. And higher prices is a very serious problem for U.S. workers, U.S. homeowners, and U.S. farmers.

Only an ambitious and comprehensive approach that both increases supply and controls demand can lower the price of natural gas and keep our economy growing. This is not a question of tweaking our natural gas policy. It is time, aggressively, to revamp it. We need aggressive conservation. We need aggressive use of alternative fuels. We need aggressive research and development. We need aggressive production. And, for the time being, we need aggressive importation of liquefied natural gas from other parts of the world.

Here on this chart is an idea of where we are today. This is the United States of America: $7 per unit for natural gas—the highest in the industrialized world. Until recently, we had the lowest natural gas prices in the world.

What that means is large parts of our industries—the chemical industry, for example—were built on the idea of $1.50 or $2 for natural gas, but today it is $7.

A million Americans work in those blue-collar manufacturing jobs in every State in our country. Now, if they are paying $7 here, and it is $5.55 in Canada and $5.15 in the United Kingdom and $2.65 in Turkey and $1.70 in the Ukraine, where do you suppose,

though, a million blue-collar jobs are going to be 5 years from now, if we do not do something about the $7 price? They are not going to be in the United States. They are going to be moving out of the United States, to the United Kingdom, to Germany, to the Ukraine, to other parts of the world. And people are going to be writing their Congressmen and saying: Why didn't you do something?

So here is what we can do. By aggressive conservation, I mean setting stronger appliance and equipment standards for natural gas efficiency so that a commercial air conditioner will cool the same while using less natural gas doing it. Those standards have been generally agreed upon by environmental groups with the industry. If they were put in place, by a rough estimate, they might save the equivalent energy that could be produced by 30 or 35 powerplants.

By aggressive use of alternative fuels, I mean, for example, fully commercializing coal gasification. Coal gasification is taking this abundant supply of coal we have in the United States—we are the ''OPEC,'' the ''Saudi Arabia'' of coal; we have a 400- or 500-year supply—and finding a clean way to use it instead of importing oil from a part of the world where people are blowing each other up.

That means starting with support so we can have six coal gasification plants in this country by the year 2013. Coal gasification means, you burn the coal to create gas, and then you burn the gas to create power. If we can do that commercially, we will not only be passing a clean energy bill, we will be passing a clean air bill, because if you do that, you remove most of the mercury, most of the nitrogen, most of the sulfur. And by additional research, we may be able to find a way to recapture the carbon that is produced and put that in the ground and solve the carbon problems that a lot of people are talking about around the world.

In addition to helping ourselves, we would help ourselves by helping others. China and India and other parts of the world are building hundreds of coal plants. We would much rather them build a coal gasification plant, one that is clean and does not contribute to air pollution. Because if China and India and Brazil build dirty coal plants, that air blows around the world, and it blows into Tennessee and it blows into South Carolina. It blows into Oklahoma.

So aggressive alternative fuels is a part of a natural gas supply. Aggressive research and development includes investment and research in gas hydrates. Gas hydrates is gas that is in the ground. Methane hydrates hold tremendous potential to provide abundant supplies of natural gas. Hydrates are like ice solid structures, consisting of water and gases, mainly methane, compressed to greater than normal densities.

Coastal U.S. areas are rich in this resource. The United States is estimated to contain one-fourth of the world's supply. We need to find a way to use that gas so we do not have $7 per unit natural gas prices. That sends millions of jobs overseas. That cuts the income of farmers. And that raises home heating prices and cooling prices for residential Americans.

Aggressive production means, among other things, allowing States to selectively waive the Federal moratoria on offshore production of gas and collect significant revenues from such production. Let me give you an example. Within the last few weeks, the legislature of Virginia decided it might like to explore the idea of drilling for gas offshore. Now, why would Virginia want to do that? Because there is probably a lot of gas offshore. What would that mean for Virginia? Well, they could put a gas rig out in the ocean, beyond 20 miles, so nobody in Virginia or North Carolina could see it, run a pipeline underground to Virginia, and take their share of the revenues. And they can lower taxes in Virginia and put the rest of the money in a trust fund to build the best colleges and universities in America. That is what they could do in Virginia.

If Tennessee had a coastline, and I were Governor of Tennessee, that is what I would be asking the Congress to let me do.

I think as other Governors and other legislatures and other people look at Texas and Louisiana and Alabama and see what they are doing and decide that they can in an environmentally sensitive way exercise a State option to drill for gas in Federal waters so far out you can't see it, that they will find that a good option because it will help lower the price of gas. It can build up the schools and keep taxes down, and it can avoid other worse forms of energy.

For example, you would have to have 46 square miles of windmills, these things that are 100 yards tall, in order to equal one gas rig that you couldn't see out in the ocean. This is a State option. Aggressive importation of liquefied natural gas starts with giving the Federal Energy Regulatory Commission exclusive authority for siting and regulating what we call LNG terminals. This means importing liquefied natural gas from other parts of the world. There is a lot of it around the world. They freeze it and put it in tankers, and they bring it here and put it in our pipelines, and then we have it.

That seems like a pretty big waste of effort when we have plenty of natural gas here in the United States that we don't have access to. But if we want an adequate supply of natural gas, we are going to have to import some from around the world, and that means we are going to need terminals to which to bring it. Some of them may be offshore. They might be 10, 12, 14 miles offshore. Some of them, like the four we have today, may need to be onshore. There is no silver bullet. There is no single answer. That is why we need aggressive conservation. If, for example, the United States adopted the conservation attitudes towards natural gas that California did a few years ago, it might equal what 50 powerplants could produce in the United States. If that is so, we ought to do it today. That would begin to bring this $7 figure down.

Aggressive use of alternative fuels such as coal gasification. I also would say nuclear power is the most obvious alternative fuel to natural gas. If we had more nuclear power, we would use less natural gas. In our country today, what do you suppose we are using to create electricity when we need more electricity even though the cost of it is $7 a unit, the highest in the world? Natural gas, because natural gas plants can be built for a few hundred million dollars, and we have created an environment where we can't use nuclear.

We haven't built a new nuclear plant since the 1970s, even though we invented the technology, even though France has 80 percent of its power now produced by nuclear power, even though Japan builds a new nuclear plant every year or so. We invented it. Our Navy has operated nuclear reactors since the 1950s without ever having a single accident. It is a clean, obvious alternative to $7 natural gas, and we haven't built a plant since the 1970s. So we need to think seriously about aggressive conservation, aggressive use of alternative fuels, aggressive research and development for solar, for methane hydrates, aggressive production, and that includes giving States the option of deciding whether they would like to drill offshore and take some of the revenues and put some of the revenues into a conservation fund, and aggressive importation of liquefied natural gas from overseas at least for the time being.

In March of 2002, the Secretary of Energy requested that the National Petroleum Council undertake an extensive study on the natural gas crisis. That advisory council produced a study. It talked about the results I have described. Our Senate Energy Committee, under the chairman, Senator DOMENICI, has paid a lot of attention to that report. Senator DOMENICI hosted what we called a natural gas roundtable that was well attended by Senators and went on for 3 or 4 hours. There were more than 100 proposals presented.

I am chairman of the subcommittee of that full committee, and so my purpose today is to take many of the ideas that we heard that made the most sense, some of which people haven't been willing to advocate, and put them into the discussion. Again, because I do not want to be a Senator who 10 years from now somebody comes up to and says: How did you let farmers get a 20–percent pay cut because of $7, $8, $9 natural gas; how did you let millions of jobs in the chemical industry, the auto industry go overseas because of $7, $8, and $9 natural gas; how did you let prices of natural gas for home heating

or cooling get so high that middle-income Americans can't even afford to heat their homes? I don't want to be that kind of Senator. So I am here today with a comprehensive proposal across the board even though some of the ideas will create that kind of controversy.

I have summarized in a few words the provisions of a 250-page piece of legislation.

We were ambushed in the United States on September 11, 2001. Even though you could argue that we might have known it was coming, terrorism wasn't new on September 11, 2001.

I remember being in a meeting with Prime Minister Rabin of Israel in 1994. At the end of a long day, I asked him: What is the greatest challenge threatening the world? And he said terrorism. That was many years before we were attacked. He was right. He was dead within a few months at the hands of terrorists within his own country. We didn't see the terrorism coming. We were ambushed, and we have paid a terrible price—in lives, in dollars. We have had to create whole new departments. We have had to interrupt the lives of thousand of national guardsmen and Army reservists and send them overseas, some to die and some to be wounded, because of terrorism. Maybe we couldn't have seen exactly that act coming, but we knew it was out there.

We are about to have another big surprise. That is to our standard of living. We are 5 to 6 percent of all the people in the world. Yet we produce a third of all the money in the world. We could wake up 10 years from now and that picture could be very changed. One way is if we lose our brainpower advantage. And we could lose it. Half of our new jobs have been created by science and technology since the end of World War II. And if we go through our budget balancing, deficit controlling exercise for the next 10 years and we don't double investments for the physical sciences and retake the lead in advanced computing, and if we don't see that we have plenty of graduate students in science and engineering, we are going to find most of the R&D will be done in other parts of the world. We are going to find most of the engineers who produce this brainpower that creates jobs in other parts of the world.

They are thinking in China, and they are thinking in India. There is no real good reason why the United States should make a third of all the money in the world every year with just 5 or 6 percent of the people, and we have so little. So they are keeping their bright people home. They are building up their universities. They are doing what we need to keep doing. That is one place we could get a big surprise.

But the other is in energy. We have taken energy for granted for a long time. I know I come from Tennessee. We have had the Tennessee Valley Authority. It has sat there since the 1930s, and it has produced reliable, low-cost electricity. Homes that have never been lit, barns that have never been lit, rural areas that have never been lit have enjoyed that. That is within my lifetime.

And then while I was Governor in the 1990s, I remember that one of the big attractions for Saturn and Nissan and the automobile industry coming into Tennessee was low-cost reliable power. But when I had a natural gas roundtable last fall in Tennessee, there was the president of Saturn, the president of Nissan, the head of the Tennessee Farm Bureau. There was the head of the University of Tennessee. They were all saying: We can't live in Tennessee on $7 natural gas. What do they do if they can't? It is very easy what they do. They don't have to have those jobs in Tennessee or South Carolina. They can move them to Germany, they can move them to Mexico, they can move them to Canada, and they are doing it every day.

And Tennessee Eastman in the upper part of east Tennessee, which we think is just like the great Smokey Mountains, has been there so long. There are 12,000 people there, real good incomes. What do they use to make chemicals there? They use natural gas.

How long are they going to be there? If we have $7 gas and they have $3 and $4 gas in other parts of the world, I am afraid they are not going to be there too long. And somebody is going to say to me: What did you do about it? At least my answer is I stood up on the floor of the Senate and said this is not the time to tweak our natural gas policy.

We do not need to sit around and wait for a big surprise on energy like we had a big surprise on September 11 on terrorism. We need an aggressive policy. We need a comprehensive policy. We need aggressive conservation. That is where we should start. We need aggressive alternative fuels. That means nuclear and that means coal gasification. We need aggressive research and development, whether it is hydrogen or whether it is solar, or whether it is methane gas hydrates. We need aggressive production. We have lots of gas in the United States. We should be using it if we have $7 gas.

For the time being, we need to create the terminals that will permit us to import enough liquefied natural gas to get that $7 price down to $6 or $5 or $4.

Mr. President, I thank Senator JOHNSON from South Dakota for joining me in this comprehensive aggressive approach. I thank Senator DOMENICI for taking the lead on an energy bill. I thank Senator BINGAMAN, who is the ranking Democrat on our committee, because I notice on our committee a greater sense of urgency, a greater sense of bipartisan cooperation on coming up with an energy bill this year. Our blue-collar workers, our farmers, our homeowners in Tennessee and across this country expect it from us.

Senator JOHNSON's and my contribution today is to introduce this comprehensive 250-page bill and to get on the table all the aggressive ideas we can think of that make sense about how to reduce the price of natural gas for workers, for farmers, and for homeowners. We hope it contributes to the discussion. We hope we find lots of these provisions in an ambitious energy bill.

I look forward to working with my colleagues, as I know Senator JOHNSON does, on a bipartisan basis to help lower the price of natural gas, keep our jobs, keep our homes cool and warm, and make it possible for farmers to make a living.

Natural gas prices are at record levels and the highest of any industrialized country. High natural gas prices are threatening our jobs, our farms, and hurting Americans who are trying to heat and cool their homes. Only an ambitious, comprehensive approach that both increases supply and controls demand can lower the price of natural gas and keep our growing economic recovery from becoming recent history.

This is not a question of tweaking our natural gas policy. It is time to aggressively revamp it. We need aggressive conservation, aggressive use of alternative fuels, aggressive research and development, aggressive production and for the time being, aggressive imports of liquefied natural gas.

Aggressive conservation, for example, means setting stronger appliance and equipment standards for natural gas efficiency so that a commercial air conditioner will cool the same while using less natural gas to do it.

Aggressive use of alternative fuels, for example, means fully commercializing coal gasification, starting with support for the deployment of six coal gasification plants by 2013. Coal gasification means that you burn coal to produce power but get the much lower pollution output of using natural gas.

Aggressive research and development includes investment in research of gas hydrates. Methane hydrates hold tremendous potential to provide abundant supplies of natural gas. Hydrates are ice-like solid structures consisting of water and gases, mainly methane, compressed to greater than normal densities. Coastal U.S. areas are rich in this resource. The U.S. is estimated to contain one-fourth of the world's supply.

Aggressive production means, among other changes, allowing states to selectively waive the federal moratoria on off-shore production and collect significant revenues from such production.

And aggressive importation of liquefied natural gas starts with giving the Federal Energy Regulatory Commission exclusive authority for siting and regulating LNG terminals, while still preserving states' authorities under the Coastal Zone Management Act and other acts.

In March 2002, Secretary of Energy Abraham requested that the National Petroleum Council undertake an extensive study on the natural gas crisis.

That council, a Federal advisory committee to the Secretary of Energy, produced in late 2003 one of the most extensive policy studies and recommendations on the natural gas crisis to date. Since that time, other prominent groups, such as the National Commission on Energy Policy, have also produced extensive studies on the natural gas crisis. In October 2004, I held a roundtable on the impact of soaring natural gas prices on Tennessee farmers and jobs. The Senate Energy Committee has held numerous hearings over the last 2 years and recently held an extensive natural gas roundtable on the subject on January 24, 2005. Over 100 proposals were submitted to the Senate Energy Committee on natural gas issues.

The conclusion of all of these forums has been clear.

High natural gas prices are threatening our country's economic competitiveness and costing us jobs. For example, high natural gas prices have been the equivalent of a 10 percent pay cut to American farmers.

The situation is urgent.

There are no silver bullets. We cannot conserve our way out of this problem, nor can we drill our way out of this problem. We will need to be aggressive on all fronts, in order to keep our industries competitive.

High natural gas costs are also tied to high oil prices. We need to address both natural gas and oil prices in order to lower natural gas costs.

Our country has contradictory policies on natural gas—on one hand, we encourage its use. On the other hand, we limit access to its supply. We need to amend our contradictory natural gas and environmental policies.

That's why I am introducing the ''Natural Gas Price Reduction Act.'' It is an aggressive, bold approach to tackle this issue. This 250-page legislation is an attempt to start a very difficult, but balanced, legislative discussion in the United States Senate on natural gas prices. I have taken the best ideas that I have heard in these roundtable discussions and from the various policy studies. I have met with hundreds of people in the past year discussing natural gas prices. This legislation is an attempt to be more aggressive on all areas impacting natural gas prices—energy efficiency and fuel diversity, natural gas supply, and improved infrastructure for importation of liquefied natural gas.

Half our Nation's increase in natural gas demand in the last decade has come from the power sector. So to conserve natural gas, one must not only reduce consumption of gas itself, but also of electricity. And, as I noted, since oil prices affect natural gas prices, conserving oil is also important. My bill addresses conservation in five ways.

The bill creates a 4-year national consumer education program on the urgent need for energy conservation. A statewide California effort to educate energy consumers resulted in savings of 10 percent at peak usage—the equivalent of five-and-a-half 1,000 Megawatt coal-powered power plants. My bill aims to take that effort to the entire nation.

The legislation sets higher appliance and equipment standards for natural gas efficiency. These standards have been negotiated between consumer and industry representatives and are codified in the bill. For example, the standards would require a new kitchen oven to produce the same heat while using less natural gas to do it. The American Council for an Energy-Efficient Economy estimates that these standards will reduce natural gas use by about 125 BCF in 2010 and 525 BCF in 2020. In addition these standards will reduce peak electric demand by about 33,500 MW in 2020, equivalent to 34 coal power plants of 1000 MW each, and will save consumers and businesses more than $60 billion.

The bill creates tax incentives and provides regulatory relief to enable manufacturing facilities to more easily produce their own power and steam from a single source—a process called cogeneration or CHP which saves money and energy while also reducing pollutants. A CHP system can produce the same electrical and thermal output at 75 percent fuel conversion efficiency as compared to 49 percent separate steam and power. This is a 50 percent gain in overall efficiency, resulting in a 35 percent fuel savings. Large industrial plants, such as International Paper, Alcoa and Eastman in my home State of Tennessee all use cogeneration in their manufacturing processes. More companies could do the same, and the bill particularly focuses on providing incentive for smaller cogeneration projects.

The Alexander bill provides incentive for public utilities to utilize their natural gas plants based on efficiency. The process of activating different power plants to meet demand during a given day is called ''dispatching.'' For example, on a hot summer day in Tennessee, the demand for electricity, for air conditioning, might be highest in the early afternoon, so then a power company would have to dispatch the most power plants to provide the energy. But during the cooler night, they might dispatch less plants since less power is needed. If power companies dispatched their most efficient plants first, this would save us a significant amount of natural gas. As you can see, the highest saving will be in the medium-term—2010–2015—but real savings continue for many years.

Our reliance on foreign oil is the silent elephant in the room when it comes to high natural gas prices. My legislation includes a provision that requires the President report to Congress annually on efforts to reduce U.S. dependence on imported petroleum 1.75 million barrels a day from projected 2013 levels, almost 10 percent. As I noted earlier, oil and gas are usually produced together; and, typically, there is a 6:1 ratio between natural gas and oil prices. Reducing dependence on foreign oil will help bring natural gas prices down.

Conservation of natural gas and related energy sources is critical to lowering prices and keeping our manufacturing and farming jobs here in the United States. But conservation alone is not enough. The second focus must be to develop alternative sources of energy. The ''Keep Manufacturing and Farming Jobs in the United States Act'' encourages the use of three alternative fuels:

The bill initiates a national coal gasification strategy. Eastman Chemical in Kingsport, TN, has been using coal gasification with a 95% availability factor for the past 20 years. Tampa Electric has successfully demonstrated large-scale coal gasification. It is time for this process to be more widely used. Coal gasification is a process whereby gas derived from burning coal is used as a source of energy or a raw material. When used in a power plant, coal gasification means that you burn coal but get the much lower pollution output of using natural gas. My legislation provides up to $2 billion in tax or other incentives to support the construction of six new coal gasification power plants. Similarly, the legislation provides up to $2 billion in assistance for industrial gasification projects. The bill also provides streamlined permitting for coal gasification facilities. Coal is an abundant resource in the United States; we should use it to produce clean energy and raw material for industrial applications.

Solar energy is another clean, alternative fuel source that could be developed further. Solar energy can be used directly for heating as well as to create electricity. To push an aggressive solar energy strategy, the Alexander legislation provides tax incentives for investment in solar power generation. Specifically, it provides businesses a tax credit for investing in geothermal or solar heating and/or power generation—10 percent heating, 25 percent for generating or displacing electricity.

My bill also contains language to invest in new technologies to use hydrogen to power fuel cell vehicles. The language in this bill mirrors language I offered in the last session of Congress on the Energy Bill that would have enacted President Bush's Hydrogenl/Fuel Cell Initiative. When I visited Japan last year, I visited a hydrogen fuel station—that looked much like a gas station—and saw fuel cell vehicles that range from small cars to SUVs. These cars not only allow us to use an alternative fuel source but are also great for the environment—their only byproduct is water vapor. The bill invests in research and development of technologies and infrastructure for 2 hydrogen and fuel cell vehicles.

Methane hydrates hold tremendous potential to provide abundant supplies of natural gas. Hydrates are ice-like solid structures consisting of water and

gases—mainly methane—compressed to greater than normal densities. Coastal US areas are rich in this resource—the U.S. is estimated to contain one-fourth of the world's supply. My bill invests $200 million over the next 4 years in research for this promising new resource, a number consistent with recommendations from the National Commission on Energy Policy.

Conserving natural gas and using alternative fuels will take us a long way to reducing gas prices and keeping jobs here in the U.S., but we must also address the other side of the equation: supply. As Energy Committee members learned at our Natural Gas Roundtable, our current policy encourages consumption of natural gas while restricting the supply. We need to stop putting unnecessary restrictions on production and supply of natural gas, and my legislation does so by addressing production off-shore and in the Rocky Mountains as well as the importation of liquid natural gas from abroad.

We have plenty of natural gas here in the U.S., we just cannot get to it. There are large fields off the coasts, especially the Atlantic, and in the Rocky Mountains. There is no reason for natural gas prices here in the U.S. to be so high when we have so much available here—if only we would use it.

Today, there are two moratoria on our outer continental shelf, OCS—a congressional moratorium and a Presidential moratorium. The Atlantic Coast—40 miles off the coast is believed to be largely natural gas-prone. The Pacific Coast is believed—to be mainly oil-prone. The Gulf of Mexico is both. Today, when production is greater than 9 miles offshore, a State that has oil and gas production gets zero percent of the production revenues. This is radically different than onshore production; on Federal lands, States get 50 percent of the production revenues. Alaska gets 90 percent of the production revenues. In order to have a constructive dialogue on OCS production, the right framework needs to be established.

My legislation provides the Department of the Interior with the legal authority to issue natural gas only leases. Currently, Interior can only issue combination gas and oil leases. Since there is greater hesitation about the environmental impact of producing oil off-shore, issuing natural gas-only leases may alleviate some concerns.

It also instructs the Secretary of the Interior to draw the state boundary between Alabama and Florida regarding Lease 181—a disputed area off the coast of both states in the Gulf of Mexico in which Alabama may wish to permit production while Florida may not. The boundaries shall be drawn using established international law. Under my bill, portions of Lease 181, which are not in the state of Florida and greater than 30 miles off of the coast of Alabama, shall be leased by December 31, 2007. However, of those portions of Lease 181 that are in the State of Florida, the State of Florida may keep the moratoria. Leasing would not be allowed to interfere with U.S. military operations in the Gulf Coast.

Finally, under the bill, States will have the authority to request studies of natural gas resources off their coasts and be permitted to waive Federal moratoria on offshore production. The states shall not have the authority to lift the moratoria at National Marine Sanctuaries or National Wildlife Refuge Area. The State of Virginia recently engaged on this issue, and the state ought to have the ability to license off-shore production—especially if it is far enough off-shore that you cannot even see it from land. My bill also allows States to collect significant revenue from such production, and designates that a portion of revenues also go to a conservation royalty. The conservation royalty would be shared equally by the Federal land and water conservation fund, state land and water conservation fund and wildlife grants.

Importing liquefied natural gas—LNG—requires the infrastructure to receive it. LNG comes to the U.S. by ship, and terminals to receive these ships and unload LNG must be built and appropriate infrastructure developed to transport gas from those terminals to users across the country.

My bill streamlines the development of offshore liquefied natural gas terminals. The siting of LNG terminals has become a difficult issue since we all want cheaper natural gas, but no one seems to want an LNG terminal in ''their backyard.'' The Alexander legislation gives FERC clear authority for regulating liquid natural gas terminals, but, unlike a related House bill, still preserves States' authorities under the Coastal Zone Management Act and other acts. I hope this will provide some balance so that LNG terminals can be sited, but environmental concerns will play a significant role in choosing their sites. In an effort to speed the siting of pipelines that allow natural gas to reach all parts of the country, the bill also requires that FERC grant or deny a terminal or pipeline application within one year.

Our country is facing an energy crisis. We are consuming more and more electricity. Gasoline prices are poised to reach all time highs. The price of oil is up. And so, too, is the price of natural gas.

The bill I introduce today, the ''Natural Gas Price Reduction Act,'' addresses high natural gas prices. Natural gas is not just used for heating homes, a source of electricity, it is a raw material for industries, and it is an important component in fertilizers used by farmers. High natural gas prices have cost farmers a 10-percent pay cut and are shipping manufacturing and chemical jobs overseas. We can not afford to let this problem fester any longer.

Bold action is required, and that is what my legislation provides. This bill takes a comprehensive approach to addressing the problem by encouraging conservation, developing alternative fuel sources, and reducing roadblocks to the production and importation of natural gas. I urge my colleagues to support it.

By Mr. BOND (for himself, Mr. INHOFE, Mr. VITTER, Mr. WARNER, Mr. VOINOVICH, Mr. ISAKSON, Mr. THUNE, Ms. MURKOWSKI, Mr. OBAMA, Ms. LANDRIEU, Mr. GRASSLEY, Mr. HARKIN, Mr. TALENT, Mr. CORNYN, Mr. COCHRAN, Mr. DOMENICI, and Mr. COLEMAN):

S. 728. A bill to provide for the consideration and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes; to the Committee on Environment and Public Works.

Mr. BOND. Mr. President, I rise today to introduce, with Senators INHOFE, VITTER, WARNER, VOINOVICH, ISAKSON, THUNE, MURKOWSKI, OBAMA, LANDRIEU, GRASSLEY, HARKIN, TALENT, CORNYN, COCHRAN, DOMENICI, and COLEMAN, the 2005 Water Resources Development Act.

The programs administered by the U.S. Army Corps of Engineers are invaluable to this Nation. They provide drinking water, electric power production, river transportation, environmental protection and restoration, protection from floods, emergency response, and recreation. Few agencies in the Federal Government touch so many citizens and they do it on a relatively small budget. They provide one-quarter of our Nation's total hydropower output; operate 456 lakes in 43 States hosting 33 percent of all freshwater lake fishing; move 630 million tons of cargo valued at over $73 billion annually through our inland system; manage over 12 million acres of land and water; provide 3 trillion gallons of water for use by local communities and business; and have prevented an estimated $706 billion in flood damage within the past 25 years with an investment one-seventh that value. During the 1993 flood alone, an estimated $19.1 billion in flood damage was prevented by flood control facilities in place at that time. Our ports move over 95 percent of U.S. overseas trade by weight and 75 percent by value. Between 1970 and 2003, the value of U.S. trade increased 24 fold, and 70 percent since 1994. That was an average annual growth rate of 10.2 percent, which was nearly double the pace of the Gross Domestic Product growth during the same period. Unfortunately, the American Society of Civil Engineers grades navigable waterways infrastructure D– with over 50 percent of the locks ''functionally obsolete'' despite increased demand.

This bipartisan bill is one that traditionally is produced by the Congress

every two years, however, we have not passed a WRDA bill since 2000 and the longer we wait, the more unmet needs pile up and the more complicated the demands upon the bill become making it harder and harder to win approval. For some, this bill is too small and for others, too big. For some, the new regulations are too onerous and for others, the new regulations are not onerous enough. Nevertheless, I believe we have struck a balance here that disciplines the new projects to criteria fairly applied while addressing a great number of water resources priorities.

With the new regulations, we have embraced a common sense bipartisan proposal by Senators LANDRIEU and COCHRAN similar to the bi-partisan House agreement that requires major projects to be subject to independent peer review and requires that necessary mitigation for projects be completed at the same time the project is completed, or, in special cases, no longer than one year after project completion. This will impose a cost on communities, particularly smaller communities, but it is not as onerous as the new regulations proposed last year which ultimately prevented a final agreement from being reached between the House and Senate.

The commanding feature of the bill is its landmark environmental and ecosystem restoration authorities. Nearly 60 percent of the bill authorizes such efforts, including environmental restoration of the Everglades, Coastal Louisiana, Chesapeake Bay, Missouri River, Long Island Sound, Salton Sea, Upper Connecticut, and the Illinois and Mississippi Rivers, and others.

Additionally, it is important to understand the budget implications of this legislation in the real world. We are contending with difficult budget realities currently and it is critical that we be mindful of those realities as we make investments in the infrastructure that supports the people in our nation who make and grow and buy and sell things so that we can grow our economy, create jobs, and secure our future. This is an authorization bill. It does not spend one dollar. I repeat, it does not spend one dollar. It makes projects eligible for funding through the appropriations process that operates within the restrictions of the budget Congress provides it. With the allocation provided, the Appropriations Committee and the Congress and the President will fund such projects deemed of the highest priority and those remaining will not be funded because the budget will not permit it. This WRDA process simply permits project consideration during the process of appropriations and I expect some will measure up and others will not. I hear some suggest that we should not authorize anything new until all other previously-authorized projects are funded. That, of course, is nonsense because it assumes falsely that all projects authorized five and 10 and 50 years ago are higher priority than those in this package. We have de-authorized a great number of projects in this bill and I expect there will be more added as we proceed and then the remainder will have to face the stingy budget process that will prioritize the rest.

While the majority of this legislation is for environmental protection and restoration, a key bipartisan economic initiative we include provides transportation efficiency and environmental sustainability on the Mississippi and Illinois Rivers.

As the world becomes more competitive, we must also. In the heartland, the efficiency, reliability, capacity, and safety of our transportation options are critical—often make-or-break. In Missouri alone, we ship 34.7 million tons of commodities with a combined value of more than $4 billion which include coal, petroleum, aggregates, grain, chemicals, iron, steel, minerals and other commodities.

As we look 50 years into the future, and as we anticipate and try to promote commercial and economic growth, we have to ask ourselves a fundamental question: should we have a system that permits and promotes growth, or should we be satisfied to restrict our growth to the confines of a transportation straight jacket designed not for 2050, but for 1950 for paddle wheel boats?

Further, we must ask ourselves if dramatic investments should be made to address environmental problems and opportunities that exist on these great waterways. In both cases, the answer is, ''Of course we should modernize and improve.''

We have a system which is in environmental and economic decline. Jobs and markets and the availability of habitat for fish and wildlife are at stake. We cannot be for increased trade, commercial growth, and job creation without supporting the basic transportation infrastructure necessary to move goods from buyers to sellers. New efficiency helps give our producers an edge that can make or break opportunities in the international marketplace.

Seventy years ago, some argued that a transportation system on the Mississippi River was not justified. Congress decided that its role was not to try to predict the future but to shape the future and decided to invest in a system despite the naysayers. Over 84 million tons per year later, it is clear that the decision was wise.

Now, that system that was designed for paddlewheel boats and to last 50 years is nearly 70 years old and we must make decisions that will shape the next 50–70 years. As we look ahead, we must promote growth policies that help Americans who produce and employ.

We must work for policies that promote economic growth, job creation, and environmental sustainability. We know that trade and economic growth can be fostered or it can be discouraged by policies and other realities which include the quality of our transportation infrastructure.

So in 20 and 30 and 40 and 50 years, where will the growth in transportation occur to accommodate the growth in demand for commercial shipping? The Department of Transportation suggests that congestion on our roads and rails will double in the next quarter century. The fact of the matter is that the great untapped capacity is on our water.

This is good news because water transportation is efficient, it is safe, it conserves fuel, and it protects the air and the environment. One medium-sized barge tow can carry the freight of 870 trucks. That fact alone speaks volumes to the benefits of water. If we can, would we rather have 870 diesel engines on the roads of downtown St. Louis, or two diesel engines on the water.

The veteran Chief Economist at USDA testified that transportation efficiency and the ability of farmers to win markets are higher prices are ''fundamentally related.'' He predicts that corn exports over the next 10 years will rise 45 percent, 70 percent of which will travel down the Mississippi.

Over the past 35 years, waterborne commerce on the Upper Mississippi River has more than tripled. The system currently carries 60 percent of our Nation's corn exports and 45 percent of our Nation's soybean exports and it does so at two-thirds the cost of rail—when rail is available.

Over the previous 12 years, the U.S. Army Corps of Engineers have spent $70 million completing a six year study. During that period, there have been 35 meetings of the Governors Liaison Committee, 28 meetings on the Economic Coordinating Committee, among the States along the Upper Mississippi and Illinois waterways, and there have been 44 meetings of the Navigation and Environmental Coordination Committee. Additionally, there have been 130 briefings for special interest groups, 24 newsletters. There have been six sets of public meetings in 46 locations with over 4,000 people in attendance. To say the least, this has been a very long, very transparent, and very representative process.

However, while we have been studying, our competitors have been building. Given the extraordinary delay so far, and given the reality that large scale construction takes not weeks or months, but decades, further delay is no longer an option. This is why I am pleased to be joined by a bipartisan group of Senators who agree that we must improve the efficiency and the environmental sustainability of our great resources.

This plan gets the Corps back in the business of building the future, rather than just haggling about predicting the future. More will need to be done later on ecosystem and lock expansions further upstream, but this begins the improvement schedule underway.

In this legislation, we authorize $1.58 billion for ecosystem restoration-almost 2 times the federal cost of lock capacity expansion which we authorize on locks 20–25 on the Mississippi River and Peoria and LaGrange on the Illinois. The new 1,200 foot locks on the Mississippi River will provide equal capacity in the bottleneck region below the 1,200 foot lock 19 at Keokuk and above locks 26 and 27 near St. Louis. Half the cost of the new locks will be paid for by private users who pay into the Inland Waterways Trust fund. Additional funds will be provided for mitigation and small scale and nonstructural measures to improve efficiency.

As we look ahead, the locks at 14–18 will have to be addressed as will further investments to ecosystem restoration efforts.

This effort is supported by a broad-based group of the States, farm groups, shippers, labor, and those who pay taxes into the Trust Fund for improvements. Of particular note, I appreciate the strong support from the carpenters, corngrowers, farm bureau, soybeans, the diverse membership of MARC2000.

I thank my colleagues and their staff for the hard work devoted to this difficult matter and I thank particularly chairman INHOFE for his forbearance. I believe that if members work cooperatively and aim for the center and not the fringe, that we can get a bill completed this year. If demands exist that the bill be away from the center toward the fringe, we will go another Congress without completing our work as we witnessed last year.

Mr. INHOFE. Mr. President, first, I would like to thank Senator BOND for the leadership he and his subcommittee staff have demonstrated in bringing this piece of legislation together.

I have great hopes for getting a WRDA bill passed this session. We have not enacted a WRDA bill since 2000, and the water resources are in much need of this authorization. We made great progress and were very close to finishing a bill at the end of the 108th Congress. That effort has provided a great stepping stone toward quick completion this year.

The Army Corps of Engineers has provided a valuable service to the Nation for over 200 years. It has been instrumental in creating one of the most dynamic inland waterway systems in the world. For example, the Corps activities have provided Tulsa, OK with one of the Nation's most inland ports and provides the dredging needed to keep the San Francisco Bay navigable. There is not a State in the Union that does not reap the benefits of the Army Corps.

I am well aware of the stacks of requests that have come in from every State for projects to be included in the bill. While it is important that we insure the Corps is capable of meeting our future water resource needs, it is also very important that we do not demand more of the Corps than it is capable of providing. No Federal agency could complete all of the projects requested by all of the Senators. Considering the limited staff and budget of the Corps, an ''authorize everything'' approach may leave everyone with nothing. While I know that each Senator has his or her own priorities, we all must understand the limitations with which we reside. I look forward to working with my colleagues to ensure that we give clear direction to the Corps to focus on completing the highest priority and most beneficial projects.

By Mr. DURBIN:

S. 729. A bill to establish the Food Safety Administration to protect the public health by preventing food-borne illness, ensuring the safety of food, improving research on contaminants leading to food-borne illness, and improving security of food from intentional contamination, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. DURBIN. Mr. President, a single food safety agency with authority to protect the food supply based on sound scientific principles would provide this country with the greatest hope of reducing foodborne illnesses and preventing or minimizing the harm from a bioterrorist attack on our food supply. Right now, our food is the safest in the world, but there are widening gaps in our food safety net due to emerging threats and the fact that food safety oversight has evolved over time to spread across several agencies. This mismatched, piecemeal approach to food safety could spell disaster if we do not act quickly and decisively.

But don't take it from me. Former HHS Secretary Tommy Thompson told reporters in December as he resigned that he worries ''every single night'' about a massive attack on the U.S. food supply. ''I, for the life of me, cannot understand why the terrorists have not, you know, attacked our food supply, because it is so easy to do,'' Thompson said. ''And we are importing a lot of food from the Middle East, and it would be easy to tamper with that,'' he said.

No wonder he feels that way. Several Federal agencies, all with different and conflicting missions, work to ensure our food is safe. For example, there is no standardization for inspections—processed food facilities may see a Food and Drug Administration inspector once every 5 to 6 years, while meat and poultry operations are inspected daily by the U.S. Department of Agriculture.

The Centers for Disease Control and Prevention (CDC) estimates that as many as 76 million people suffer from food poisoning each year. Of those individuals, approximately 325,000 will be hospitalized, and more than 5,000 will die. Factors such as emerging pathogens, an aging population at high risk for foodborne illnesses, an increasing volume of food imports, and people eating outside their homes more often underscore the need for us to take charge and shed the old bureaucratic shackles that have tied us to the overlapping and inefficient ad hoc food safety system of the past.

That is why I come to the Senate floor today to introduce the Safe Food Act of 2005. My House counterpart, Representative ROSA DELAURO, is introducing the bill in the other body. This legislation would create a single, independent Federal food safety agency to administer all aspects of Federal food safety inspections, enforcement, standards-setting and research in order to protect public health. The components of the agencies now charged with protecting the food supply, primarily housed at the Food and Drug Administration and the Agriculture Department, would be transferred to this new agency.

The new Food Safety Administrator would be responsible for the safety of the food supply, and would fulfill that charge by implementing the registration and recordkeeping requirements of the 2002 bioterrorism law; ensuring slaughterhouses and food processing plants have procedures in place to prevent and reduce food contamination; regularly inspecting domestic food facilities, with inspection frequency based on risk; and centralizing the authority to detain, seize, condemn and recall food that is adulterated or misbranded. The Administrator would be charged with requiring food producers to code their products so those products could be traced in the event of a foodborne illness outbreak in order to minimize the health impact of such an event.

The Administrator would also have the power examine the food safety practices of foreign countries and work with the states to impose various civil and criminal penalties for serious violations of the food safety laws. The Administrator would also actively oversee public education and research programs on foodborne illness.

It is time to create a single food safety agency in this country. I am encouraged by a February 2005 Government Accountability Office report in which government officials in seven other high-income countries who have consolidated their food safety systems consistently state that the benefits of consolidation outweigh the costs.

In this era of limited budgets, it is our responsibility to streamline the Federal food safety system. The United States simply cannot afford to continue operating multiple redundant systems. This is not about more regulation, a super agency, or increased bureaucracy. It is about common sense and the more effective marshaling of our existing resources.

I urge my colleagues to join me in cosponsoring this legislation.

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. 729

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Safe Food Act of 2005''.

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

SEC. 2. FINDINGS; PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the safety of the food supply of the United States is vital to the public health, to public confidence in the food supply, and to the success of the food sector of the Nation's economy;

(2) lapses in the protection of the food supply and loss of public confidence in food safety are damaging to consumers and the food industry, and place a burden on interstate commerce;

(3) the safety and security of the food supply requires an integrated, system-wide approach to preventing food-borne illness, a thorough and broad-based approach to basic and applied research, and intensive, effective, and efficient management of the Nation's food safety program;

(4) the task of preserving the safety of the food supply of the United States faces tremendous pressures with regard to—

(A) emerging pathogens and other contaminants and the ability to detect all forms of contamination;

(B) an aging and immune compromised population, with a growing number of people at high-risk for food-borne illnesses, including infants and children;

(C) an increasing volume of imported food, without adequate monitoring and inspection; and

(D) maintenance of rigorous inspection of the domestic food processing and food service industries;

(5) Federal food safety standard setting, inspection, enforcement, and research efforts should be based on the best available science and public health considerations and food safety resources should be systematically deployed in ways that most effectively prevent food-borne illness;

(6) the Federal food safety system is fragmented, with at least 12 Federal agencies sharing responsibility for food safety, and operates under laws that do not reflect current conditions in the food system or current scientific knowledge about the cause and prevention of food-borne illness;

(7) the fragmented Federal food safety system and outdated laws preclude an integrated, system-wide approach to preventing food-borne illness, to the effective and efficient operation of the Nation's food safety program, and to the most beneficial deployment of food safety resources;

(8) the National Academy of Sciences recommended in the report ''Ensuring Safe Food from Production to Consumption'' that Congress establish by statute a unified and central framework for managing Federal food safety programs, and recommended modifying Federal statutes so that inspection, enforcement, and research efforts are based on scientifically supportable assessments of risks to public health; and

(9) the lack of a single focal point for food safety leadership in the United States undercuts the ability of the United States to exert food safety leadership internationally, which is detrimental to the public health and the international trade interests of the United States.

(b) PURPOSES.—The purposes of this Act are—

(1) to establish a single agency to be known as the ''Food Safety Administration'' to—

(A) regulate food safety and labeling to strengthen the protection of the public health;

(B) ensure that food establishments fulfill their responsibility to produce food in a manner that protects the public health of all people in the United States;

(C) lead an integrated, system-wide approach to food safety and to make more effective and efficient use of resources to prevent food-borne illness;

(D) provide a single focal point for food safety leadership, both nationally and internationally; and

(E) provide an integrated food safety research capability, utilizing internally-generated, scientifically and statistically valid studies, in cooperation with academic institutions and other scientific entities of the Federal and State governments, to achieve the continuous improvement of research on food-borne illness and contaminants;

(2) to transfer to the Food Safety Administration the food safety, labeling, inspection, and enforcement functions that, as of the day before the effective date of this Act, are performed by other Federal agencies; and

(3) to modernize and strengthen the Federal food safety laws to achieve more effective application and efficient management of the laws for the protection and improvement of public health.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATION.—The term ''Administration'' means the Food Safety Administration established under section 101(a)(1).

(2) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of Food Safety appointed under section 101(a)(3).

(3) ADULTERATED.—

(A) IN GENERAL.—The term ''adulterated'' has the meaning described in subsections (a) through (c) of section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342).

(B) INCLUSION.—The term ''adulterated'' includes bearing or containing a contaminant that causes illness or death among sensitive populations.

(4) AGENCY.—The term ''agency'' has the meaning given that term in section 551 of title 5, United States Code.

(5) CATEGORY 1 FOOD ESTABLISHMENT.—The term ''category 1 food establishment'' means a food establishment that slaughters animals for food.

(6) CATEGORY 2 FOOD ESTABLISHMENT.—The term ''category 2 food establishment'' means a food establishment that processes raw meat, poultry, seafood products, regardless of whether the establishment also has a kill step, and animal feed and other products that the Administrator determines by regulation to be at high risk of contamination and the processes of which do not include a step validated to destroy contaminants.

(7) CATEGORY 3 FOOD ESTABLISHMENT.—The term ''category 3 food establishment'' means a food establishment that processes meat, poultry, seafood products, and other products that the Administrator determines by regulation to be at high risk of contamination and whose processes include a step validated to destroy contaminants.

(8) CATEGORY 4 FOOD ESTABLISHMENT.—The term ''category 4 food establishment'' means a food establishment that processes all other categories of food products not described in paragraphs (5) through (7).

(9) CATEGORY 5 FOOD ESTABLISHMENT.—The term ''category 5 food establishment'' means a food establishment that stores, holds, or transports food products prior to delivery for retail sale.

(10) CONTAMINANT.—The term ''contaminant'' includes a bacterium, chemical, natural or manufactured toxin, virus, parasite, prion, physical hazard, or other human pathogen that when found on or in food can cause human illness, injury, or death.

(11) CONTAMINATION.—The term ''contamination'' refers to a presence of a contaminant in food.

(12) FOOD.—

(A) IN GENERAL.—The term ''food'' means a product intended to be used for food or drink for a human or an animal.

(B) INCLUSIONS.—The term ''food'' includes any product (including a meat food product, as defined in section 1(j) of the Federal Meat Inspection Act (21 U.S.C. 601(j))), capable for use as human food that is made in whole or in part from any animal, including cattle, sheep, swine, or goat, or poultry (as defined in section 4 of the Poultry Products Inspection Act (21 U.S.C. 453)), and animal feed.

(C) EXCLUSION.—The term ''food'' does not include dietary supplements, as defined in section 201(ff) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(ff)).

(13) FOOD ESTABLISHMENT.—

(A) IN GENERAL.—The term ''food establishment'' means a slaughterhouse, factory, warehouse, or facility owned or operated by a person located in any State that processes food or a facility that holds, stores, or transports food or food ingredients.

(B) EXCLUSIONS.—For the purposes of registration, the term ''food establishment'' does not include a farm, restaurant, other retail food establishment, nonprofit food establishment in which food is prepared for or served directly to the consumer, or fishing vessel (other than a fishing vessel engaged in processing, as that term is defined in section 123.3 of title 21, Code of Federal Regulations).

(14) FOOD PRODUCTION FACILITY.—The term ''food production facility'' means any farm, ranch, orchard, vineyard, aquaculture facility, or confined animal-feeding operation.

(15) FOOD SAFETY LAW.—The term ''food safety law'' means—

(A) the provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) related to and requiring the safety, labeling, and inspection of food, infant formulas, food additives, pesticide residues, and other substances present in food under that Act;

(B) the provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) and of any other Act that are administered by the Center for Veterinary Medicine of the Food and Drug Administration;

(C) the Poultry Products Inspection Act (21 U.S.C. 451 et seq.);

(D) the Federal Meat Inspection Act (21 U.S.C. 601 et seq.);

(E) the Egg Products Inspection Act (21 U.S.C. 1031 et seq.);

(F) the Sanitary Food Transportation Act of 1990 (49 U.S.C. App. 2801 et seq.);

(G) the provisions of the Humane Methods of Slaughter Act of 1978 (Public Law 95–448) administered by the Food Safety and Inspection Service;

(H) the provisions of this Act; and

(I) such other provisions of law related to and requiring food safety, labeling, inspection, and enforcement as the President designates by Executive order as appropriate to include within the jurisdiction of the Administration.

(16) FOREIGN FOOD ESTABLISHMENT.—The term ''foreign food establishment'' means a slaughterhouse, factory, warehouse, or facility located outside the United States that processes food for consumption that is imported into the United States or food ingredients.

(17) INTERSTATE COMMERCE.—The term ''interstate commerce'' has the meaning given that term in section 201(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(b)).

(18) MISBRANDED.—The term ''misbranded'' has the meaning given that term in section 403 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343).

(19) PROCESS.—The term ''process'' or ''processing'' means the commercial harvesting, slaughter, packing, preparation, or manufacture of food.

(20) SAFE.—The term ''safe'' refers to human and animal health.

(21) STATE.—The term ''State'' means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico; and

(D) any other territory or possession of the United States.

(22) VALIDATION.—The term ''validation'' means the obtaining of evidence that the food hygiene control measure or measures selected to control a hazard in food is capable of effectively and consistently controlling the hazard.

(23) STATISTICALLY VALID.—With respect to a study, the term ''statistically valid'' means evaluated and conducted under standards set by the National Institute of Standards and Technology.

TITLE I—ESTABLISHMENT OF FOOD SAFETY ADMINISTRATION

SEC. 101. ESTABLISHMENT OF FOOD SAFETY ADMINISTRATION.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established in the executive branch an agency to be known as the ''Food Safety Administration''.

(2) STATUS.—The Administration shall be an independent establishment (as defined in section 104 of title 5, United States Code).

(3) HEAD OF ADMINISTRATION.—The Administration shall be headed by the Administrator of Food Safety, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) DUTIES OF ADMINISTRATOR.—The Administrator shall—

(1) administer and enforce the food safety law;

(2) serve as a representative to international food safety bodies and discussions;

(3) promulgate regulations to ensure the security of the food supply from all forms of contamination, including intentional contamination; and

(4) oversee—

(A) implementation of Federal food safety inspection, enforcement, and research efforts, to protect the public health;

(B) development of consistent and science-based standards for safe food;

(C) coordination and prioritization of food safety research and education programs with other Federal agencies;

(D) prioritization of Federal food safety efforts and deployment of Federal food safety resources to achieve the greatest possible benefit in reducing food-borne illness;

(E) coordination of the Federal response to food-borne illness outbreaks with other Federal and State agencies; and

(F) integration of Federal food safety activities with State and local agencies.

SEC. 102. CONSOLIDATION OF SEPARATE FOOD SAFETY AND INSPECTION SERVICES AND AGENCIES.

(a) TRANSFER OF FUNCTIONS.—For each Federal agency specified in subsection (b), there are transferred to the Administration all functions that the head of the Federal agency exercised on the day before the effective date of this Act (including all related functions of any officer or employee of the Federal agency) that relate to administration or enforcement of the food safety law, as determined by the President.

(b) TRANSFERRED AGENCIES.—The Federal agencies referred to in subsection (a) are—

(1) the Food Safety and Inspection Service of the Department of Agriculture;

(2) the Center for Food Safety and Applied Nutrition of the Food and Drug Administration;

(3) the part of the Agriculture Marketing Service that administers shell egg surveillance services established under the Egg Products Inspection Act (21 U.S.C. 1031 et seq.);

(4) the resources and facilities of the Office of Regulatory Affairs of the Food and Drug Administration that administer and conduct inspections of food establishments and imports;

(5) the resources and facilities of the Office of the Commissioner of the Food and Drug Administration that support—

(A) the Center for Food Safety and Applied Nutrition;

(B) the Center for Veterinary Medicine; and

(C) the Office of Regulatory Affairs facilities and resources described in paragraph (4);

(6) the Center for Veterinary Medicine of the Food and Drug Administration;

(7) the resources and facilities of the Environmental Protection Agency that control and regulate pesticide residues in food;

(8) the part of the Research, Education, and Economics mission area of the Department of Agriculture related to food safety and animal feed research;

(9) the part of the National Marine Fisheries Service of the National Oceanic and Atmospheric Administration of the Department of Commerce that administers the seafood inspection program;

(10) the Animal and Plant Inspection Health Service of the Department of Agriculture; and

(11) such other offices, services, or agencies as the President designates by Executive order to carry out this Act.

SEC. 103. ADDITIONAL DUTIES OF THE ADMINISTRATION.

(a) OFFICERS AND EMPLOYEES.—The Administrator may—

(1) appoint officers and employees for the Administration in accordance with the provisions of title 5, United States Code, relating to appointment in the competitive service; and

(2) fix the compensation of those officers and employees in accordance with chapter 51 and with subchapter III of chapter 53 of that title, relating to classification and General Schedule pay rates.

(b) EXPERTS AND CONSULTANTS.—The Administrator may—

(1) procure the services of temporary or intermittent experts and consultants as authorized by section 3109 of title 5, United States Code; and

(2) pay in connection with those services the travel expenses of the experts and consultants, including transportation and per diem in lieu of subsistence while away from the homes or regular places of business of the individuals, as authorized by section 5703 of that title.

(c) BUREAUS, OFFICES, AND DIVISIONS.—The Administrator may establish within the Administration such bureaus, offices, and divisions as the Administrator determines are necessary to perform the duties of the Administrator.

(d) ADVISORY COMMITTEES.—

(1) IN GENERAL.—The Administrator shall establish advisory committees that consist of representatives of scientific expert bodies, academics, industry specialists, and consumers.

(2) DUTIES.—The duties of an advisory committee established under paragraph (1) may include developing recommendations with respect to the development of new processes, research, communications, performance standards, and inspection.

TITLE II—ADMINISTRATION OF FOOD SAFETY PROGRAM

SEC. 201. ADMINISTRATION OF NATIONAL PROGRAM.

(a) IN GENERAL.—The Administrator shall—

(1) administer a national food safety program (referred to in this section as the ''program'') to protect public health; and

(2) ensure that persons who produce or process food meet their responsibility to prevent or minimize food safety hazards related to their products.

(b) COMPREHENSIVE ANALYSIS.—The program shall be based on a comprehensive analysis of the hazards associated with different food and with the processing of different food, including the identification and evaluation of—

(1) the severity of the potential health risks;

(2) the sources and specific points of potential contamination extending from the farm or ranch to the consumer that may render food unsafe;

(3) the potential for persistence, multiplication, or concentration of naturally occurring or added contaminants in food;

(4) opportunities across the food production, processing, distribution, and retail system to reduce potential health risks; and

(5) opportunities for intentional contamination.

(c) PROGRAM ELEMENTS.—In carrying out the program, the Administrator shall—

(1) adopt and implement a national system for the registration of food establishments and foreign food establishments and regular unannounced inspection of food establishments;

(2) enforce the adoption of process controls in food establishments, based on best available scientific and public health considerations and best available technologies;

(3) establish and enforce science-based standards for—

(A) substances that may contaminate food; and

(B) safety and sanitation in the processing and handling of food;

(4) implement a statistically valid sampling program to ensure that industry programs and procedures that prevent food contamination are effective on an ongoing basis and that food meets the standards established under this Act;

(5) implement procedures and requirements to ensure the safety and security of imported food;

(6) coordinate with other agencies and State or local governments in carrying out inspection, enforcement, research, and monitoring;

(7) have access to the surveillance data of the Centers for Disease Control and Prevention, and other Federal Government agencies, in order to implement a national surveillance system to assess the health risks associated with the human consumption of food or to create surveillance data and studies;

(8) develop public education risk communication and advisory programs;

(9) implement a basic and applied research program to further the purposes of this Act; and

(10) coordinate and prioritize food safety research and educational programs with other agencies, including State or local agencies.

SEC. 202. REGISTRATION OF FOOD ESTABLISHMENTS AND FOREIGN FOOD ESTABLISHMENTS.

(a) IN GENERAL.—The Administrator shall by regulation require that any food establishment or foreign food establishment engaged in processing food in the United States be registered with the Administrator.

(b) REGISTRATION REQUIREMENTS.—

(1) IN GENERAL.—To be registered under subsection (a)—

(A) in the case of a food establishment, the owner, operator, or agent in charge of the food establishment shall submit a registration to the Administrator; and

(B) in the case of a foreign food establishment, the owner, operator, or agent in charge of the foreign food establishment shall—

(i) submit a registration to the Administrator; and

(ii) provide the name, address, and emergency contact information of the United States agent for the foreign food establishment.

(2) REGISTRATION.—A food establishment or foreign food establishment shall submit a registration under paragraph (1) to the Administrator that—

(A) identifies the name, address, and emergency contact information of each food establishment or foreign food establishment that the registrant operates under this Act and all trade names under which the registrant conducts business relating to food;

(B) lists the primary purpose and business activity of each food establishment or foreign food establishment, including the dates of operation if the food establishment or foreign food establishment is seasonal;

(C) lists the types of food processed or sold at each food establishment or, for foreign food establishments selling food for consumption in the United States, identifies the specific food categories of that food as listed under section 170.3 of title 21, Code of Federal Regulations; and

(D) not later than 30 days after a change in the products, function, or legal status of the food establishment or foreign food establishment (including cessation of business activities), notifies the Administrator of the change.

(3) PROCEDURE.—Upon receipt of a completed registration described in paragraph (1), the Administrator shall notify the registrant of the receipt of the registration, designate each establishment as a category 1, 2, 3, 4, or 5 food establishment, and assign a registration number to each food establishment and foreign food establishment.

(4) LIST.—The Administrator shall compile and maintain an up-to-date list of food establishments and foreign food establishments that are registered under this section. The Administrator may establish regulations by which such list may be shared with other governmental authorities.

(5) DISCLOSURE EXEMPTION.—The disclosure requirements under section 552 of title 5, United States Code, shall not apply to—

(A) the list compiled under paragraph (4); and

(B) information derived from the list under paragraph (4), to the extent that it discloses the identity or location of a specific registered person.

(6) SUSPENSION OF REGISTRATION.—

(A) IN GENERAL.—The Administrator may suspend the registration of a food establishment or foreign food establishment, including the facility of an importer, for violation of a food safety law.

(B) NOTICE AND OPPORTUNITY FOR HEARING.—The Administrator shall provide notice to a registrant immediately upon the suspension of the registration of the facility and provide registrant with an opportunity for a hearing within 3 days of the suspension.

(7) REINSTATEMENT.—A registration that is suspended under this section may be reinstated pursuant to criteria published in the Federal Register by the Administrator.

SEC. 203. PREVENTATIVE PROCESS CONTROLS TO REDUCE ADULTERATION OF FOOD.

(a) IN GENERAL.—The Administrator shall, upon the basis of best available public health, scientific, and technological data, promulgate regulations to ensure that food establishments carry out their responsibilities to—

(1) process food in a sanitary manner so that it is free of dirt and filth;

(2) limit the presence of potentially harmful contaminants in food;

(3) implement appropriate measures of preventative process control to minimize and reduce the presence and growth of contaminants in food and meet the performance standards established under section 204;

(4) process all fully processed or ready-to-eat food in a sanitary manner, using reasonably available techniques and technologies to eliminate any potentially harmful contaminants; and

(5) label food intended for final processing outside commercial food establishments with instructions for handling and preparation for consumption that will destroy contaminants.

(b) REGULATIONS.—Not later than 1 year after the effective date of this Act, the Administrator shall promulgate regulations that—

(1) require all food establishments to adopt preventative process controls that are—

(A) adequate to protect the public health;

(B) meet relevant regulatory and food safety standards; and

(C) limit the presence and growth of contaminants in food prepared in a food establishment;

(2) set standards for sanitation;

(3) meet any performance standards for contaminants established under section 204;

(4) require recordkeeping to monitor compliance;

(5) require sampling and testing at a frequency and in a manner sufficient to ensure that process controls are effective on an ongoing basis and that regulatory standards are being met; and

(6) provide for agency access to records kept by food establishments and submission of copies of the records to the Administrator, as the Administrator determines appropriate.

(c) PROCESSING CONTROLS.—The Administrator may require any person with responsibility for or control over food or food ingredients to adopt process controls, if the process controls are needed to ensure the protection of the public health.

SEC. 204. PERFORMANCE STANDARDS FOR CONTAMINANTS IN FOOD.

(a) IN GENERAL.—To protect the public health, the Administrator shall establish by regulation and enforce performance standards that define, with respect to specific food-borne contaminants and foods, the level of food safety performance that a person responsible for producing, processing, or selling food shall meet.

(b) IDENTIFICATION OF CONTAMINANTS; PERFORMANCE STANDARDS.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Administrator shall identify the food-borne contaminants and food that contribute significantly to the risk of food-borne illness.

(2) PERFORMANCE STANDARDS.—As soon as practicable after the identification of the contaminants under paragraph (1), the Administrator shall establish appropriate performance standards to protect against all food-borne contaminants.

(3) SIGNIFICANT CONTAMINANTS.—The Administrator shall establish performance standards for the 5 contaminants that contribute to the greatest number of illnesses or deaths associated with raw meat, poultry, and seafood not later than 3 years after the date of enactment of this Act. The Administrator shall revise such standards not less often than every 3 years.

(c) PERFORMANCE STANDARDS.—

(1) IN GENERAL.—The performance standards established under this section shall include—

(A) health-based standards that set the level of a contaminant that can safely and lawfully be present in food;

(B) zero tolerances, including zero tolerances for fecal matter, in addition to any zero-tolerance standards in effect on the day before the date of enactment of this Act, when necessary to protect against significant adverse health outcomes;

(C) process standards, such as log reduction criteria for cooked products, when sufficient to ensure the safety of processed food; and

(D) in the absence of data to support a performance standard described in subparagraph (A), (B), or (C), standards that define required performance in terms of ''best reasonably achievable performance'', using best

available technologies, interventions, and practices.

(2) BEST REASONABLY ACHIEVABLE PERFORMANCE STANDARDS.—In developing best reasonably achievable performance standards, the Administrator shall collect, or contract for the collection of, data on current best practices and food safety outcomes related to the contaminants and foods in question, as the Administrator determines necessary.

(3) REVOCATION BY ADMINISTRATOR.—All performance standards, tolerances, action levels, or other similar standards in effect on the date of enactment of this Act shall remain in effect until revised or revoked by the Administrator.

(d) ENFORCEMENT.—

(1) IN GENERAL.—Not later than 1 year after the promulgation of a performance standard under this section, the Administrator shall implement a statistically significant sampling program to determine whether food establishments are complying with the performance standards promulgated under this section. The program established under this paragraph shall be at least as stringent as the Hazard Analysis and Critical Control Point System requirements established under part 417 of title 9, Code of Federal Regulations (or successor regulation).

(2) INSPECTIONS.—If the Administrator determines that a food establishment fails to meet a standard promulgated under this section, and such establishment fails to take appropriate corrective action as determined by the Administrator, the Administrator shall, as appropriate—

(A) detain, seize, or condemn food from the food establishment under section 402;

(B) order a recall of food from the food establishment under section 403;

(C) increase the inspection frequency for the food establishment;

(D) withdraw the mark of inspection from the food establishment, if in use; or

(E) take other appropriate enforcement action concerning the food establishment, including withdrawal of registration.

(e) NEWLY IDENTIFIED CONTAMINANTS.—Notwithstanding any other provision of this section, the Administrator shall promulgate interim performance standards for newly identified contaminants as necessary to protect the public health.

SEC. 205. INSPECTIONS OF FOOD ESTABLISHMENTS.

(a) IN GENERAL.—The Administrator shall establish an inspection program, which shall include sampling and testing of food and food establishments, to determine if each food establishment—

(1) is operating in a sanitary manner;

(2) has continuous systems, interventions, and processes in place to minimize or eliminate contaminants in food;

(3) is in compliance with applicable performance standards established under section 203, and other regulatory requirements;

(4) is processing food that is safe and not adulterated or misbranded;

(5) maintains records of process control plans under section 203, and other records related to the processing, sampling, and handling of food; and

(6) is in compliance with the requirements of the food safety law.

(b) ESTABLISHMENT CATEGORIES AND INSPECTION FREQUENCIES.—The resource plan required under section 209, including the description of resources required to carry out inspections of food establishments, shall be based on the following categories and inspection frequencies, subject to subsections (c), (d), and (e):

(1) CATEGORY 1 FOOD ESTABLISHMENTS.—A category 1 food establishment shall be subject to antemortem, postmortem, and continuous inspection of each slaughter line during all operating hours, and other inspection on a daily basis, sufficient to verify that—

(A) diseased animals are not offered for slaughter;

(B) the food establishment has successfully identified and removed from the slaughter line visibly defective or contaminated carcasses, has avoided cross-contamination, and destroyed or reprocessed them in a manner acceptable to the Administrator; and

(C) that applicable performance standards and other provisions of the food safety law, including those intended to eliminate or reduce pathogens, have been satisfied.

(2) CATEGORY 2 FOOD ESTABLISHMENTS.—A category 2 food establishment shall be randomly inspected at least daily.

(3) CATEGORY 3 FOOD ESTABLISHMENTS.—A category 3 food establishment shall—

(A) have ongoing verification that its processes are controlled; and

(B) be randomly inspected at least monthly.

(4) CATEGORY 4 FOOD ESTABLISHMENTS.—A category 4 food establishment shall be randomly inspected at least quarterly.

(5) CATEGORY 5 FOOD ESTABLISHMENTS.—A category 5 food establishment shall be randomly inspected at least annually.

(c) ESTABLISHMENT OF INSPECTION PROCEDURES.—The Administrator shall establish procedures under which inspectors or safety officers shall take random samples, photographs, and copies of records in food establishments.

(d) ALTERNATIVE INSPECTION FREQUENCIES.—With respect to a category 2, 3, 4, or 5 food establishment, the Administrator may establish alternative increasing or decreasing inspection frequencies for subcategories of food establishments or individual establishments, to foster risk-based allocation of resources, subject to the following criteria and procedures:

(1) Subcategories of food establishments and their alternative inspection frequencies shall be defined by regulation, subject to paragraphs (2) and (3).

(2) Regulations of alternative inspection frequencies for subcategories of food establishments under paragraph (1) and for a specific food establishment under paragraph (4) shall provide that—

(A) category 2 food establishments shall be inspected at least monthly; and

(B) category 3, 4, and 5 food establishments shall be inspected at least annually.

(3) In defining subcategories of food establishments and their alternative inspection frequencies under paragraphs (1) and (2), the Administrator shall consider—

(A) the nature of the food products being processed, stored, or transported;

(B) the manner in which food products are processed, stored, or transported;

(C) the inherent likelihood that the products will contribute to the risk of food-borne illness;

(D) the best available evidence concerning reported illnesses associated with the foods produced in the proposed subcategory of establishments; and

(E) the overall record of compliance with the food safety law among establishments in the proposed subcategory, including compliance with applicable performance standards and the frequency of recalls.

(4) The Administrator may adopt alternative inspection frequencies for increased or decreased inspection for a specific establishment, subject to paragraphs (2) and (5) and shall periodically publish a list of establishments subject to alternative inspections.

(5) In adopting alternative inspection frequencies for a specific establishment, the Administrator shall consider—

(A) the criteria in paragraph (3);

(B) whether products from the specific establishment have been associated with a case or an outbreak of food-borne illness; and

(C) the record of the establishment of compliance with the food safety law, including compliance with applicable performance standards and the frequency of recalls.

(6) Before establishing decreased alternative inspection frequencies for subcategories of establishments or individual establishments, the Administrator shall—

(A) determine, based on the best available evidence, that the alternative uses of the resources required to carry out the inspection activity would make a greater contribution to protecting the public health and reducing the risk of food-borne illness than the use of resources described in subsection (b);

(B) describe the alternative uses of resources in general terms when issuing the regulation or order that establishes the alternative inspection frequency;

(C) consider the supporting evidence that an individual food establishment shall submit related to whether an alternative inspection frequency should be established for such establishment by the Administrator; and

(D) include a description of the alternative uses in the annual resource plan required in section 209.

(e) INSPECTION TRANSITION.—The Administrator shall manage the transition to the inspection system described in this Act as follows:

(1) In the case of a category 1 or 2 food establishment, the Administrator shall continue to implement the applicable inspection mandates of the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), and the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) until—

(A) regulations required to implement this section have been promulgated;

(B) the performance standards required by section 204(c) have been promulgated and implemented for 1 year; and

(C) the establishment has achieved compliance with the other applicable provisions of the food safety law.

(2) In the case of a category 1 or 2 food establishment that, within 2 years after the promulgation of the performance standards required by section 204(c), has not achieved compliance with the food safety law, the Administrator shall—

(A) issue an order prohibiting the establishment from operating pending a demonstration by the establishment that sufficient changes in facilities, procedures, personnel, or other aspects of the process control system have been made such that the Administrator determines that compliance with the food safety law is achieved; and

(B) following the demonstration required in subparagraph (A), issue an order authorizing the food establishment to operate subject, at a minimum, to—

(i) the inspection requirement applicable to the establishment under subsection (b) (1) or (2); and

(ii) such other inspection or compliance measures determined by the Administrator necessary to assure compliance with the applicable food safety law.

(3) In the case of a category 3 food establishment, the Administrator shall continue to implement the applicable inspection mandates of the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), and the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) until—

(A) the regulations required to implement this section have been promulgated;

(B) the first resource plan under section 209 has been submitted; and

(C) for individual establishments, compliance with the food safety law has been demonstrated.

(4) In the case of a category 3 food establishment that, within 1 year after the promulgation of the regulations required to implement this section, have not demonstrated compliance with the food safety law, the Administrator shall—

(A) issue an order prohibiting the establishment from operating, pending a demonstration by the establishment that sufficient changes in facilities, procedures, personnel, or other aspects of the process control system have been made such that the Administrator determines that compliance with the food safety law is achieved; and

(B) following the demonstration required in subparagraph (A), issue an order authorizing the establishment to operate subject, at a minimum, to—

(i) the inspection requirement applicable to the establishment under subsection (b)(3); and

(ii) such other inspection or compliance measures determined by the Administrator necessary to assure compliance with the food safety law.

(5) In the case of a category 4 or 5 food establishment, the inspection requirements of this Act shall be implemented as soon as possible after—

(A) the promulgation of the regulations required to implement this section;

(B) the publication of the first resource plan under section 209; and

(C) the commencement of the first fiscal year in which the Administration is operating with budgetary resources that Congress has appropriated following consideration of the resource plan under section 209.

(f) OFFICIAL MARK.—

(1) IN GENERAL.—

(A) ESTABLISHMENT.—Before the completion of the transition process under paragraphs (1) through (3) of subsection (e), the Administrator shall by regulation establish an official mark that shall be affixed to a food product produced in a category 1, 2, or 3 establishment, subject to subparagraph (B).

(B) PREREQUISITE.—The official mark required under subparagraph (A) shall be affixed to a food product by the Administrator if the establishment has been inspected by the Administrator in accordance with the inspection frequencies under this section and the establishment is in compliance with the food safety law.

(C) REMOVAL OF OFFICIAL MARK.—The Administrator shall promulgate regulations that provide for the removal of the official mark under this subsection if the Administrator makes a finding that the establishment is not in compliance with the food safety law.

(2) CATEGORY 1, 2, OR 3 FOOD ESTABLISHMENTS.—In the case of products produced in a category 1, 2, or 3 food establishment—

(A) products subject to Federal Meat Inspection Act (21 U.S.C. 601 et seq.), the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), the Egg Products Inspection Act (21 U.S.C. 1031 et seq.), and the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) as of the date of enactment of this Act shall remain subject to the requirement under those Acts that they bear the mark of inspection pending completion of the transition process under paragraphs (1) through (3) of subsection (e);

(B) the Administrator shall publicly certify on a monthly basis that the inspection frequencies required under this Act have been achieved; and

(C) a product from an establishment that has not been inspected in accordance with the required frequencies under this section shall not bear the official mark and shall not be shipped in interstate commerce.

(3) CATEGORY 4 AND 5 FOOD ESTABLISHMENTS.—In the case of a product produced in a category 4 or 5 food establishment the Administrator shall provide by regulation for the voluntary use of the official mark established under paragraph (1), subject to—

(A) such minimum inspection frequencies as determined appropriate by the Administrator;

(B) compliance with applicable performance standards and other provisions of the food safety law; and

(C) such other requirements the Administrator considers appropriate.

(g) IMPLEMENTATION.—Not later than 1 year after the effective date of this Act, the Administrator shall issue regulations to implement subsections (b) through (e).

(h) MAINTENANCE AND INSPECTION OF RECORDS.—

(1) IN GENERAL.—

(A) RECORDS.—A food establishment shall—

(i) maintain such records as the Administrator shall require by regulation, including all records relating to the processing, distributing, receipt, or importation of any food; and

(ii) permit the Administrator, in addition to any authority of the food safety agencies in effect on the day before the date of enactment of this Act, upon presentation of appropriate credentials and at reasonable times and in a reasonable manner, to have access to and copy all records maintained by or on behalf of such food establishment representative in any format (including paper or electronic) and at any location, that are necessary to assist the Administrator—

(I) to determine whether the food is contaminated or not in compliance with the food safety law; or

(II) to track the food in commerce.

(B) REQUIRED DISCLOSURE.—A food establishment shall have an affirmative obligation to disclose to the Administrator the results of testing or sampling of food, equipment, or material in contact with food, that is positive for any contaminant.

(2) MAINTENANCE OF RECORDS.—The records in paragraph (1) shall be maintained for a reasonable period of time, as determined by the Administrator.

(3) REQUIREMENTS.—The records in paragraph (1) shall include records describing—

(A) the origin, receipt, delivery, sale, movement, holding, and disposition of food or ingredients;

(B) the identity and quantity of ingredients used in the food;

(C) the processing of the food;

(D) the results of laboratory, sanitation, or other tests performed on the food or in the food establishment;

(E) consumer complaints concerning the food or packaging of the food;

(F) the production codes, open date codes, and locations of food production; and

(G) other matters reasonably related to whether food is unsafe, is adulterated or misbranded, or otherwise fails to meet the requirements of this Act.

(i) PROTECTION OF SENSITIVE INFORMATION.—

(1) IN GENERAL.—The Administrator shall develop and maintain procedures to prevent the unauthorized disclosure of any trade secret or confidential information obtained by the Administrator.

(2) LIMITATION.—The requirement under this subsection does not—

(A) limit the authority of the Administrator to inspect or copy records or to require the establishment or maintenance of records under this Act;

(B) have any legal effect on section 1905 of title 18, United States Code;

(C) extend to any food recipe, financial data, pricing data, personnel data, or sales data (other than shipment dates relating to sales);

(D) limit the public disclosure of distribution records or other records related to food subject to a voluntary or mandatory recall under section 403; or

(E) limit the authority of the Administrator to promulgate regulations to permit the sharing of data with other governmental authorities.

(j) BRIBERY OF OR GIFTS TO INSPECTOR OR OTHER OFFICERS AND ACCEPTANCE OF GIFTS.—Section 22 of the Federal Meat Inspection Act (21 U.S.C. 622) shall apply under this Act.

SEC. 206. FOOD PRODUCTION FACILITIES.

In carrying out the duties of the Administrator and the purposes of this Act, the Administrator shall have the authority, with respect to food production facilities, to—

(1) visit and inspect food production facilities in the United States and in foreign countries to investigate bioterrorism threats and for other critical food safety purposes;

(2) review food safety records as required to be kept by the Administrator to carry out traceback and for other critical food safety purposes;

(3) set good practice standards to protect the public and animal health and promote food safety;

(4) conduct monitoring and surveillance of animals, plants, products, or the environment, as appropriate; and

(5) collect and maintain information relevant to public health and farm practices.

SEC. 207. FEDERAL AND STATE COOPERATION.

(a) IN GENERAL.—The Administrator shall work with the States to carry out activities and programs that create a national food safety program so that Federal and State programs function in a coordinated and cost-effective manner.

(b) STATE ACTION.—The Administrator shall work with States to—

(1) continue, strengthen, or establish State food safety programs, especially with respect to the regulation of retail commercial food establishments, transportation, harvesting, and fresh markets;

(2) continue, strengthen, or establish inspection programs and requirements to ensure that food under the jurisdiction of the State is safe; and

(3) support recall authorities at the State and local levels.

(c) ASSISTANCE.—To assist in planning, developing, and implementing a food safety program, the Administrator may provide and continue to a State—

(1) advisory assistance;

(2) technical and laboratory assistance and training (including necessary materials and equipment); and

(3) financial, in kind, and other aid.

(d) SERVICE AGREEMENTS.—

(1) IN GENERAL.—The Administrator may, under agreements entered into with Federal, State, or local agencies, use on a reimbursable basis or otherwise, the personnel and services of those agencies in carrying out this Act.

(2) TRAINING.—Agreements with a State under this subsection may provide for training of State employees.

(3) MAINTENANCE OF AGREEMENTS.—The Administrator shall maintain any agreement that is in effect on the day before the date of enactment of this Act until the Administrator evaluates such agreement and determines whether to maintain or substitute such agreement.

(e) AUDITS.—

(1) IN GENERAL.—The Administrator shall annually conduct a comprehensive review of each State program that provides services to

the Administrator in carrying out the responsibilities under this Act, including mandated inspections under section 205.

(2) REQUIREMENTS.—The review shall—

(A) include a determination of the effectiveness of the State program; and

(B) identify any changes necessary to ensure enforcement of Federal requirements under this Act.

(f) NO FEDERAL PREEMPTION.—Nothing in this Act shall be construed to preempt the enforcement of State food safety laws and standards that are at least as stringent as those under this Act.

SEC. 208. IMPORTS.

(a) IN GENERAL.—Not later than 2 years after the effective date of this Act, the Administrator shall establish a system under which a foreign government or foreign food establishment seeking to import food to the United States shall submit a request for certification to the Administrator.

(b) CERTIFICATION STANDARD.—A foreign government or foreign food establishment requesting a certification to import food to the United States shall demonstrate, in a manner determined appropriate by the Administrator, that food produced under the supervision of a foreign government or by the foreign food establishment has met standards for food safety, inspection, labeling, and consumer protection that are at least equivalent to standards applicable to food produced in the United States.

(c) CERTIFICATION APPROVAL.—

(1) REQUEST BY FOREIGN GOVERNMENT.—Prior to granting the certification request of a foreign government, the Administrator shall review, audit, and certify the food safety program of a requesting foreign government (including all statutes, regulations, and inspection authority) as at least equivalent to the food safety program in the United States, as demonstrated by the foreign government.

(2) REQUEST BY FOREIGN FOOD ESTABLISHMENT.—Prior to granting the certification request of a foreign food establishment, the Administrator shall certify, based on an onsite inspection, the food safety programs and procedures of a requesting foreign firm as at least equivalent to the food safety programs and procedures of the United States.

(d) LIMITATION.—A foreign government or foreign firm approved by the Administrator to import food to the United States under this section shall be certified to export only the approved food products to the United States for a period not to exceed 5 years.

(e) WITHDRAWAL OF CERTIFICATION.—The Administrator may withdraw certification of any food from a foreign government or foreign firm—

(1) if such food is linked to an outbreak of human illness;

(2) following an investigation by the Administrator that finds that the foreign government programs and procedures or foreign food establishment is no longer equivalent to the food safety programs and procedures in the United States; or

(3) following a refusal to allow United States officials to conduct such audits and investigations as may be necessary to fulfill the requirements under this section.

(f) RENEWAL OF CERTIFICATION.—The Administrator shall audit foreign governments and foreign food establishments at least every 5 years to ensure the continued compliance with the standards set forth in this section.

(g) REQUIRED ROUTINE INSPECTION.—The Administrator shall routinely inspect food and food animals (via a physical examination) before it enters the United States to ensure that it is—

(1) safe;

(2) labeled as required for food produced in the United States; and

(3) otherwise meets requirements under the food safety law.

(h) ENFORCEMENT.—The Administrator is authorized to—

(1) deny importation of food from any foreign government that does not permit United States officials to enter the foreign country to conduct such audits and inspections as may be necessary to fulfill the requirements under this section;

(2) deny importation of food from any foreign government or foreign firm that does not consent to an investigation by the Administration when food from that foreign country or foreign firm is linked to a foodborne illness outbreak or is otherwise found to be adulterated or mislabeled; and

(3) promulgate rules and regulations to carry out the purposes of this section, including setting terms and conditions for the destruction of products that fail to meet the standards of this Act.

(i) DETENTION AND SEIZURE.—Any food imported for consumption in the United States may be detained, seized, or condemned pursuant to section 402.

SEC. 209. RESOURCE PLAN.

(a) IN GENERAL.—The Administrator shall prepare and update annually a resource plan describing the resources required, in the best professional judgment of the Administrator, to develop and fully implement the national food safety program established under this Act.

(b) CONTENTS OF PLAN.—The resource plan shall—

(1) describe quantitatively the personnel, financial, and other resources required to carry out the inspection of food establishments under section 205 and other requirements of the national food safety program;

(2) allocate inspection resources in a manner reflecting the distribution of risk and opportunities to reduce risk across the food supply to the extent feasible based on the best available information, and subject to section 205; and

(3) describe the personnel, facilities, equipment, and other resources needed to carry out inspection and other oversight activities, at a total resource level equal to at least 50 percent of the resources required to carry out inspections in food establishments under section 205—

(A) in foreign establishments;

(B) at the point of importation; and

(C) at the point of production on farms, ranches, and feedlots.

(c) GRANTS.—The resource plan shall include recommendations for funding to provide grants to States and local governments to carry out food safety activities in retail and food service facilities and the required inspections in food establishments.

(d) SUBMISSION OF PLAN.—The Administrator shall submit annually to the Committee on Appropriations of the Senate, the Committee on Appropriations of the House of Representatives, and other relevant committees of Congress, the resource plan required under this section.

SEC. 210. TRACEBACK.

(a) IN GENERAL.—The Administrator, in order to protect the public health, shall establish requirements for a national system for tracing food and food producing animals from point of origin to retail sale, subject to subsection (b).

(b) APPLICABILITY.—Traceability requirements shall—

(1) be established in accordance with regulations and guidelines issued by the Administrator; and

(2) apply to food production facilities and food establishments.

(c) RELATIONSHIP TO COUNTRY OF ORIGIN LABELING.—Nothing contained in this section prevents or interferes with implementation of the country of origin labeling requirements of subtitle D of the Agricultural Marketing Act of 1946 (7 U.S.C. 1638 et seq.).

TITLE III—RESEARCH AND EDUCATION

SEC. 301. PUBLIC HEALTH ASSESSMENT SYSTEM.

(a) IN GENERAL.—The Administrator, acting in coordination with the Director of the Centers for Disease Control and Prevention and with the Research Education and Economics mission area of the Department of Agriculture, shall—

(1) have access to the applicable data systems of the Centers for Disease Control and Prevention and to the databases made available by a State;

(2) maintain an active surveillance system of food, food products, and epidemiological evidence submitted by States to the Centers for Disease Control and Prevention based on a representative proportion of the population of the United States;

(3) assess the frequency and sources of human illness in the United States associated with the consumption of food;

(4) maintain a state-of-the-art DNA matching system and epidemiological system dedicated to food-borne illness identification, outbreaks, and containment; and

(5) have access to the surveillance data created via monitoring and statistical studies conducted as part of its own inspection.

(b) PUBLIC HEALTH SAMPLING.—

(1) IN GENERAL.—Not later than 1 year after the effective date of this Act, the Administrator shall establish guidelines for a sampling system under which the Administrator shall take and analyze samples of food—

(A) to assist the Administrator in carrying out this Act; and

(B) to assess the nature, frequency of occurrence, and quantities of contaminants in food.

(2) REQUIREMENTS.—The sampling system described in paragraph (1) shall provide—

(A) statistically valid monitoring, including market-based studies, on the nature, frequency of occurrence, and quantities of contaminants in food available to consumers; and

(B) at the request of the Administrator, such other information, including analysis of monitoring and verification samples, as the Administrator determines may be useful in assessing the occurrence of contaminants in food.

(c) ASSESSMENT OF HEALTH HAZARDS.—

(1) IN GENERAL.—Through the surveillance system referred to in subsection (a) and the sampling system described in subsection (b), the Administrator shall—

(A) rank food categories based on the hazard to human health presented by the food category;

(B) identify appropriate industry and regulatory approaches to minimize hazards in the food supply; and

(C) assess the public health environment for emerging diseases, including zoonosis, for their risk of appearance in the United States food supply.

(2) COMPONENTS OF ANALYSIS.—The analysis under subsection (b)(1) may include—

(A) a comparison of the safety of commercial processing with the health hazards associated with food that is harvested for recreational or subsistence purposes and prepared noncommercially;

(B) a comparison of the safety of food that is domestically processed with the health hazards associated with food that is processed outside the United States;

(C) a description of contamination originating from handling practices that occur prior to or after the sale of food to consumers; and

(D) use of comparative risk assessments.

SEC. 302. PUBLIC EDUCATION AND ADVISORY SYSTEM.

(a) PUBLIC EDUCATION.—

(1) IN GENERAL.—The Administrator, in cooperation with private and public organizations, including the cooperative extension services and building on the efforts of appropriate State and local entities, shall establish a national public education program on food safety.

(2) REQUIREMENTS.—The program shall provide—

(A) information to the public regarding Federal standards and best practices and promotion of public awareness, understanding, and acceptance of those standards and practices;

(B) information for health professionals—

(i) to improve diagnosis and treatment of food-related illness; and

(ii) to advise individuals at special risk for food-related illnesses; and

(C) such other information or advice to consumers and other persons as the Administrator determines will promote the purposes of this Act.

(b) HEALTH ADVISORIES.—The Administrator, in consultation with other Federal departments and agencies as the Administrator determines necessary, shall work with the States and other appropriate entities—

(1) to develop and distribute regional and national advisories concerning food safety;

(2) to develop standardized formats for written and broadcast advisories;

(3) to incorporate State and local advisories into the national public education program established under subsection (a); and

(4) to present prompt, specific information regarding foods found to pose a threat to the public health.

SEC. 303. RESEARCH.

(a) IN GENERAL.—The Administrator shall conduct research to carry out this Act, including studies to—

(1) improve sanitation and food safety practices in the processing of food;

(2) develop improved techniques to monitor and inspect food;

(3) develop efficient, rapid, and sensitive methods to detect contaminants in food;

(4) determine the sources of contamination of contaminated food;

(5) develop food consumption data;

(6) identify ways that animal production techniques could improve the safety of the food supply;

(7) draw upon research and educational programs that exist at the State and local level;

(8) utilize the DNA matching system and other processes to identify and control pathogens;

(9) address common and emerging zoonotic diseases;

(10) develop methods to reduce or destroy harmful pathogens before, during, and after processing;

(11) analyze the incidence of antibiotic resistence as it pertains to the food supply and develop new methods to reduce the transfer of antibiotic resistance to humans; and

(12) conduct other research that supports the purposes of this Act.

(b) CONTRACT AUTHORITY.—The Administrator may enter into contracts and agreements with any State, university, Federal Government agency, or person to carry out this section.

TITLE IV—ENFORCEMENT

SEC. 401. PROHIBITED ACTS.

It is prohibited—

(1) to manufacture, introduce, deliver for introduction, or receive into interstate commerce any food that is adulterated, misbranded, or otherwise unsafe;

(2) to adulterate or misbrand any food in interstate commerce;

(3) for a food establishment or foreign food establishment to fail to register under section 202, or to operate without a valid registration;

(4) to refuse to permit access to a food establishment for the inspection and copying of a record as required under section 205(h);

(5) to fail to establish or maintain any record or to make any report as required under section 205(h);

(6) to refuse to permit entry to or inspection of a food establishment as required under section 205;

(7) to fail to provide to the Administrator the results of a testing or sampling of a food, equipment, or material in contact with contaminated food under section 205(i);

(8) to fail to comply with a provision, regulation, or order of the Administrator under section 202, 203, 204, or 208;

(9) to slaughter an animal that is capable for use in whole or in part as human food at a food establishment processing any such food for commerce, except in compliance with the food safety law;

(10) to transfer food in violation of an administrative detention order under section 402 or to remove or alter a required mark or label identifying the food as detained;

(11) to fail to comply with a recall or other order under section 403; or

(12) to otherwise violate the food safety law.

SEC. 402. FOOD DETENTION, SEIZURE, AND CONDEMNATION.

(a) ADMINISTRATIVE DETENTION OF FOOD.—

(1) EXPANDED AUTHORITY.—The Administrator shall have authority under section 304 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 334) to administratively detain and seize any food that the Administrator has reason to believe is unsafe, is adulterated or misbranded, or otherwise fails to meet the requirements of the food safety law.

(2) DETENTION AUTHORITY.—If, during an inspection conducted in accordance with section 205 or 208, an officer, employee, or agent of the Administration making the inspection has reason to believe that a domestic food, imported food, or food offered for import is unsafe, is adulterated or misbranded, or otherwise fails to meet the requirements of this Act, the officer or employee may order the food detained.

(3) PERIOD OF DETENTION.—

(A) IN GENERAL.—A food may be detained for a reasonable period, not to exceed 20 days, unless a longer period, not to exceed 30 days, is necessary for the Administrator to institute a seizure action.

(B) PERISHABLE FOOD.—The Administrator shall provide by regulation for procedures to institute a seizure action on an expedited basis with respect to perishable food.

(4) SECURITY OF DETAINED FOOD.—

(A) IN GENERAL.—A detention order—

(i) may require that the food be labeled or marked as detained; and

(ii) shall require that the food be removed to a secure facility, if appropriate.

(B) FOOD SUBJECT TO AN ORDER.—A food subject to a detention order shall not be transferred by any person from the place at which the food is removed, until released by the Administrator or until the expiration of the detention period applicable under the order, whichever occurs first.

(C) DELIVERY OF FOOD.—This subsection does not authorize the delivery of a food in accordance with execution of a bond while the article is subject to the order.

(b) APPEAL OF DETENTION ORDER.—

(1) IN GENERAL.—A person who would be entitled to be a claimant for a food subject to a detention order if the food were seized under section 304 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 334), may appeal the order to the Administrator.

(2) ACTION BY THE ADMINISTRATOR.—Not later than 5 days after an appeal is filed under paragraph (1), the Administrator, after providing an opportunity for an informal hearing, shall confirm, modify, or terminate the order involved.

(3) FINAL AGENCY ACTION.—Confirmation, modification, or termination by the Administrator under paragraph (2) shall be considered a final agency action for purposes of section 702 of title 5, United States Code.

(4) TERMINATION.—The order shall be considered to be terminated if, after 5 days, the Administrator has failed—

(A) to provide an opportunity for an informal hearing; or

(B) to confirm, modify, or terminate the order.

(5) EFFECT OF INSTITUTING COURT ACTION.—If the Administrator initiates an action under section 302 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 332) or section 304(a) of that Act (21 U.S.C. 334(a)), the process for the appeal of the detention order shall terminate.

(c) CONDEMNATION OF FOOD.—

(1) IN GENERAL.—After confirming a detention order, the Administrator may order the food condemned.

(2) DESTRUCTION OF FOOD.—Any food condemned shall be destroyed under the supervision of the Administrator.

(3) RELEASE OF FOOD.—If the Administrator determines that, through reprocessing, relabeling, or other action, a detained food can be brought into compliance with this Act, the food may be released following a determination by the Administrator that the relabeling or other action as specified by the Administrator has been performed.

(d) TEMPORARY HOLDS AT PORTS OF ENTRY.—

(1) IN GENERAL.—If an officer or qualified employee of the Administration has reason to believe that a food is unsafe, is adulterated or misbranded, or otherwise fails to meet the requirements of this Act, and the officer or qualified employee is unable to inspect, examine, or investigate the food when the food is offered for import at a port of entry into the United States, the officer or qualified employee shall request the Secretary of Homeland Security to hold the food at the port of entry for a reasonable period of time, not to exceed 24 hours, to enable the Administrator to inspect or investigate the food as appropriate.

(2) REMOVAL TO SECURE FACILITY.—The Administrator shall work in coordination with the Secretary of Homeland Security to remove a food held in accordance with paragraph (1) to a secure facility as appropriate.

(3) PROHIBITION ON TRANSFER.—During the period in which the food is held, the food shall not be transferred by any person from the port of entry into the United States, or from the secure facility to which the food has been removed.

(4) DELIVERY IN ACCORDANCE WITH A BOND.—The delivery of the food in accordance with the execution of a bond while the food is held is not authorized.

(5) PROHIBITION ON REEXPORT.—A food found unfit for human or animal consumption shall be prohibited from reexport without further processing to remove the contamination and reinspection by the Administration.

SEC. 403. NOTIFICATION AND RECALL.

(a) NOTICE TO ADMINISTRATOR OF VIOLATION.—

(1) IN GENERAL.—A person that has reason to believe that any food introduced into or in

interstate commerce, or held for sale (whether or not the first sale) after shipment in interstate commerce, may be in violation of the food safety law shall immediately notify the Administrator of the identity and location of the food.

(2) MANNER OF NOTIFICATION.—Notification under paragraph (1) shall be made in such manner and by such means as the Administrator may require by regulation.

(b) RECALL AND CONSUMER NOTIFICATION.—

(1) VOLUNTARY ACTIONS.—If the Administrator determines that food is in violation of the food safety law when introduced into or while in interstate commerce or while held for sale (whether or not the first sale) after shipment in interstate commerce and that there is a reasonable probability that the food, if consumed, would present a threat to public health, as determined by the Administrator, the Administrator shall give the appropriate persons (including the manufacturers, importers, distributors, or retailers of the food) an opportunity to—

(A) cease distribution of the food;

(B) notify all persons—

(i) processing, distributing, or otherwise handling the food to immediately cease such activities with respect to the food; or

(ii) to which the food has been distributed, transported, or sold, to immediately cease distribution of the food;

(C) recall the food;

(D) in conjunction with the Administrator, provide notice of the finding of the Administrator—

(i) to consumers to whom the food was, or may have been, distributed; and

(ii) to State and local public health officials; or

(E) take any combination of the measures described in this paragraph, as determined by the Administrator to be appropriate in the circumstances.

(2) MANDATORY ACTIONS.—If a person referred to in paragraph (1) refuses to or does not adequately carry out the actions described in that paragraph within the time period and in the manner prescribed by the Administrator, the Administrator shall—

(A) have authority to control and possess the food, including ordering the shipment of the food from the food establishment to the Administrator—

(i) at the expense of the food establishment; or

(ii) in an emergency (as determined by the Administrator), at the expense of the Administration; and

(B) by order, require, as the Administrator determines to be necessary, the person to immediately—

(i) cease distribution of the food; and

(ii) notify all persons—

(I) processing, distributing, or otherwise handling the food to immediately cease such activities with respect to the food; or

(II) if the food has been distributed, transported, or sold, to immediately cease distribution of the food.

(3) NOTIFICATION TO CONSUMERS BY ADMINISTRATOR.—The Administrator shall, as the Administrator determines to be necessary, provide notice of the finding of the Administrator under paragraph (1)—

(A) to consumers to whom the food was, or may have been, distributed; and

(B) to State and local public health officials.

(4) NONDISTRIBUTION BY NOTIFIED PERSONS.—A person that processes, distributes, or otherwise handles the food, or to which the food has been distributed, transported, or sold, and that is notified under paragraph (1)(B) or (2)(B) shall immediately cease distribution of the food.

(5) AVAILABILITY OF RECORDS TO ADMINISTRATOR.—Each person referred to in paragraph (1) that processed, distributed, or otherwise handled food shall make available to the Administrator information necessary to carry out this subsection, as determined by the Administrator, regarding—

(A) persons that processed, distributed, or otherwise handled the food; and

(B) persons to which the food has been transported, sold, distributed, or otherwise handled.

(c) INFORMAL HEARINGS ON ORDERS.—

(1) IN GENERAL.—The Administrator shall provide any person subject to an order under subsection (b) with an opportunity for an informal hearing, to be held as soon as practicable but not later than 2 business days after the issuance of the order.

(2) SCOPE OF THE HEARING.—In a hearing under paragraph (1), the Administrator shall consider the actions required by the order and any reasons why the food that is the subject of the order should not be recalled.

(d) POST-HEARING RECALL ORDERS.—

(1) AMENDMENT OF ORDER.—If, after providing an opportunity for an informal hearing under subsection (c), the Administrator determines that there is a reasonable probability that the food that is the subject of an order under subsection (b), if consumed, would present a threat to the public health, the Administrator, as the Administrator determines to be necessary, may—

(A) amend the order to require recall of the food or other appropriate action;

(B) specify a timetable in which the recall shall occur;

(C) require periodic reports to the Administrator describing the progress of the recall; and

(D) provide notice of the recall to consumers to whom the food was, or may have been, distributed.

(2) VACATION OF ORDERS.—If, after providing an opportunity for an informal hearing under subsection (c), the Administrator determines that adequate grounds do not exist to continue the actions required by the order, the Administrator shall vacate the order.

(e) REMEDIES NOT EXCLUSIVE.—The remedies provided in this section shall be in addition to, and not exclusive of, other remedies that may be available.

SEC. 404. INJUNCTION PROCEEDINGS.

(a) JURISDICTION.—The district courts of the United States, and the United States courts of the territories and possessions of the United States, shall have jurisdiction, for cause shown, to restrain a violation of section 202, 203, 204, 207, or 401 (or a regulation promulgated under that section).

(b) TRIAL.—In a case in which violation of an injunction or restraining order issued under this section also constitutes a violation of the food safety law, trial shall be by the court or, upon demand of the accused, by a jury.

SEC. 405. CIVIL AND CRIMINAL PENALTIES.

(a) CIVIL SANCTIONS.—

(1) CIVIL PENALTY.—

(A) IN GENERAL.—Any person that commits an act that violates the food safety law (including a regulation promulgated or order issued under a Federal food safety law) may be assessed a civil penalty by the Administrator of not more than $10,000 for each such act.

(B) SEPARATE OFFENSE.—Each act described in subparagraph (A) and each day during which that act continues shall be considered a separate offense.

(2) OTHER REQUIREMENTS.—

(A) WRITTEN ORDER.—The civil penalty described in paragraph (1) shall be assessed by the Administrator by a written order, which shall specify the amount of the penalty and the basis for the penalty under subparagraph (B) considered by the Administrator.

(B) AMOUNT OF PENALTY.—Subject to paragraph (1)(A), the amount of the civil penalty shall be determined by the Administrator, after considering—

(i) the gravity of the violation;

(ii) the degree of culpability of the person;

(iii) the size and type of the business of the person; and

(iv) any history of prior offenses by the person under the food safety law.

(C) REVIEW OF ORDER.—The order may be reviewed only in accordance with subsection (c).

(b) CRIMINAL SANCTIONS.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), a person that knowingly produces or introduces into commerce food that is unsafe or otherwise adulterated or misbranded shall be imprisoned for not more than 1 year or fined not more than $10,000, or both.

(2) SEVERE VIOLATIONS.—A person that commits a violation described in paragraph (1) after a conviction of that person under this section has become final, or commits such a violation with the intent to defraud or mislead, shall be imprisoned for not more than 3 years or fined not more than $100,000, or both.

(3) EXCEPTION.—No person shall be subject to the penalties of this subsection—

(A) for having received, proffered, or delivered in interstate commerce any food, if the receipt, proffer, or delivery was made in good faith, unless that person refuses to furnish (on request of an officer or employee designated by the Administrator)—

(i) the name, address and contact information of the person from whom that person purchased or received the food;

(ii) copies of all documents relating to the person from whom that person purchased or received the food; and

(iii) copies of all documents pertaining to the delivery of the food to that person; or

(B) if that person establishes a guaranty signed by, and containing the name and address of, the person from whom that person received in good faith the food, stating that the food is not adulterated or misbranded within the meaning of this Act.

(c) JUDICIAL REVIEW.—

(1) IN GENERAL.—An order assessing a civil penalty under subsection (a) shall be a final order unless the person—

(A) not later than 30 days after the effective date of the order, files a petition for judicial review of the order in the United States court of appeals for the circuit in which that person resides or has its principal place of business or the United States Court of Appeals for the District of Columbia; and

(B) simultaneously serves a copy of the petition by certified mail to the Administrator.

(2) FILING OF RECORD.—Not later than 45 days after the service of a copy of the petition under paragraph (1)(B), the Administrator shall file in the court a certified copy of the administrative record upon which the order was issued.

(3) STANDARD OF REVIEW.—The findings of the Administrator relating to the order shall be set aside only if found to be unsupported by substantial evidence on the record as a whole.

(d) COLLECTION ACTIONS FOR FAILURE TO PAY.—

(1) IN GENERAL.—If any person fails to pay a civil penalty assessed under subsection (a) after the order assessing the penalty has become a final order, or after the court of appeals described in subsection (b) has entered final judgment in favor of the Administrator, the Administrator shall refer the matter to the Attorney General, who shall institute in a United States district court of competent

jurisdiction a civil action to recover the amount assessed.

(2) LIMITATION ON REVIEW.—In a civil action under paragraph (1), the validity and appropriateness of the order of the Administrator assessing the civil penalty shall not be subject to judicial review.

(e) PENALTIES PAID INTO ACCOUNT.—The Administrator—

(1) shall deposit penalties collected under this section in an account in the Treasury; and

(2) may use the funds in the account, without further appropriation or fiscal year limitation—

(A) to carry out enforcement activities under food safety law; or

(B) to provide assistance to States to inspect retail commercial food establishments or other food or firms under the jurisdiction of State food safety programs.

(f) DISCRETION OF THE ADMINISTRATOR TO PROSECUTE.—Nothing in this Act requires the Administrator to report for prosecution, or for the commencement of an action, the violation of the food safety law in a case in which the Administrator finds that the public interest will be adequately served by the assessment of a civil penalty under this section.

(g) REMEDIES NOT EXCLUSIVE.—The remedies provided in this section may be in addition to, and not exclusive of, other remedies that may be available.

SEC. 406. PRESUMPTION.

In any action to enforce the requirements of the food safety law, the connection with interstate commerce required for jurisdiction shall be presumed to exist.

SEC. 407. WHISTLEBLOWER PROTECTION.

(a) IN GENERAL.—No Federal employee, employee of a Federal contractor or subcontractor, or any individual employed by a company (referred to in this section as a ''covered individual''), may be discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against, because of any lawful act done by the covered individual to—

(1) provide information, cause information to be provided, or otherwise assist in an investigation regarding any conduct that the covered individual reasonably believes constitutes a violation of any law, rule, or regulation, or that the covered individual reasonably believes constitutes a threat to the public health, when the information or assistance is provided to, or the investigation is conducted by—

(A) a Federal regulatory or law enforcement agency;

(B) a Member or committee of Congress; or

(C) a person with supervisory authority over the covered individual (or such other individual who has the authority to investigate, discover, or terminate misconduct);

(2) file, cause to be filed, testify, participate in, or otherwise assist in a proceeding or action filed or about to be filed relating to a violation of any law, rule, or regulation; or

(3) refused to violate or assist in the violation of any law, rule, or regulation.

(b) ENFORCEMENT ACTION.—

(1) IN GENERAL.—A covered individual who alleges discharge or other discrimination by any person in violation of subsection (a) may seek relief under subsection (c) by filing a complaint with the Secretary of Labor. If the Secretary of Labor has not issued a final decision within 180 days after the date on which the complaint is filed and there is no showing that such delay is due to the bad faith of the claimant, the claimant may bring an action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy.

(2) PROCEDURE.—

(A) IN GENERAL.—An action under paragraph (1) shall be governed under the rules and procedures set forth in section 42121(b) of title 49, United States Code.

(B) EXCEPTION.—Notification under section 42121(b)(1) of title 49, United States Code, shall be made to the person named in the complaint and to the person's employer.

(C) BURDENS OF PROOF.—An action brought under paragraph (1) shall be governed by the legal burdens of proof set for in section 42121(b) of title 49, United States Code.

(D) STATUTE OF LIMITATIONS.—An action under paragraph (1) shall be commenced not later than 90 days after the date on which the violation occurs.

(c) REMEDIES.—

(1) IN GENERAL.—A covered individual prevailing in any action under subsection (b)(1) shall be entitled to all relief necessary to make the covered individual whole.

(2) COMPENSATORY DAMAGES.—Relief for any action described in paragraph (1) shall include—

(A) reinstatement with the same seniority status that the covered individual would have had, but for the discrimination;

(B) the amount of any back pay, with interest; and

(C) compensation for any special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorney's fees.

(d) RIGHTS RETAINED BY THE COVERED INDIVIDUAL.—Nothing in this section shall be construed to diminish the rights, privileges, or remedies of any covered individual under any Federal or State law, or under any collective bargaining agreement.

SEC. 408. ADMINISTRATION AND ENFORCEMENT.

(a) IN GENERAL.—For the efficient administration and enforcement of the food safety law, the provisions (including provisions relating to penalties) of sections 6, 8, 9, and 10 of the Federal Trade Commission Act (15 U.S.C. 46, 48, 49, and 50) (except subsections (c) through (h) of section 6 of that Act), relating to the jurisdiction, powers, and duties of the Federal Trade Commission and the Attorney General to administer and enforce that Act, and to the rights and duties of persons with respect to whom the powers are exercised, shall apply to the jurisdiction, powers, and duties of the Administrator and the Attorney General in administering and enforcing the provisions of the food safety law and to the rights and duties of persons with respect to whom the powers are exercised, respectively.

(b) INQUIRIES AND ACTIONS.—

(1) IN GENERAL.—The Administrator, in person or by such agents as the Administrator may designate, may prosecute any inquiry necessary to carry out the duties of the Administrator under the food safety law in any part of the United States.

(2) POWERS.—The powers conferred by sections 9 and 10 of the Federal Trade Commission Act (15 U.S.C. 49 and 50) on the United States district courts may be exercised for the purposes of this chapter by any United States district court of competent jurisdiction.

SEC. 409. CITIZEN CIVIL ACTIONS.

(a) CIVIL ACTIONS.—A person may commence a civil action against—

(1) a person that violates a regulation (including a regulation establishing a performance standard), order, or other action of the Administrator to ensure the safety of food; or

(2) the Administrator (in his or her capacity as the Administrator), if the Administrator fails to perform an act or duty to ensure the safety of food that is not discretionary under the food safety law.

(b) COURT.—

(1) IN GENERAL.—The action shall be commenced in the United States district court for the district in which the defendant resides, is found, or has an agent.

(2) JURISDICTION.—The court shall have jurisdiction, without regard to the amount in controversy, or the citizenship of the parties, to enforce a regulation (including a regulation establishing a performance standard), order, or other action of the Administrator, or to order the Administrator to perform the act or duty.

(3) DAMAGES.—The court may—

(A) award damages, in the amount of damages actually sustained; and

(B) if the court determines it to be in the interest of justice, award the plaintiff the costs of suit, including reasonable attorney's fees, reasonable expert witness fees, and penalties.

(c) REMEDIES NOT EXCLUSIVE.—The remedies provided for in this section shall be in addition to, and not exclusive of, other remedies that may be available.

TITLE V—IMPLEMENTATION

SEC. 501. DEFINITION.

For purposes of this title, the term ''transition period'' means the 12-month period beginning on the effective date of this Act.

SEC. 502. REORGANIZATION PLAN.

(a) SUBMISSION OF PLAN.—Not later than 180 days after the effective date of this Act, the President shall transmit to the appropriate congressional committees a reorganization plan regarding the following:

(1) The transfer of agencies, personnel, assets, and obligations to the Administration pursuant to this Act.

(2) Any consolidation, reorganization, or streamlining of agencies transferred to the Administration pursuant to this Act.

(b) PLAN ELEMENTS.—The plan transmitted under subsection (a) shall contain, consistent with this Act, such elements as the President determines appropriate, including the following:

(1) Identification of any functions of agencies designated to be transferred to the Administration pursuant to this Act that will not be transferred to the Administration under the plan.

(2) Specification of the steps to be taken by the Administrator to organize the Administration, including the delegation or assignment of functions transferred to the Administration among the officers of the Administration in order to permit the Administration to carry out the functions transferred under the plan.

(3) Specification of the funds available to each agency that will be transferred to the Administration as a result of transfers under the plan.

(4) Specification of the proposed allocations within the Administration of unexpended funds transferred in connection with transfers under the plan.

(5) Specification of any proposed disposition of property, facilities, contracts, records, and other assets and obligations of agencies transferred under the plan.

(6) Specification of the proposed allocations within the Administration of the functions of the agencies and subdivisions that are not related directly to ensuring the safety of food.

(c) MODIFICATION OF PLAN.—The President may, on the basis of consultations with the appropriate congressional committees, modify, or revise any part of the plan until that part of the plan becomes effective in accordance with subsection (d).

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The reorganization plan described in this section, including any modifications or revisions of the plan under

subsection (c), shall become effective for an agency on the earlier of—

(A) the date specified in the plan (or the plan as modified pursuant to subsection (c)), except that such date may not be earlier than 90 days after the date the President has transmitted the reorganization plan to the appropriate congressional committees pursuant to subsection (a); or

(B) the end of the transition period.

(2) STATUTORY CONSTRUCTION.—Nothing in this subsection may be construed to require the transfer of functions, personnel, records, balances of appropriations, or other assets of an agency on a single date.

(3) SUPERCEDES EXISTING LAW.—Paragraph (1) shall apply notwithstanding section 905(b) of title 5, United States Code.

SEC. 503. TRANSITIONAL AUTHORITIES.

(a) PROVISION OF ASSISTANCE BY OFFICIALS.—Until the transfer of an agency to the Administration, any official having authority over or function relating to the agency immediately before the effective date of this Act shall provide the Administrator such assistance, including the use of personnel and assets, as the Administrator may request in preparing for the transfer and integration of the agency to the Administration.

(b) SERVICES AND PERSONNEL.—During the transition period, upon the request of the Administrator, the head of any executive agency may, on a reimbursable basis, provide services or detail personnel to assist with the transition.

(c) ACTING OFFICIALS.—

(1) IN GENERAL.—During the transition period, pending the advice and consent of the Senate to the appointment of an officer required by this Act to be appointed by and with such advice and consent, the President may designate any officer whose appointment was required to be made by and with such advice and consent and who was such an officer immediately before the effective date of this Act (and who continues to be in office) or immediately before such designation, to act in such office until the same is filled as provided in this Act.

(2) COMPENSATION.—While acting pursuant to paragraph (1), such officers shall receive compensation at the higher of—

(A) the rates provided by this Act for the respective offices in which they act; or

(B) the rates provided for the offices held at the time of designation.

(3) LIMITATION.—Nothing in this Act shall be construed to require the advice and consent of the Senate to the appointment by the President to a position in the Administration of any officer whose agency is transferred to the Administration pursuant to this Act and whose duties following such transfer are germane to those performed before such transfer.

(d) TRANSFER OF PERSONNEL, ASSETS, OBLIGATIONS, AND FUNCTION.—

(1) IN GENERAL.—Consistent with section 1531 of title 31, United States Code, the personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds that relate to the functions transferred under subsection (a) from a Federal agency shall be transferred to the Administration.

(2) UNEXPENDED FUNDS.—Unexpended funds transferred under this subsection shall be used by the Administration only for the purposes for which the funds were originally authorized and appropriated.

SEC. 504. SAVINGS PROVISIONS.

(a) COMPLETED ADMINISTRATIVE ACTIONS.—The enactment of this Act or the transfer of functions under this Act shall not affect any order, determination, rule, regulation, permit, personnel action, agreement, grant, contract, certificate, license, registration, privilege, or other administrative action issued, made, granted, or otherwise in effect or final with respect to that agency on the day before the transfer date with respect to the transferred functions

(b) PENDING PROCEEDINGS.—Subject to the authority of the Administrator under this Act—

(1) pending proceedings in an agency, including notices of proposed rulemaking, and applications for licenses, permits, certificates, grants, and financial assistance, shall continue notwithstanding the enactment of this Act or the transfer of the agency to the Administration, unless discontinued or modified under the same terms and conditions and to the same extent that such discontinuance could have occurred if such enactment or transfer had not occurred; and

(2) orders issued in such proceedings, and appeals therefrom, and payments made pursuant to such orders, shall issue in the same manner on the same terms as if this Act had not been enacted or the agency had not been transferred, and any such order shall continue in effect until amended, modified, superceded, terminated, set aside, or revoked by an officer of the United States or a court of competent jurisdiction, or by operation of law.

(c) PENDING CIVIL ACTIONS.—Subject to the authority of the Administrator under this Act, any civil action commenced with regard to that agency pending before that agency on the day before the transfer date with respect to the transferred functions shall continue notwithstanding the enactment of this Act or the transfer of an agency to the Administration.

(d) REFERENCES.—

(1) IN GENERAL.—After the transfer of functions from a Federal agency under this Act, any reference in any other Federal law, Executive order, rule, regulation, directive, document, or other material to that Federal agency or the head of that agency in connection with the administration or enforcement of the food safety laws shall be deemed to be a reference to the Administration or the Administrator, respectively.

(2) STATUTORY REPORTING REQUIREMENTS.—Statutory reporting requirements that applied in relation to such an agency immediately before the effective date of this Act shall continue to apply following such transfer if they refer to the agency by name.

SEC. 505. CONFORMING AMENDMENTS.

(a) EXECUTIVE SCHEDULE.—Section 5313 of title 5, United States Code, is amended by inserting at the end the following new item:

''Administrator of Food Safety.''.

(b) REPEAL OF CERTAIN PROVISIONS.—Section 18 of the Poultry Products Inspection Act (21 U.S.C. 467), section 401 of the Federal Meat Inspection Act (21 U.S.C. 671), and section 18 of the Egg Products Inspection Act (21 U.S.C. 1047) are repealed.

SEC. 506. ADDITIONAL TECHNICAL AND CONFORMING AMENDMENTS.

Not later than 60 days after the submission of the reorganization plan under section 502, the President shall prepare and submit proposed legislation to Congress containing necessary and appropriate technical and conforming amendments to the Acts listed in section 3(15) of this Act to reflect the changes made by this Act.

SEC. 507. REGULATIONS.

The Administrator may promulgate such regulations as the Administrator determines are necessary or appropriate to perform the duties of the Administrator.

SEC. 508. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

SEC. 509. LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.

For the fiscal year that includes the effective date of this Act, the amount authorized to be appropriated to carry out this Act shall not exceed—

(1) the amount appropriated for that fiscal year for the Federal agencies identified in section 102(b) for the purpose of administering or enforcing the food safety law; or

(2) the amount appropriated for those agencies for that purpose for the preceding fiscal year, if, as of the effective date of this Act, appropriations for those agencies for the fiscal year that includes the effective date have not yet been made.

SEC. 510. EFFECTIVE DATE.

This Act takes effect on the date of enactment of this Act.

By Mr. LEAHY (for himself and Ms. SNOWE):

S. 730. A bill to amend the Clean Air Act to establish requirements concerning the operation of fossil fuel-fired electric utility steam generating units, commercial and industrial boiler units, solid waste incineration units, medical waste incinerators, hazardous waste combustors, chlor-alkali plants, and Portland cement plants to reduce emissions of mercury to the environment, and for other purposes; to the Committee on Environment and Public Works.

Mr. LEAHY. Mr. President, today I again will discuss mercury pollution and the serious and immediate health risks it poses to the health of citizens across our Nation.

This is not a new issue. We have known about mercury pollution for decades, and it remains one of, if not the last, major toxic pollutant without a comprehensive plan to control its release. We know where the sources mercury pollution are, we know where the pollution deposits, and we definitely know what harm it causes to people and to wildlife.

We need to confront mercury pollution because it is a threat to pregnant women and children. The Environmental Protection Agency's own scientists estimate that one of every six women of child-bearing age has elevated levels of mercury in her body above safe thresholds.

Mercury can cause neurological harm to children exposed to increased mercury levels while in the womb and during the first few years of their lives, which can lead to increased risk for learning disabilities, developmental delays, and other serious problems.

Just last year EPA scientists nearly doubled the previous estimate of the number of children at increased risk from exposure to elevated mercury levels in their mothers' wombs from 300,000 to over 600,000. This finding should alarm all of us and spur this Administration to promptly develop strong controls on mercury pollution from power plants that meet the requirements of the Clean Air Act and that fully protect women and children.

Yet unfortunately, this Administration has not done that. The Administration's new mercury rule and the so-

called ''Clear Skies'' proposal turn back progress, ignore available clean air technology, and will leave more toxic mercury in our air, water, and fish and for a longer time than is necessary.

Because of this, on behalf of Senator SNOWE and myself, I am reintroducing legislation today that will confront this problem directly and that will reduce mercury pollution from all sources.

Our bill will reduce mercury emissions from coal-fired power plants by 90 percent by 2010. The cap-and-trade approach the Administration is pushing for in both the mercury rule and the President's Clear Skies proposal would only reduce emissions by less than 50 percent in the near future and possibly 70 percent over the next 15 years.

I introduce this legislation on the heels of two recent reports about the proposed EPA mercury rule, one from the Government Accountability Office and one from the EPA Inspector General. Both the IG and GAO reports severely criticize this Administration's mercury rulemaking process, saying it violated EPA policy, OMB guidance, Presidential Executive Orders and, in some instances, important provisions of the Clean Air Act.

I find this extremely troublesome. These are serious problems that greatly undermine the credibility of this Administration and that led them to create policies that fail to adequately protect the children in my state of Vermont and those all across the country. Rather than develop unbiased science-based limits on mercury pollution, they instead developed limits to fit predetermined numbers found in the President's industry friendly Clear Skies proposal.

The GAO found critical flaws with the economic analysis that basically prevent anyone from actually verifying the supposed benefits of the cap-and-trade approach proposed in both EPA's rule and in the Clear Skies plan. In simple terms you could call it another example of the smoke and mirrors this Administration has used to support its flawed dirty air pollution policies.

Not only were the supposed benefits of the cap-and-trade proposal virtually undocumented, they did not even bother to analyze whatsoever the health benefits to women and children from controlling toxic mercury. If protecting the health of women and children is truly important to this Administration, then why would they skip such an important analysis?

Not surprisingly, the EPA Inspector General confirmed what the GAO found. That EPA staff were directed to ignore the Clean Air Act and instead write a mercury rule to fit the weak mercury caps in the President's Clear Skies initiative.

Rather than let EPA's capable scientists and engineers do their jobs, they decided to play politics and bow to special interest groups. How else did industry favorable policies and analyses found in memos written by industry lobbyists make it into the rule, verbatim?

Both the GAO and IG reports make it clear that EPA staff were pressured to ignore parts of the Clean Air Act and to propose weaker mercury reductions than what are technically feasible and required under the law.

The President's Clear Skies proposal formed the basis for the flawed mercury rule, so it obviously shares the same flaws. These two reports confirm what many of us already suspected, that Clear Skies is based on biased analyses, inadequate and faulty justifications.

This Administration must stop the shenanigans. They need to stop downplaying the health risks of mercury pollution and stop catering to the special interests of the power industry and their lobbyists.

The clarity and diversity of voices opposed to their poor mercury policies are unprecedented in the 30-year history of EPA. Now is the time for them to listen to the voices of more than 600,000 citizens and more than one million sportsmen and women nationwide that sent EPA letters opposing the weak mercury rule.

Now is the time to listen to the nearly 100 national and local church leaders, representing dozens of denominations and millions of congregants, who sent a letter to President Bush expressing ''grave moral concern'' about his misleadingly titled Clear Skies Initiative.

I call on the Administration to take immediate action to correct the serious problems in EPA's proposed power plant mercury rules. Instead, I hope that we can begin to meet the targets set out in this bill and start protecting the health of women and children.

I ask unanimous consent that a summary of the bill be printed in the RECORD.

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

OVERVIEW OF THE OMNIBUS MERCURY EMISSIONS REDUCTION ACT OF 2005

Sponsored by Senators Patrick Leahy and Olympia Snowe

What will the Omnibus Mercury Emissions Reduction Act of 2005 do?

The Omnibus Mercury Emissions Reduction Act of 2005 mandates substantial reductions in mercury emissions from all major sources in the United States. It is the only comprehensive legislation to control mercury emissions from all major sources. It directs EPA to issue new standards for unregulated sources and to monitor and report on the progress of currently regulated sources. It sets an aggressive timetable for these reductions so that mercury emissions are reduced as soon as possible.

With these emissions reductions, the bill requires the safe disposal of mercury recovered from pollution control systems, so that the hazards of mercury are not merely transferred from one environmental medium to another. It requires annual public reporting—in both paper and electronic form—of facility-specific mercury emissions. It phases out mercury use in consumer products, requires product labeling, and mandates international cooperation. It supports research into the retirement of excess mercury, the handling of mercury waste, the effectiveness of fish consumption advisories, and the magnitude of previously uninventoried sources.

Section 3. Mercury emission standards for fossil fuel-fired electric utility steam generating units

The EPA's Mercury Study Report to Congress estimated 52 tons of mercury emissions occur per year from coal- and oil-fired electric utility steam generating units. More recently, an EPA inventory estimated 48 tons of mercury from coal-fired power plants. Collectively, these power plants constitute the largest source of mercury emissions in the United States. In December 2000, the EPA issued a positive determination to regulate these mercury emissions. But these rules will take years to write and implement, and there is already vigorous industry opposition. It is uncertain what form these rules will take or how long they may be delayed. This section requires EPA to set a Amaximum achievable control technology (MACT) standard for these emissions, such that nationwide emissions decrease by at least 90 percent.

Section 4. Mercury emission standards for coal- and oil-fired commercial and industrial boiler units

The EPA's report on its study estimates that 29 tons of mercury is emitted per year from coal- and oil-fired commercial and industrial boiler units. This section requires EPA to set a MACT standard for these mercury emissions, such that nationwide emissions decrease by at least 90 percent.

Section 5. Reduction of mercury emissions from solid waste incineration units

The EPA study estimates that 30 tons of mercury emissions are released each year from municipal waste combustors. These emissions result from the presence of mercury-containing items such as fluorescent lamps, fever thermometers, thermostats and switches, in municipal solid waste streams. In 1995, EPA promulgated final rules for these emissions, and these rules took effect in 2000. This section reaffirms those rules and requires stricter rules for units that do not comply. The most effective way to reduce mercury emissions from incinerators is to reduce the volume of mercury-containing items before they reach the incinerator. That is why this section also requires the separation of mercury-containing items from the waste stream, the labeling of mercury-containing items to facilitate this separation, and the phase-out of mercury in consumer products within three years, allowing for the possibility of exceptions for essential uses.

Section 6. Mercury emission standards for chlor-alkali plants

The EPA study estimates that 7 tons of mercury emissions are released per year from chlor-alkali plants that use the mercury cell process to produce chlorine. EPA has not issued rules to regulate these emissions. This section requires each chlor-alkali plant that uses the mercury cell process to reduce its mercury emissions by 95 percent. The most effective way to meet this standard would be to switch to the more energy efficient membrane cell process, which many plants already use.

Section 7. Mercury emission standards for Portland cement plants

The EPA study estimates that 5 tons of mercury emissions are released each year from Portland cement plants. In 1999 EPA promulgated final rules for emissions from cement plants, but these rules did not include mercury. This section requires each

Portland cement plant to reduce its mercury emissions by 95 percent.

Section 8. Report on implementation of mercury emission standards for medical waste incinerators

The EPA study estimates that 16 tons of mercury emissions are released per year from medical waste incinerators. In 1997 EPA issued final rules for emissions from hospital/medical/infectious waste incinerators. This section requires EPA to report on the success of these rules in reducing these mercury emissions.

Section 9. Report on implementation of mercury emission standards for hazardous waste combustors

The EPA study estimates that 7 tons of mercury emissions are released each year from hazardous waste incinerators. In 1999 EPA promulgated final rules for these emissions. This section requires EPA to report on the success of these rules in reducing these mercury emissions.

Section 10. Defense activities

This section requires the Department of Defense to report on its use of mercury, including the steps it is taking to reduce mercury emissions and to stabilize and recycle discarded mercury. This section also prohibits the Department of Defense from returning the nearly 5,000 tons of mercury in the National Defense Stockpile to the global market.

Section 11. International activities

This section directs EPA to work with Canada and Mexico to study mercury pollution in North America, including the sources of mercury pollution, the pathways of the pollution, and options for reducing the pollution.

Section 12. Mercury research

This section supports a variety of mercury research projects. First, it promotes accountability by mandating an interagency report on the effectiveness of this act in reducing mercury pollution. Second, it mandates an EPA study on mercury sedimentation trends in major bodies of water. Third, it directs EPA to evaluate and improve state-level mercury data and fish consumption advisories. Fourth, it mandates a National Academy of Sciences report on the retirement of excess mercury, such as stockpiled industrial mercury that is no longer needed due to plant closures or process changes. Fifth, it mandates an EPA study of mercury emissions from electric arc furnaces, a source not studied in the EPA's study report. Finally, it authorizes $2,000,000 for modernization and expansion of the Mercury Deposition Network, plus $10,000,000 over ten years for operational support of that network.

By Mr. CONRAD (for himself, Mr. BURNS, Mr. JOHNSON, Mr. DORGAN, Mr. KOHL, Mr. DOMENICI, Mr. BINGAMAN, and Mr. THUNE):

S. 731. A bill to recruit and retain more qualified individuals to teach in Tribal Colleges or Universities; to the Committee on Indian Affairs.

Mr. CONRAD. Mr. President, three years ago, Senator BURNS and I formed the bipartisan Task Force on Tribal Colleges and Universities to raise awareness of the important role that the tribal colleges and universities play in their respective communities as educational, economic, and cultural centers. The Task Force seeks to advance initiatives that help improve the quality education the colleges provide.

For more than three decades, tribal colleges have been providing a quality education to help Native Americans of all ages reach their fullest potential. More than 30,000 students from 250 tribes nationwide attend tribal colleges. Tribal colleges serve young people preparing to enter the job market, dislocated workers learning new skills, and people seeking to move off welfare. I am a strong supporter of our Nation's tribal colleges because, more than any other factor, they are bringing hope and opportunity to America's Indian communities.

Over the years, I have met with many tribal college students, and I am always impressed by their commitment to their education, their families and their communities. Tribal colleges and universities have been highly successful in helping Native Americans obtain a higher education. Congress has recognized the importance of these institutions and the significant gains they have achieved in helping more individuals obtain their education. While Congress has steadily increased its financial support of these institutions, many challenges still remain.

One of the challenges that the tribal college presidents have expressed to me is the frustration and difficulty they have in attracting qualified individuals to teach at the colleges. Recruitment and retention are difficult for many of the colleges because of their geographic isolation and low faculty salaries.

To help tackle the challenges of recruiting and retaining qualified teachers, I am introducing the Tribal Colleges and Universities Teacher Loan Forgiveness Act. This legislation will provide student loan forgiveness to individuals who commit to teach for up to five years in one of the tribal colleges nationwide. Individuals who have Perkins, Direct, or Guaranteed loans may qualify to receive up to $15,000 in loan forgiveness. This program will provide these institutions with extra help in attracting qualified teachers, and thus help ensure that deserving students receive a quality education.

I would be remiss if I did not recognize that former Senator Daschle was responsible for spearheading this initiative for a number of years. The tribal colleges lost a true champion, but I am pleased to carry forward his vision and support for the colleges.

I am pleased that Senators BURNS, JOHNSON, DORGAN, KOHL, DOMENICI, and BINGAMAN are original cosponsors of this bill, and I look forward to working with my colleagues to pass this important legislation.

Mr. BURNS. Mr. President, I am pleased to join my colleague, Senator CONRAD, in sponsoring legislation to provide student loan forgiveness to educators who commit to teaching in our tribal colleges. This legislation will provide up to $15,000 in loan forgiveness—a strong recruitment and retention tool for tribal colleges which often can't pay the same salaries as larger institutions.

I am, and have been for years, a strong supporter of Montana's tribal colleges as well as tribal colleges nationwide. They contribute greatly to our Native American communities, providing the tools for our tribal children to succeed in the world of higher education. Graduates often continue their education at Montana State or the University of Montana and take this knowledge and expertise back to their communities. These students strengthen and improve both our tribal communities and our State as a whole. They add to the social, economic, political and cultural fabric that is unique to Indian Country.

I know how hard our tribal colleges work to achieve success and to maintain high standards. A talented faculty is key to those goals, but too often tight budgets for tribal colleges limit their ability to recruit and retain faculty. Our tribal colleges and their students deserve quality teachers, and providing loan forgiveness will help attract and keep good faculty in what can be very rural areas.

In addition to forgiveness for Perkins, direct or guaranteed loans, this legislation will also provide assistance for nursing faculty at tribal colleges. The nursing shortage is a nationwide problem, particularly in rural areas and specifically in Indian Country. Graduates of tribal colleges often stay near or return home, and that holds true for nursing graduates as well. Supporting nursing programs at tribal colleges addresses that shortage by training professionals who are familiar with the acute medical needs and cultural differences in rural areas and are often willing to stay and wage the battles. This legislation will provide nursing loan forgiveness to nursing instructors at tribal colleges and will help strengthen a valuable program in Montana and around the country.

By Mr. INHOFE:

S. 732. A bill to authorize funds to Federal aid highways, highway safety programs, and transit programs, and for other purposes; from the Committee on Environment and Public Works; placed on the calendar.

Mr. INHOFE. Mr. President, I am introducing today the Safe, Accountable, Flexible and Efficient Transportation Equity Act of 2005, SAFETEA, which the Committee on Environment and Public Works reported out on March 16, 2005. This bill reauthorizes the Federal aid highway program which has been operating on extensions since it expired on September 30, 2003. The bill I am introducing today is essentially S. 1072 as passed by the Senate in the 108th Congress, with the exception that the overall funding level has been changed from $318 billion over 6 years to reflect the President's proposed funding level of $283.9 billion over 6 years.

Last year, this body voted 76 to 21 to adopt S. 1072. Clearly, there was overwhelming support for this measure

then, and in conversations with Members this year, I am confident that there is a real desire to get this bill done. We are already to take the bill up on the Senate floor just as soon as it is scheduled by the leadership.

It has been nearly 18 months since the current program, Transportation Equity Act for the 21 Century—TEA–21, expired. To date, we have done a total of six extensions with the current extension due to expire on May 31. This next deadline is fast approaching, and in addition to completing action on the floor, we still must conference with the House which has a very different formula program than proposed last year. We will have more challenging issues to address and need as much time as possible to do so.

Briefly, as in the bill passed by the Senate last year, the bill I am introducing today will address several critical issues in our transportation system. Specifically, the language improves on the existing program in the following areas:

Safety: Nearly 43,000 people died in 2002 on our Nation's highways. This represents the single greatest cause of accidental death in America. The Environment and Public Works Committee bill addresses this by creating a new core safety program and funding it accordingly.

Congestion: According to the Department of Transportation, time spent in congestion increased from 31.7 percent in 1992 to 33.1 percent in 2000. Based on this rate, a typical ''rush hour'' in an urbanized area is 5.3 hours per day. The problem is not in just urban areas; cities with populations less than 500,000 have experienced the greatest growth in travel delays, according to the DOT. Under this proposal, we would address the congestion problem by establishing a new Transportation Freight Gateway program which targets bottlenecks around ports and intermodal facilities.

Environment: This bill addresses the need to reduce delays in project delivery in several ways. The bill contains carefully balanced language on incorporating environmental concerns into planning and project review as early as practicable, while ensuring that disagreements over such concerns don't indefinitely delay much needed transportation projects. The language on the section 4(f) process will also help reduce unnecessary delays by enabling projects with de minimis impacts on 4(f) resources to proceed in a timely manner.

Also, the bill seeks to correct the inconsistencies between the transportation planning and air quality planning that must take place in areas in nonattainment under the Clean Air Act. The bill rationalizes the schedules for developing transportation plans and demonstrating conformity and aligns the length of the transportation plan considered under conformity with the length of the air quality plan.

Equity: The bill provides all States at least 10 percent growth over TEA–21 while increasing the rate of return for donor States from the current 90.5 percent to 92 percent by 2009. We maintain the TEA–21 scope of 92.5 percent.

The longer we delay enactment of a multiyear bill, we are negatively affecting economic growth. According to DOT estimates, every $1 billion of Federal Funds invested in highway improvements creates 47,000 jobs. The same $1 billion investment yields $500 million in new orders for the manufacturing sector and $500 million spread throughout other sectors of the economy.

States contract awards for the 2005 spring and summer construction season are going out to bid. If we fail to pass this bill soon, States will not know what to expect in Federal funding and the uncertainty will potentially force States to delay putting these projects out for bid. According to the American Association of State Highway Transportation Officials, AASHTO, an estimated 90,000 jobs are at stake. This problem is exacerbated for northern States which have shorter construction seasons. Many State transportation departments have advanced State dollars to construct projects eligible for Federal funding in anticipation of our action to reauthorize the program. Without a new bill, States are essentially left ''holding the bag.''

Over the past 6 years under TEA–21, we have made great progress in preserving and improving the overall physical condition and operation of our transportation system; however, more needs to be done. A safe, effective transportation system is the foundation of our economy. We are past due to fulfill an obligation to this country and the American people.

As mentioned earlier, the bill is essentially the same bill that was passed on the Senate floor last year—a bipartisan product of many months of hard work and compromise. It remains a very good piece of legislation.

The most significant difference with this bill, of course, is that it is drafted at the $283.9 billion level over 6 years. Since 2004 is behind us, the Environment and Public Works Committee bill includes only years 2005 to 2009 which is effectively $283.9 minus fiscal year 2004. S. 1072 passed the Senate last year and guaranteed all donor States a rate of return of 95 percent. At a lower funding level, we were able only to achieve a 92-percent rate of return but kept the 10 percent floor over TEA–21.

I am certain my colleagues share my strong desire to get a transportation reauthorization bill passed and signed into law by the President. I urge the leadership to schedule consideration of this bill this month so we can get it done.

By Mr. SPECTER:

S. 738. A bill to provide relief for the cotton shirt industry; to the Committee on Finance.

Mr. SPECTER. Mr. President, today I seek recognition to introduce legislation entitled the ''Cotton Shirt Industry Tariff Relief and Technical Corrections Act.'' This legislation will strengthen our domestic dress shirt manufacturers and the pima cotton growers. My bill is a technical correction that levels the playing field by correcting an anomaly from previous trade agreements that has unfairly advantaged foreign producers and sent hundreds of jobs offshore.

This legislation reduces duties levied on cotton shirting fabric that is not made in the United States. Currently, U.S. law recognizes this lack of fabric availability and grants special favorable trade concessions to manufacturers in Canada, Mexico, the Caribbean, the Andean region, and Africa. The U.S. has allowed shirts to enter this country duty-free from many other countries, while we have failed to reduce tariffs on those manufacturers that stayed in the U.S. and were forced to compete on these uneven terms. My bill will correct this inequity.

This legislation also recognizes the need to creatively promote the U.S. shirting manufacturing and textiles sectors, and does so through the creation of a Cotton Competitiveness grant program, which is funded through a portion of previously collected duties.

Our country has experienced an enormous loss of jobs in the manufacturing sector. It is critical that our domestic manufacturers are able to compete on a level playing field. In the case of the domestic dress shirt industry, the problem is our own government imposing a tariff of up to eleven percent upon the import of fabric made from U.S. pima cotton. My legislation is a concrete step that this Congress can take to reduce the hemorrhaging of U.S. manufacturing jobs.

One group of beneficiaries of this amendment is a Gitman Brothers factory in Ashland, PA. The Ashland Shirt and Pajama factory was built in 1948 and employs 265 workers. This factory in the Lehigh Valley turns out world class shirts with such labels as Burberry and Saks Fifth Avenue that are shipped across the U.S. Currently, Gitman pays an average tariff of eleven percent on the fabric it imports to make shirts. Their shirts are made of pima cotton that is grown in the Southwestern U.S., but spun into fabric only by special mills in Western Europe. Gitman must compete against Canadian shirt companies that import the same fabric tariff-free and who can then ship their shirts into the U.S. tariff-free under NAFTA. These workers and their families deserve trade laws that do not chase their jobs offshore.

This legislation enjoys the support of the domestic shirting industry, UNITE, and the Pima cotton associations. I offer this legislation on behalf of the men and women of the Gitman factory in Ashland, the domestic dress shirting industry, and the pima cotton growers, so that for them free trade will indeed be fair trade as well.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 97—COMMENDING PATRICIA SUE HEAD SUMMITT, HEAD WOMEN'S BASKETBALL COACH AT THE UNIVERSITY OF TENNESSEE, FOR THREE DECADES OF EXCELLENCE AS A PROVEN LEADER, MOTIVATED TEACHER, AND ESTABLISHED CHAMPION

Mr. FRIST (for himself and Mr. ALEXANDER) submitted the following resolution; which was considered and agreed to:

S. RES. 97

Whereas Pat Summitt, in her 31st year as head coach of the Lady Volunteers (the ''Lady Vols''), has become the Nation's all-time winningest NCAA basketball coach (men's or women's) with her 880th career victory, surpassing the legendary coach Dean Smith of the University of North Carolina;

Whereas Pat Summitt, at the age of 22, took over the women's program at Tennessee in 1974, when there were no scholarships and she had to wash the uniforms and drive the team van;

Whereas Pat Summitt won her first game on January 10, 1975, and continued to win games as she became the youngest coach in the nation to reach 300 wins (34 years old), 400 wins (37 years old), 500 wins (41 years old), 600 wins (44 years old), 700 wins (47 years old), and 800 wins (50 years old);

Whereas Pat Summitt has coached the Lady Vols to 15 30-plus win seasons, including a perfect season of 39–0, 13 Southeastern Conference (SEC) regular-season titles, and 11 SEC tournament championships;

Whereas Pat Summitt has appeared in more NCAA tournament games (107), and has won more tournament games (89), than any other collegiate coach, including a record of 36–0 in the first two rounds, 16 NCAA Final Four appearances, and 6 NCAA Championship Titles, including the NCAA's first back-to-back-to-back women's titles in 1996, 1997, and 1998;

Whereas Pat Summitt played on the 1976 United States Olympic team and later coached the United States women's basketball team to its first Olympic gold medal in 1984;

Whereas Pat Summitt has been named SEC coach of the year 6 times and national coach of the year by several associations, including the Sporting News Coach of the Year, the Naismith Coach of the Year, and the Associated Press Coach of the Year;

Whereas Pat Summitt and the Lady Vols were selected by ESPN as the ''Team of the Decade'' (1990s), sharing the honor with the Florida State University Seminole's football team, and Summitt became the first female coach to appear on the cover of Sports Illustrated;

Whereas Pat Summitt was officially accepted to the Women's Basketball Hall of Fame in 1999, and was then inducted to the Basketball Hall of Fame on October 13, 2000, as only the 4th women's basketball coach to earn Hall of Fame honors;

Whereas Pat Summitt's Lady Vols have a remarkable graduation rate, as each student-athlete who has completed her eligibility at Tennessee has received her degree or is in the process of completing all of the requirements; and

Whereas Pat Summitt has recently been honored by the University of Tennessee, as the court at Thompson-Boling Arena will be named ''The Summitt'': Now, therefore, be it

Resolved, That the Senate commends the University of Tennessee women's basketball coach, Patricia Sue Head Summitt, for three decades of excellence as a proven leader, motivated teacher, and established champion.

SENATE RESOLUTION 98—COMMENDING THE UNIVERSITY OF NORTH CAROLINA MEN'S BASKETBALL TEAM FOR WINNING THE 2005 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION DIVISION I MEN'S BASKETBALL CHAMPIONSHIP

Mr. BURR (for himself and Mrs. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 98

Whereas on April 4, 2005, the North Carolina Tar Heels defeated the Illinois Fighting Illini 75–70 in the finals of the National Collegiate Athletic Association (''NCAA'') Division I Men's Basketball Tournament in St. Louis, Missouri;

Whereas the Tar Heels now hold 5 men's basketball titles, including 4 NCAA tournament titles—the fourth-most in NCAA history;

Whereas the Tar Heels' men's team has won championships in 1924, 1957, 1982, 1993, and 2005;

Whereas Tar Heels head coach and Asheville, North Carolina, native Roy Williams won his first NCAA title in just his second year coaching the team, improving to 470–116 in 17 seasons as a head coach, and has the best record of any active coach in men's basketball;

Whereas seniors Jawad Williams, Jackie Manuel, Melvin Scott, Charlie Everett, and C.J. Hooker celebrated 4 years at North Carolina with a ''Final Four'' win;

Whereas Sean May was named Most Outstanding Player of the tournament, scoring 26 points and collecting 10 rebounds in the final game;

Whereas Tar Heels Raymond Felton and Rashad McCants joined Sean May on the All-Tournament Team, along with Illini players Luther Head and Deron Williams;

Whereas the North Carolina Tar Heels finished the 2004–2005 season with 33 wins and just 4 losses, and won the championship by defeating an Illinois team that tied an NCAA record for wins in a season at 37;

Whereas freshman Tar Heel Marvin Williams helped seal the victory with a tip-in with 1 minute and 26 seconds left to play;

Whereas the Tar Heel defense held Illinois to 27 percent from the field in the first half and prevented the Illini from scoring during the last 2 minutes and 37 seconds;

Whereas North Carolina defeated Michigan State 87–71 to earn a spot in the final contest;

Whereas the Tar Heels defeated Oakland and Iowa State in Charlotte, North Carolina, then Villanova and Wisconsin in Syracuse, New York, to advance to the ''Final Four'';

Whereas Albemarle, North Carolina, native Woody Durham has been the radio play-by-play voice of North Carolina's basketball programs since 1971, and this was his 11th ''Final Four'' with the Tar Heels and third national championship call;

Whereas the Tar Heel team members are excellent representatives of a fine university that is a leader in higher education, producing 38 Rhodes scholars, as well as many fine student-athletes and other leaders;

Whereas each player, coach, trainer, manager, and staff member dedicated this season and their efforts to ensure the North Carolina Tar Heels reached the summit of college basketball;

Whereas the Tar Heels showed tremendous dedication to each other, appreciation to their fans, sportsmanship to their opponents, and respect for the game of basketball throughout the 2005 season; and

Whereas residents of the Old North State and North Carolina fans worldwide are to be commended for their long-standing support, perseverance and pride in the team: Now, therefore, be it

Resolved, That the Senate—

(1) commends the champion North Carolina Tar Heels for their historic win in the 2005 National Collegiate Athletic Association Division I Men's Basketball Tournament;

(2) recognizes the achievements of the players, coaches, students, and support staff who were instrumental in helping the University of North Carolina Tar Heels win the tournament; and

(3) directs the Secretary of the Senate to transmit a copy of this resolution to University of North Carolina Chancellor James Moeser and head coach Roy Williams for appropriate display.

SENATE RESOLUTION 99—EXPRESSING THE SENSE OF THE SENATE TO CONDEMN THE INHUMANE AND UNNECESSARY SLAUGHTER OF SMALL CETACEANS, INCLUDING DALL'S PORPOISE, THE BOTTLENOSE DOLPHIN, RISSO'S DOLPHIN, FALSE KILLER WHALES, PILOT WHALES, THE STRIPED DOLPHIN, AND THE SPOTTED DOLPHIN IN CERTAIN NATIONS

Mr. LAUTENBERG (for himself, Mr. LEVIN, Mr. SARBANES, and Mr. LIEBERMAN) submitted the following resolution; which was referred to the Committee on Foreign Relations::

S. RES. 99

Whereas the United States has consistently worked to increase protections for marine mammals, such as dolphins and whales, since the enactment of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.);

Whereas dolphins and whales are found worldwide, including in both of the polar regions, throughout the high seas, and along most coastal areas;

Whereas these unique, highly social, and intelligent animals have caught the imagination of the public not only in the United States, but in many nations around the world;

Whereas the over-exploitation of small cetaceans for decades has resulted in the serious decline, and in some cases, the commercial extinction, of those species;

Whereas each year tens of thousands of small cetaceans are herded into small coves in certain nations, are slaughtered with spears and knives, and die as a result of blood loss and hemorrhagic shock;

Whereas in many cases, those responsible for the slaughter prevent documentation or data from the events from being recorded or made public;

Whereas the deficient information on hunt yields and small cetacean populations indicates a lack of commitment to maintaining sustainable populations and prevents scrutiny of humaneness of killing methods;

Whereas for at least the past 4 years toxicologists have issued warnings regarding high levels of mercury and other contaminants in meat from small cetaceans caught off coastal regions;

Whereas some nations that participate in small cetacean slaughter are members of the United Nations Convention on the Law of

the Sea, done at Montego Bay, Jamaica, December 10, 1982, and are therefore bound to honor article 65 of that Convention, which declares that ''States shall cooperate with a view to the conservation of marine mammals and in the case of cetaceans shall in particular work through the appropriate international organizations for their conservation, management, and study'';

Whereas in 1946, 14 nations adopted the International Convention for the Regulation of Whaling with schedule of whaling regulations, signed at Washington December 2, 1946 (TIAS 1849), which established the International Whaling Commission to provide for the proper conservation of whales stocks; and

Whereas the International Whaling Commission on numerous occasions has called into question the slaughter by member nations of small cetaceans, has asked for the reduction of the number of animals killed, and has in certain instances urged for the halt of the slaughter altogether, including by passing resolutions condemning drive hunts of striped dolphins in 1992 and 1993 and resolutions criticizing exploitation of Dall's porpoises in 1990, 1999, and 2001: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the United States strongly condemns the slaughter of small cetaceans in drive fisheries and urges nations that participate in small cetacean slaughter to end commercial hunts;

(2) at the 57th Annual Meeting of the International Whaling Commission in Korea, the United States should—

(A) negotiate regional and international agreements to decrease catch and bycatch of all cetaceans;

(B) advocate for clarification that the mandate of the International Whaling Commission includes small cetaceans;

(C) call on nations that participate in small cetacean slaughter to stop their commercial hunts;

(D) seek the inclusion of an agenda item in the Working Group on Whale Killing Methods and Associated Welfare Issues on killing methods for small cetaceans and implications for the welfare of small cetaceans;

(E) strongly urge all nations that engage in small cetacean hunts—

(i) to provide detailed information to the International Whaling Commission on primary and secondary killing methods used for each species of small cetacean killed, the method used to measure insensibility or death, and times of death; and

(ii) to share with the International Whaling Commission data on the sustainability of small cetacean populations; and

(F) initiate and support efforts—

(i) to firmly support the role and authority of the newly created Conservation Committee; and

(ii) to ensure an ambitious conservation agenda for all future meetings of the Committee; and

(3) the United States should make full use of all appropriate diplomatic mechanisms, relevant international laws and agreements, Federal laws, including the Fishermen's Protective Act of 1967 (commonly known as the Pelly Amendment) (22 U.S.C. 1971 et seq.), and other appropriate means to implement these goals.

Mr. LAUTENBERG. Mr. President, I rise to submit a resolution to condemn the inhumane and unnecessary slaughter of dolphins, porpoises, and small whales that occurs in certain nations around the world.

This resolution would send the U.S. delegation to this year's International Whaling Commission meeting with the message that the slaughter of these marine mammals must be stopped, and that the commission must protect them. I am pleased to be joined by my cosponsors, Senators LEVIN, SARBANES, and LIEBERMAN.

Each year, more than 20,000 dolphins, porpoises, and small whales, which are collectively called small cetaceans, are slaughtered by methods that are beyond inhumane.

These mammals are intelligent, they live in family groups, and they feel pain. In many cases, they are herded together into small coves, where they are confined with nets. Once they are trapped, the slaughter begins.

The first step is often to slice their throats with knives, causing them to bleed to death. This slow and painful method is used because cetaceans are hard to kill, due to their natural protective layer of blubber.

Very often, processing of these mammals begins before they are even dead. They are wrenched from the water with cranes, loaded while in a state of shock into trucks, and taken to warehouses where their flesh is removed to be sold as meat. All of this can occur while the animals are still alive.

Dolphins, porpoises, and small whales are some of the most advanced animals in the world, on land or at sea. They can feel pain the same way and to the same extent humans can.

I find this treatment of these remarkable animals abhorrent and inhumane. However, the process I have described is also objectionable for several other reasons.

The meat of these animals is sold as food, often mislabeled as ''whale meat,'' which to many people suggests open-ocean large whales that are still hunted by several nations despite a worldwide moratorium.

However, the meat of small cetaceans is not large whale meat. Small cetacean meat can be very unhealthy. These small animals are more likely than large whales to live along the coast, and they are higher up in the food chain, so their bodies are often contaminated with mercury and other pollutants. Levels of contaminants in some of this meat are often much higher than what is recommended by the nations where it is sold.

Another problem is that many of these small cetacean populations are being threatened by the loss of large numbers of animals. Over-exploitation of small cetaceans has resulted in the serious decline and even the commercial extinction of some populations.

Unfortunately, it is difficult to track the take and the populations of these animals, as the people who slaughter them don't allow full, and in some cases any, documentation of the killing. Their failure to keep accurate information indicates that they lack a commitment to maintaining sustainable populations.

The International Whaling Commission (IWC) has passed at least 5 resolutions condemning these types of small cetacean slaughters. Our resolution will send the United States delegation to the next IWC meeting with the message that this issue is not forgotten.

It will also ensure that the U.S. delegation works to clarify the IWC's mission to manage and protect small cetaceans.

SENATE RESOLUTION 100—DISAPPROVING THE REQUEST OF THE PRESIDENT FOR EXTENSION UNDER SECTION 2103(C)(1)(B)(I) OF THE BIPARTISAN TRADE PROMOTION AUTHORITY ACT OF 2002, OF THE TRADE PROMOTION AUTHORITIES UNDER THAT ACT

Mr. DORGAN (for himself and Mr. BYRD) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 100

Resolved, That the Senate disapproves the request of the President for the extension, under section 2103(c)(1)(B)(i) of the Bipartisan Trade Promotion Authority Act of 2002, of the trade authorities procedures under that Act to any implementing bill submitted with respect to any trade agreement entered into under section 2103(b) of that Act after June 30, 2005.

Mr. DORGAN. Mr. President, today I am submitting a resolution to disapprove of the extension of ''trade promotion authority,'' better known as ''fast track,'' for trade agreements.

In 2002, the U.S. Congress decided to tie its hands behind its back when it comes to international trade.

The Constitution, at Article I, Section 8, gives the Congress the power to regulate foreign commerce. But in 2002 we handed that authority to the President, and effectively gave him a blank check. We gave the President the authority to negotiate trade agreements in secret, and to bring those agreements back to the Senate for a vote, without the possibility of a single amendment being offered.

What was the result? We saw the signing of agreements like the Central American Free Trade Agreement, or CAFTA. This is an agreement that would integrate our economy with those of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and the Dominican Republic.

Do the American people think this is a good idea? Not on your life, certainly not after what they've seen with the NAFTA deal with Mexico. CAFTA promises more of the same: U.S. jobs going overseas, as companies try to take advantage of low-wage labor in countries with no environmental controls.

If we were able to offer amendments to CAFTA, we could, for instance, have meaningful prohibitions on child or sweatshop labor, or pollution by overseas factories. Provisions that would protect American workers from having to compete with children working in filthy factories for pennies a day.

But that's not the kind of CAFTA agreement that big business wants.

They want to pole vault over basic labor and environmental laws in our country, and just move their factories to countries like Guatemala or Honduras.

I am going to lead the fight against CAFTA in the U.S. Senate. But I want to make sure that we get rid of this fast track authority that helped create this awful agreement in the first place.

Well, the legislation that gave fast track authority to the president in 2002 said that Congress would get to decide in 2005 whether to extend fast track. Any Senator can come to the floor of the Senate and offer a resolution saying that we should not extend fast track. And I am availing myself of that opportunity today.

But there is a catch. The supporters of fast track authority buried a provision in the 2002 bill, which says that the Senate does not get to vote on this resolution unless the Finance Committee first approves it. And the staff of Chairman of the Finance Committee has indicated that there is no way they are going to allow the Senate to vote on such a resolution.

I don't want to see any more agreements like CAFTA being negotiated in secret, and then brought to the U.S. Senate without the possibility of even a single amendment. So I am offering today a resolution of disapproval for extension of fast track, in accordance with the law.

And I am going to do everything I can to see to it that the Senate gets a chance to vote on this resolution, one way or another.

SENATE RESOLUTION 101—RECOGNIZING THE 50TH ANNIVERSARY OF THE DEVELOPMENT OF THE SALK POLIO VACCINE AND ITS IMPORTANCE IN ERADICATING THE INCIDENCE OF POLIO

Mr. SANTORUM (for himself and Mr. SPECTER, and Mr. LAUTENBERG) submitted the following resolution; which was considered and agreed to:

S. RES. 101

Whereas the epidemic of polio struck the citizens of the United States in the early 1950s, causing thousands of cases of lingering paralysis and death;

Whereas the epidemic of polio peaked in 1952, having affected nearly 58,000 people, mainly children and young adults;

Whereas many of those affected by polio needed the assistance of mechanical ventilators in order to breathe, while others were crippled and dependent upon crutches for mobility;

Whereas University of Pittsburgh faculty member Dr. Jonas Salk and his team of researchers developed the first vaccine against polio;

Whereas, in April 1955, the results of an unprecedented and successful nationwide clinical trial of the polio vaccine were announced;

Whereas the Salk polio vaccine was approved for widespread public use at that time; and

Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the pioneering achievement of Dr. Jonas Salk and his team of researchers at the University of Pittsburgh in the development of the Salk polio vaccine;

(2) expresses its appreciation to—

(A) the family of Dr. Salk for the elimination of polio, a disease that caused countless deaths and disabling consequences;

(B) the members of Dr. Salk's research team; and

(C) the individuals who generously agreed to participate in clinical trials to validate the efficacy of the polio vaccine; and

(3) celebrates with the University of Pittsburgh on the 50th anniversary of the approval and use of the Salk polio vaccine.

TEXT OF AMENDMENTS—APRIL 4, 2005

SA 265. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was referred to the Committee on Appropriations; as follows:

At the appropriate place, insert the following:

SEC. ___. PROHIBITION ON REDUCTION IN NUMBER OF OPERATIONAL AIRCRAFT CARRIERS OF THE NAVY.

(a) PROHIBITION.—No funds appropriated or otherwise made available by this Act, or by any other Act, for fiscal year 2005 may be obligated or expended to reduce the number of operational aircraft carriers of the Navy from 12 operational aircraft carriers to 11 operational aircraft carriers.

(b) OPERATIONAL AIRCRAFT CARRIER.—In this section, the term ''operational aircraft carrier'' includes an aircraft carrier that is unavailable due to maintenance or repair.

AMENDMENTS SUBMITTED AND PROPOSED

SA 292. Mr. SANTORUM (for himself and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the bill S. 600, to authorize appropriations for the Department of State and international broadcasting activities for fiscal years 2006 and 2007, for the Peace Corps for fiscal years 2006 and 2007, for foreign assistance programs for fiscal years 2006 and 2007, and for other purposes; which was ordered to lie on the table.

SA 293. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 600, supra; which was ordered to lie on the table.

SA 294. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 600, supra; which was ordered to lie on the table.

SA 295. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 600, supra; which was ordered to lie on the table.

SA 296. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 600, supra; which was ordered to lie on the table.

SA 297. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 600, supra; which was ordered to lie on the table.

SA 298. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 600, supra; which was ordered to lie on the table.

SA 299. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 600, supra; which was ordered to lie on the table.

SA 300. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 600, supra; which was ordered to lie on the table.

SA 301. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 600, supra; which was ordered to lie on the table.

SA 302. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 600, supra; which was ordered to lie on the table.

SA 303. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 600, supra; which was ordered to lie on the table.

SA 304. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 600, supra; which was ordered to lie on the table.

SA 305. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 600, supra; which was ordered to lie on the table.

SA 306. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 600, supra; which was ordered to lie on the table.

SA 307. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 600, supra; which was ordered to lie on the table.

SA 308. Mr. SALAZAR proposed an amendment to the bill S. 600, supra.

SA 309. Mr. SCHUMER (for himself, Mr. GRAHAM, Mr. BAYH, Mr. BUNNING, Mr. DODD, Mrs. DOLE, Mr. FEINGOLD, Ms. STABENOW, Mr. KOHL, Mr. REID, Mr. DURBIN, Mr. DEWINE, Mr. BURR, Mr. JOHNSON, and Ms. MIKULSKI) proposed an amendment to the bill S. 600, supra.

SA 310. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 600, supra; which was ordered to lie on the table.

SA 311. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 600, supra; which was ordered to lie on the table.

SA 312. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 600, supra; which was ordered to lie on the table.

SA 313. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 600, supra; which was ordered to lie on the table.

SA 314. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 600, supra; which was ordered to lie on the table.

SA 315. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was referred to the Committee on Appropriations.

SA 316. Mr. NELSON, of Florida (for himself and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was referred to the Committee on Appropriations.

SA 317. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 600, to authorize appropriations for the Department of State and international broadcasting activities for fiscal years 2006 and 2007, for the Peace Corps for fiscal years 2006 and 2007, for foreign assistance programs for fiscal years 2006 and 2007, and for other purposes.

SA 318. Mr. DODD (for himself and Mr. LIEBERMAN) proposed an amendment to the bill S. 600, supra.

SA 319. Mr. ENSIGN proposed an amendment to the bill S. 600, supra.

SA 320. Mr. ENSIGN proposed an amendment to the bill S. 600, supra.

SA 321. Mr. ENSIGN proposed an amendment to the bill S. 600, supra.

SA 322. Mr. ENSIGN proposed an amendment to the bill S. 600, supra.

SA 323. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 600, supra; which was ordered to lie on the table.

SA 324. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 600, supra; which was ordered to lie on the table.

SA 325. Mr. DODD (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill S. 600, supra; which was ordered to lie on the table.

SA 326. Ms. SNOWE (for herself and Mr. COLEMAN) submitted an amendment intended to be proposed by her to the bill S. 600, supra; which was ordered to lie on the table.

SA 327. Ms. SNOWE (for herself and Mr. COLEMAN) submitted an amendment intended to be proposed by her to the bill S. 600, supra; which was ordered to lie on the table.

SA 328. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 600, supra; which was ordered to lie on the table.

SA 329. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 600, supra; which was ordered to lie on the table.

SA 330. Ms. LANDRIEU (for herself, Mr. DEMINT, and Mr. CRAIG) submitted an amendment intended to be proposed by her to the bill S. 600, supra; which was ordered to lie on the table.

SA 331. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 600, supra; which was ordered to lie on the table.

SA 332. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill S. 600, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 292. Mr. SANTORUM (for himself and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the bill S. 600, to authorize appropriations for the Department of State and international broadcasting activities for fiscal years 2006 and 2007, for the Peace Corps for fiscal years 2006 and 2007, for foreign assistance programs for fiscal years 2006 and 2007, and for other purposes; which was ordered to lie on the table; as follows:

On page 74, between lines 2 and 3, insert the following:

SEC. 603. DESIGNATION OF POLAND AS A VISA WAIVER COUNTRY.

(a) FINDINGS.—Congress makes the following findings:

(1) Since the founding of the United States, Poland has proven its steadfast dedication to the causes of freedom and friendship with the United States, exemplified by the brave actions of Polish patriots such as Casimir Pulaski and Tadeusz Kosciuszko during the American Revolution.

(2) Polish history provides pioneering examples of constitutional democracy and religious tolerance.

(3) The United States is home to nearly 9,000,000 people of Polish ancestry.

(4) Polish immigrants have contributed greatly to the success of industry and agriculture in the United States.

(5) Since the demise of communism, Poland has become a stable, democratic nation.

(6) Poland has adopted economic policies that promote free markets and rapid economic growth.

(7) On March 12, 1999, Poland demonstrated its commitment to global security by becoming a member of the North Atlantic Treaty Organization.

(8) On May 1, 2004, Poland became a member state of the European Union.

(9) Poland was a staunch ally to the United States during Operation Iraqi Freedom.

(10) Poland has committed 2,300 soldiers to help with ongoing peacekeeping efforts in Iraq.

(11) The Secretary and the Secretary of Homeland Security administer the visa waiver program, which allows citizens from 27 countries, including France and Germany, to visit the United States as tourists without visas.

(12) On April 15, 1991, Poland unilaterally repealed the visa requirement for United States citizens traveling to Poland for 90 days or less.

(13) More than 100,000 Polish citizens visit the United States each year.

(b) VISA WAIVER PROGRAM.—Effective on the date of the enactment of this Act, and notwithstanding section 217(c) of the Immigration and Nationality Act (8 U.S.C. 1187(c)), Poland shall be deemed a designated program country for purposes of the visa waiver program established under section 217 of such Act.

SA 293. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 600, to authorize appropriations for the Department of State and international broadcasting activities for fiscal years 2006 and 2007, for the Peace Corps for fiscal years 2006 and 2007, for foreign assistance programs for fiscal years 2006 and 2007, and for other purposes; which was ordered to lie on the table; as follows:

On page 266, between lines 8 and 9, insert the following:

SEC. 2736. SUSPENSION OF FUNDS.

In any case in which there is credible evidence of sexual exploitation and abuse in a country by peacekeeping troops participating in United Nations peacekeeping operations and the government of such country is not investigating or punishing such exploitation and abuse, the United States shall suspend payment of peacekeeping funds to the United Nations in an amount proportionate to the operations in that country until the Secretary of State certifies to the appropriate congressional committees that the United Nations peacekeepers are prosecuted through the judicial systems of such country.

SA 294. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 600, to authorize appropriations for the Department of State and international broadcasting activities for fiscal years 2006 and 2007, for the Peace Corps for fiscal years 2006 and 2007, for foreign assistance programs for fiscal years 2006 and 2007, and for other purposes; which was ordered to lie on the table; as follows:

On page 13, between lines 9 and 10, insert the following:

(d) REPORT TO CONGRESS ON UNITED NATIONS TRAVEL ALLOWANCES.—Not later than 120 days after the date of enactment of this Act, the Secretary of State shall submit to the appropriate congressional committees a report including the following:

(1) The total the travel allowances for the past 3 calendar years, by conference and nation, including meals, lodging, travel, and related expenses, paid by the United Nations and member states and non-governmental organizations for delegates and experts to all worldwide conferences under the auspices of, or affiliated with, the United Nations.

(2) A description of the means by which the amount and distribution of such travel allowances are determined.

(3) A description of the means by which such travel allowance costs are assigned for payment by member states and nongovernmental organizations to United Nations or directly to the delegates and experts.

(4) Recommendations for policies, programs, and strategies of the United States Government to ensure that fiscal efficiency in such travel allowances is improved substantially.

SA 295. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 600, to authorize appropriations for the Department of State and international broadcasting activities for fiscal years 2006 and 2007, for the Peace Corps for fiscal years 2006 and 2007, for foreign assistance programs for fiscal years 2006 and 2007, and for other purposes; which was ordered to lie on the table; as follows:

On page 55, line 6, strike ''Section'' and insert the following:

(a) AMENDMENT.—Section

On page 55, between lines 11 and 12, insert the following:

(b) CALCULATION; DIRECT PAYMENTS.—

(1) CALCULATION.—The United States shall pay its share for United Nations Peacekeepers, pursuant to the amendment made by subsection (a), as calculated at such prevailing wage as military and civilian personnel are paid in their respective member states.

(2) DIRECT PAYMENTS TO PEACEKEEPERS.—The United States' share of the payments described in paragraph (1)—

(A) shall be paid directly to the military and civilian personnel engaged in peacekeeping operations; and

(B) shall not be paid to the member states, some of which—

(i) have profiteered from peacekeeping operations; or

(ii) have been derelict in payment of its military and civilian personnel engaged in peacekeeping operations.

SA 296. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 600, to authorize appropriations for the Department of State and international broadcasting activities for fiscal years 2006 and 2007, for the Peace Corps for fiscal years 2006 and 2007, for foreign assistance programs for fiscal years 2006 and 2007, and for other purposes; which was ordered to lie on the table; as follows:

On page 59, between lines 4 and 5, insert the following:

SEC. 405. REPORT TO CONGRESS ON UNITED NATIONS TRANSLATION EXPENSES.

Not later than 120 days after the date of the enactment of this Act, the Secretary, through the International Organizations Bureau of the Department of State, shall submit a report to Congress that contains—

(1) for the most recent 3 calendar years, a breakdown of the total of the translation expenses of the United Nations paid by the United Nations and member states and non-governmental organizations;

(2) a description of the means by which the amount and distribution of such translation work are determined;

(3) a description of the means by which such translation costs are assigned for payment by member states and non-governmental organizations to United Nations;

(4) an analysis of any possibility for cost savings resulting from translation into a particular languages being performed in the nation or nations where such language is autochthonous;

(5) an analysis of any cost savings possible by paying translators the prevailing wage for such work as is paid in the nation or nations where such language is autochthonous;

(6) an analysis of any possibility for cost savings resulting from translation into a more refined, smaller set of languages for any possible purposes and occasions, as such analogous initiative has been suggested for the translation work performed for the European Union; and

(7) recommendations for policies, programs, and strategies of the United States Government to ensure that fiscal efficiency in such translation expenses is improved substantially.

SA 297. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 600, to authorize appropriations for the Department of State and international broadcasting activities for fiscal years 2006 and 2007, for the Peace Corps for fiscal years 2006 and 2007, for foreign assistance programs for fiscal years 2006 and 2007, and for other purposes; which was ordered to lie on the table; as follows:

On page 16, after line 3, add the following:

SEC. 107. PROMOTION OF INTERNATIONAL TAXES, TARIFFS, OR FEES.

Nothing in this subtitle shall be construed to authorize the appropriation of funds for the Department of State to promote or in any way advocate for international taxes, tariffs, or fees.

SA 298. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 600, to authorize appropriations for the Department of State and international broadcasting activities for fiscal years 2006 and 2007, for the Peace Corps for fiscal years 2006 and 2007, for foreign assistance programs for fiscal years 2006 and 2007, and for other purposes; which was ordered to lie on the table; as follows:

On page 187, between lines 14 and 15, insert the following:

(c) NATIONAL MEMORIAL INSTITUTE FOR THE PREVENTION OF TERRORISM.—

(1) IN GENERAL.—The Secretary shall—

(A) contract with the National Memorial Institute for the Prevention of Terrorism (referred to in this subsection as the ''NMIPT'') to review national response plans and the training of first responders; and

(B) make use of the expertise of the NMIPT in carrying out activities under subsection (a).

(2) FINDINGS.—Established in 1997 by Public Law 105–58, the NMIPT is a nonprofit nongovernmental entity under section 501(c)(3) of the Internal Revenue Code of 1986, with a mission to prevent terrorism and assist the emergency responder community. The NMIPT provides a neutral forum for discussion of the issues associated with combating terrorism and provides an excellent setting for a world-class library of resources related to terrorism. The NMIPT sponsors and works with partners to explore counterterrorism research. One of the most important functions the NMIPT performs is to provide a means for emergency first responders to share information, the foundation of which information sharing effort is a manual of lessons learned by first responders.

SA 299. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 600, to authorize appropriations for the Department of State and international broadcasting activities for fiscal years 2006 and 2007, for the Peace Corps for fiscal years 2006 and 2007, for foreign assistance programs for fiscal years 2006 and 2007, and for other purposes; which was ordered to lie on the table; as follows:

On page 119, strike lines 8 through 21, and insert the following:

SEC. 2106. REMOVAL OF IRAQ FROM LIST OF COUNTRIES DENIED ASSISTANCE UNDER TITLE III OF FOREIGN ASSISTANCE ACT OF 1961.

Section 307(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2227(a)) is amended by striking ''Iraq,''.

SA 300. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 600, to authorize appropriations for the Department of State and international broadcasting activities for fiscal years 2006 and 2007, for the Peace Corps for fiscal years 2006 and 2007, for foreign assistance programs for fiscal years 2006 and 2007, and for other purposes; which was ordered to lie on the table; as follows:

On page 123, line 10, strike ''$680,735,000'' and insert ''$678,705,000''.

On page 143, line 17, strike ''$18,850,000'' and insert ''$20,850,000''.

SA 301. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 600, to authorize appropriations for the Department of State and international broadcasting activities for fiscal years 2006 and 2007, for the Peace Corps for fiscal years 2006 and 2007, for foreign assistance programs for fiscal years 2006 and 2007, and for other purposes; which was ordered to lie on the table; as follows:

On page 58, between lines 14 and 15, insert the following:

(7) The United Nations has experienced a proliferation of committees that perform essentially the same functions.

On page 58, line 18, strike ''and''.

On page 59, line 4, strike the period at the end and insert ''; and''

On page 59, between lines 4 and 5, insert the following:

(3) the Secretary should instruct any United States representative to the United Nations to use the voice and vote of the United States to seek to enact significant and necessary changes to improve the accountability, increase the transparency, and streamline the functioning of the United Nations processes by seeking the elimination of the Second and Third Committees of the United Nations.

SA 302. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 600, to authorize appropriations for the Department of State and international broadcasting activities for fiscal years 2006 and 2007, for the Peace Corps for fiscal years 2006 and 2007, for foreign assistance programs for fiscal years 2006 and 2007, and for other purposes; which was ordered to lie on the table; as follows:

On page 138, line 21, strike ''Section'' and insert the following:

(a) IN GENERAL.—Section

On page 139, between lines 3 and 4, insert the following:

(b) SENSE OF THE SENATE.—It is the Sense of the Senate that regularly scheduled dues of the United States to the United Nations for its share of peacekeeping funding should not be paid by emergency, ''off-budget'' appropriations.

SA 303. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 600, to authorize appropriations for the Department of State and international broadcasting activities for fiscal years 2006 and 2007, for the Peace Corps for fiscal years 2006 and 2007, for foreign assistance programs for fiscal years 2006 and 2007, and for other purposes; which was ordered to lie on the table; as follows:

On page 15, between lines 3 and 4, insert the following:

(d) REPORT ON ALLEGED DIVERSION OF INTENDED MIGRATION AND REFUGEE ASSISTANCE.—

(1) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall, through the International Organizations Bureau of the Department of State, submit to the appropriate congressional committees a report on the alleged diversion of funds intended for migration and refugee assistance.

(2) CONTENT.—The report required under paragraph (1) shall contain—

(A) for the previous three calendar years, a breakdown of the total expenses of the United States, nongovernmental organizations, the United Nations High Commissioner for Refugees, and world food aid programs incurred in providing assistance to the Saharawis and all refugees from Rwanda to Uganda and the Sudan;

(B) a description of the intended purposes of such assistance;

(C) a review of the allegations, found in European, Moroccan, and other press outlets and reported by French, Scandinavian, and other nongovernmental organizations, of the diversion of such funds to other purposes, including to the black markets in Algeria and Mauritania;

(D) an analysis of any possibility for cost savings resulting from the prevention of any such diversion;

(E) an analysis of how many lives could be saved and improved by the prevention of any such diversion; and

(F) recommendations for policies, programs, and strategies of the United States Government to prevent any such diversion.

SA 304. Mr. INHOFE submitted an amendment intended to be proposed by

him to the bill S. 600, to authorize appropriations for the Department of State and international broadcasting activities for fiscal years 2006 and 2007, for the Peace Corps for fiscal years 2006 and 2007, for foreign assistance programs for fiscal years 2006 and 2007, and for other purposes; which was ordered to lie on the table; as follows:

On page 59, between lines 4 and 5, insert the following:

SEC. 405. RENOVATION OF UNITED NATIONS BUILDING IN NEW YORK CITY.

(a) IN GENERAL.—Notwithstanding any other provision of law, no Federal funds shall be used to process any acceptance of the offer of a loan for $1,200,000,000 at 5.5 percent interest, or any other loan amount at any other interest rate, for the renovation of the United Nations building in New York, New York, until the Secretary of State certifies the falsehood of reports from approximately 6 renovation experts with particular experience in the costs of renovating high-end facilities and structures in New York, New York that the costs proposed by the United Nations for such renovation is above commercial, fair market prices.

(b) ADDITIONAL OFFERS.—In examining such reports of severely inflated cost estimates (some estimating charges in excess of 200 percent of fair market value), the Secretary shall arrange a meeting of the Bureau of International Organizations to discuss and receive written offers for the renovation of the United Nations building in New York, New York from not less than 12 different renovation enterprises or experts.

SA 305. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 600, to authorize appropriations for the Department of State and international broadcasting activities for fiscal years 2006 and 2007, for the Peace Corps for fiscal years 2006 and 2007, for foreign assistance programs for fiscal years 2006 and 2007, and for other purposes; which was ordered to lie on the table; as follows:

On page 59, between lines 4 and 5, insert the following:

SEC. 405. REPORT TO CONGRESS ON UNITED NATIONS DOUBLE-DIPPING.

Not later than 120 days after the date of the enactment of this Act, the Secretary, through the International Organizations Bureau of the Department of State, shall submit a report, to the appropriate congressional committees and to United States Senator James Inhofe, that contains—

(1) for the most recent 3 calendar years, a breakdown of any and all monies paid concurrently by the United Nations to individuals in multiple capacities (commonly known as ''double-dipping'');

(2) a description of the means by which the decision to pay such monies are determined;

(3) a description of the means by which such costs are assigned for payment to the United Nations by member states and nongovernmental organizations;

(4) an analysis of any possibility for cost savings resulting from the elimination of the practice of ''double-dipping'';

(5) an analysis of any possible disincentives that can result from paying 2 or more revenue streams or salaries to an individual at once, including the United Nations Mission to Eritrea and Ethiopia; and

(6) recommendations for Federal policies, programs, and strategies to ensure that fiscal efficiency is achieved regarding ''double-dipping''.

SA 306. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 600, to authorize appropriations for the Department of State and international broadcasting activities for fiscal years 2006 and 2007, for the Peace Corps for fiscal years 2006 and 2007, for foreign assistance programs for fiscal years 2006 and 2007, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, between lines 23 and 24, insert the following:

(8) The United Nations Children's Fund, Maranatha Chapel, the Woodrow Wilson International Center for Scholars, reports from international human rights organizations, including Human Rights Watch's 1997 report, ''The Scars of Death: Children Abducted by the Lord's Resistance Army in Uganda'', and Amnesty International's 1997 report, ''UGANDA: BREAKING GOD'S COMMANDS: THE DESTRUCTION OF CHILDHOOD BY THE LORD'S RESISTANCE ARMY'', the Department of Homeland Security, the Department of State's report ''COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES–2000'', and others have identified an international crisis involving a group named the Lord's Resistance Army, which is active in northern Uganda and southern Sudan.

(9) Since 1987, the Lord's Resistance Army has conducted a terror campaign against the people of Northern Uganda and Southern Sudan in an effort to overthrow the government of Uganda. The terror is still occurring in 2005, with recent abductions of children and adults and mutilation of those abducted through dismemberment.

On page 221, line 8, insert ''the atrocities committed by the Lord's Resistance Army and'' after ''combat''.

On page 222, line 21, strike ''abuses and to'' and all that follows through line 22, and insert ''abuses, with specific attention to the atrocities committed by the Lord's Resistance Army, and to increase independent judicial capacity in Sudan, Burundi,''.

On page 22, after line 24, add the following:

(d) REPORT ON LORD'S RESISTANCE ARMY OPERATIONS IN NORTHERN UGANDA.—Not later than 120 days after the date of enactment of this Act, the Secretary of State, through the International Organizations Bureau of the Department of State, shall submit a report to Congress that contains an analysis of—

(1) the effect the guerilla type warfare described in subsection (a)(8) has had both physically and psychologically on the people of the region;

(2) action that could be taken by the international community, or by the United States, with Uganda to end this terror on the Acholi people;

(3) the reasons that so little has been done by the international community to address this situation; and

(4) the action taken by United Nations agencies and nongovernmental organizations to relieve this crisis.

SA 307. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 600, to authorize appropriations for the Department of State and international broadcasting activities for fiscal years 2006 and 2007, for the Peach Corps for fiscal years 2006 and 2007, for foreign assistance programs for fiscal years 2006 and 2007, and for other purposes; which was ordered to lie on the table; as follows:

On page 13, between lines 9 and 10, insert the following:

(d) REPORT TO CONGRESS ON UNITED NATIONS TRAVEL ALLOWANCES.—Not later than 120 days after the date of enactment of this Act, the Secretary of State shall submit to the appropriate congressional committees a report including the following:

(1) The total the travel allowances for the past 3 calendar years, by conference and nation, including meals, lodging, travel, and related expenses, paid by the United Nations and member states and non-governmental organizations for delegates and experts to all worldwide conferences under the auspices of, or affiliated with, the United Nations.

(2) A description of the means by which the amount and distribution of such travel allowances are determined.

(3) A description of the means by which such travel allowance costs are assigned for payment by member states and nongovernmental organizations to United Nations or directly to the delegates and experts.

(4) Recommendations for policies, programs, and strategies of the United States Government to ensure that fiscal efficiency in such travel allowances is improved substantially.

On page 14, between lines 22 and 23, insert the following:

(d) REPORT ON ALLEGED DIVERSION OF INTENDED MIGRATION AND REFUGEE ASSISTANCE.—

(1) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, the Secretary, through the International Organizations Bureau of the Department of State, shall submit to the appropriate congressional committees a report on the alleged diversion of funds intended for migration and refugee assistance.

(2) CONTENT.—The report required under paragraph (1) shall contain—

(A) for the previous three calendar years, a breakdown of the total expenses of the United States, nongovernmental organizations, the United Nations High Commissioner for Refugees, and world food aid programs incurred in providing assistance to the Saharawis and all refugees from Rwanda to Uganda and the Sudan;

(B) a description of the intended purposes of such assistance;

(C) a review of the allegations, found in European, Moroccan, and other press outlets and reported by French, Scandinavian, and other nongovernmental organizations, of the diversion of such funds to other purposes, including to the black markets in Algeria and Mauritania;

(D) an analysis of any possibility for cost savings resulting from the prevention of any such diversion;

(E) an analysis of how many lives could be saved and improved by the prevention of any such diversion; and

(F) recommendations for policies, programs, and strategies of the United States Government to prevent any such diversion.

On page 15, after line 22, add the following:

SEC. 107. PROMOTION OF INTERNATIONAL TAXES, TARIFFS, OR FEES.

Nothing in this subtitle shall be construed to authorize the appropriation of funds for the Department of State to promote or in any way advocate for international taxes, tariffs, or fees.

On page 55, line 6, strike ''Section'' and insert the following:

(a) AMENDMENT.—Section

On page 55, between lines 11 and 12, insert the following:

(b) CALCULATION; DIRECT PAYMENTS.—

(1) CALCULATION.—The United States shall pay its share for United Nations Peacekeepers, pursuant to the amendment made by subsection (a), as calculated at such prevailing wage as military and civilian personnel are paid in their respective member states.

(2) DIRECT PAYMENTS TO PEACEKEEPERS.—The United States' share of the payments described in paragraph (1)—

(A) shall be paid directly to the military and civilian personnel engaged in peacekeeping operations; and

(B) shall not be paid to the member states, some of which—

(i) have profiteered from peacekeeping operations; or

(ii) have been derelict in payment of its military and civilian personnel engaged in peacekeeping operations.

On page 58, between lines 13 and 14, insert the following:

(7) The United Nations has experienced a proliferation of committees that perform essentially the same functions.

On page 58, line 18, strike ''and''.

On page 59, line 4, strike the period at the end and insert ''; and''

On page 59, between lines 4 and 5, insert the following:

(3) the Secretary should instruct any United States representative to the United Nations to use the voice and vote of the United States to seek to enact significant and necessary changes to improve the accountability, increase the transparency, and streamline the functioning of the United Nations processes by seeking the elimination of the Second and Third Committees of the United Nations.

SEC. 405. REPORTS TO CONGRESS ON UNITED NATIONS TRANSLATION EXPENSES AND DOUBLE-DIPPING.

(a) UNITED NATIONS TRANSLATION EXPENSES.—Not later than 120 days after the date of the enactment of this Act, the Secretary, through the International Organizations Bureau of the Department of State, shall submit a report to Congress that contains—

(1) for the most recent 3 calendar years, a breakdown of the total of the translation expenses of the United Nations paid by the United Nations and member states and nongovernmental organizations;

(2) a description of the means by which the amount and distribution of such translation work are determined;

(3) a description of the means by which such translation costs are assigned for payment by member states and non-governmental organizations to United Nations;

(4) an analysis of any possibility for cost savings resulting from translation into a particular languages being performed in the nation or nations where such language is autochthonous;

(5) an analysis of any cost savings possible by paying translators the prevailing wage for such work as is paid in the nation or nations where such language is autochthonous;

(6) an analysis of any possibility for cost savings resulting from translation into a more refined, smaller set of languages for any possible purposes and occasions, as such analogous initiative has been suggested for the translation work performed for the European Union; and

(7) recommendations for policies, programs, and strategies of the United States Government to ensure that fiscal efficiency in such translation expenses is improved substantially.

(b) DOUBLE-DIPPING.—Not later than 120 days after the date of the enactment of this Act, the Secretary, through the International Organizations Bureau of the Department of State, shall submit a report to the appropriate congressional committees and to United States Senator James Inhofe that contains—

(1) for the most recent 3 calendar years, a breakdown of any and all monies paid concurrently by the United Nations to individuals in multiple capacities (commonly known as ''double-dipping'');

(2) a description of the means by which the decision to pay such monies are determined;

(3) a description of the means by which such costs are assigned for payment to the United Nations by member states and nongovernmental organizations;

(4) an analysis of any possibility for cost savings resulting from the elimination of the practice of ''double-dipping'';

(5) an analysis of any possible disincentives that can result from paying 2 or more revenue streams or salaries to an individual at once, including the United Nations Mission to Eritrea and Ethiopia;

(6) recommendations for Federal policies, programs, and strategies to ensure that fiscal efficiency is achieved regarding ''double-dipping''.

SEC. 406. RENOVATION OF UNITED NATIONS BUILDING IN NEW YORK CITY.

(a) IN GENERAL.—Notwithstanding any other provision of law, no Federal funds shall be used to process any acceptance of the offer of a loan for $1,200,000,000 at 5.5 percent interest, or any other loan amount at any other interest rate, for the renovation of the United Nations building in New York, New York, until the Secretary of State certifies the falsehood of reports from approximately 6 renovation experts with particular experience in the costs of renovating high-end facilities and structures in New York, New York that the costs proposed by the United Nations for such renovation is above commercial, fair market prices.

(b) ADDITIONAL OFFERS.—In examining such reports of severely inflated cost estimates (some estimating charges in excess of 200 percent of fair market value), the Secretary shall arrange a meeting of the Bureau of International Organizations to discuss and receive written offers for the renovation of the United Nations building in New York, New York from not less than 12 different renovation enterprises or experts.

On page 119, strike lines 8 through 21, and insert the following:

SEC. 2106. REMOVAL OF IRAQ FROM LIST OF COUNTRIES DENIED ASSISTANCE UNDER TITLE III OF FOREIGN ASSISTANCE ACT OF 1961.

Section 307(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2227(a)) is amended by striking ''Iraq,''. Section 307(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2227(a)) is amended by striking ''Iraq,''.

On page 123, line 10, strike ''$680,735,000'' and insert ''$678,705,000''.

On page 138, line 21, strike ''Section'' and insert the following:

(a) IN GENERAL.—Section

On page 139, between lines 3 and 4, insert the following:

(b) SENSE OF THE SENATE.—It is the Sense of the Senate that regularly scheduled dues of the United States to the United Nations for its share of peacekeeping funding shall not be paid by emergency, ''off-budget'' appropriations.

On page 143, line 17, strike ''$18,850,000'' and insert ''$20,850,000''.

On page 187, between lines 14 and 15, insert the following:

(c) NATIONAL MEMORIAL INSTITUTE FOR THE PREVENTION OF TERRORISM.—

(1) IN GENERAL.—The Secretary shall—

(A) contract with the National Memorial Institute for the Prevention of Terrorism (referred to in this subsection as the ''NMIPT'') to review national response plans and the training of first responders; and

(B) make use of the expertise of the NMIPT in carrying out activities under subsection (a).

(2) FINDINGS.—Established in 1997 by Public Law 105–58, the NMIPT is a nonprofit nongovernmental entity under section 501(c)(3) of the Internal Revenue Code of 1986, with a mission to prevent terrorism and assist the emergency responder community. The NMIPT provides a neutral forum for discussion of the issues associated with combating terrorism and provides an excellent setting for a world-class library of resources related to terrorism. The NMIPT sponsors and works with partners to explore counterterrorism research. One of the most important functions the NMIPT performs is to provide a means for emergency first responders to share information, the foundation of which information sharing effort is a manual of lessons learned by first responders.

On page 220, between lines 23 and 24, insert the following:

(8) The United Nations Children's Fund, Maranatha Chapel, the Woodrow Wilson International Center for Scholars, reports from international human rights organizations, including Human Rights Watch's 1997 report, ''The Scars of Death: Children Abducted by the Lord's Resistance Army in Uganda'', and Amnesty International's 1997 report, ''UGANDA: BREAKING GOD'S COMMANDS: THE DESTRUCTION OF CHILDHOOD BY THE LORD'S RESISTANCE ARMY'', the Department of Homeland Security, the Department of State's report ''COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES–2000'', and others have identified an international crisis involving a group named the Lord's Resistance Army, which is active in northern Uganda and southern Sudan.

(9) Since 1987, the Lord's Resistance Army has conducted a terror campaign against the people of Northern Uganda and Southern Sudan in an effort to overthrow the government of Uganda. The terror is still occurring in 2005, with recent abductions of children and adults and mutilation of those abducted through dismemberment.

On page 221, line 8, insert ''the atrocities committed by the Lord's Resistance Army and'' after ''combat''.

On page 222, line 21, strike ''abuses and to'' and all that follows through line 22, and insert ''abuses, with specific attention to the atrocities committed by the Lord's Resistance Army, and to increase independent judicial capacity in Sudan, Burundi,''.

On page 22, after line 24, add the following:

(d) REPORT ON LORD'S RESISTANCE ARMY OPERATIONS IN NORTHERN UGANDA.—Not later than 120 days after the date of enactment of this Act, the Secretary of State, through the International Organizations Bureau of the Department of State, shall submit a report to Congress that contains an analysis of—

(1) the effect the guerilla type warfare described in subsection (a)(8) has had both physically and psychologically on the people of the region;

(2) action that could be taken by the international community, or by the United States, with Uganda to end this terror on the Acholi people;

(3) the reasons that so little has been done by the international community to address this situation;

(4) the action taken by United Nations agencies and nongovernmental organizations to relieve this crisis.

On page 266, between lines 8 and line, insert the following:

SEC. 2736. SUSPENSION OF FUNDS.

In any case in which there is credible evidence of sexual exploitation and abuse in a country by peacekeeping troops participating in United Nations peacekeeping operations and the government of such country is not investigating or punishing such exploitation and abuse, the United States shall suspend payment of peacekeeping funds to the United Nations in an amount proportionate to the operations in that country

until the Secretary of State certifies to the appropriate congressional committees that the United Nations peacekeepers are prosecuted through the judicial systems of such country.

SA 308. Mr. SALAZAR proposed an amendment to the bill S. 600, to authorize appropriations for the Department of State and international broadcasting activities for fiscal years 2006 and 2007, for the Peace Corps for fiscal years 2006 and 2007, for foreign assistance programs for fiscal years 2006 and 2007, and for other purposes; as follows:

At the end of title VIII, insert the following:

SEC. 812. INTERNATIONAL POLICE TRAINING.

(a) REQUIREMENTS FOR INSTRUCTORS.—Prior to carrying out any program of training for police or security forces through the Bureau that begins after the date of the enactment of this Act, the Secretary shall ensure that—

(1) such training is provided by instructors who have proven records of experience in training law enforcement or security personnel;

(2) the Bureau has established procedures to ensure that the individual who receive such training—

(A) do not have a criminal background;

(B) are not connected to any criminal or insurgent group;

(C) are not connected to drug traffickers; and

(D) meet the minimum age and experience standards set out in appropriate international agreements; and

(3) the Bureau has established procedures that—

(A) clearly establish the standards an individual who will receive such training must meet;

(B) clearly establish the training courses that will permit the individual to meet such standards; and

(C) provide for certification of an individual who meets such standards.

(b) ADVISORY BOARD.—The Secretary shall establish an advisory board of 10 experts to advise the Bureau on issues related to cost efficiency and professional efficacy of police and security training programs. The board shall have not less than 5 members who are experienced United States law enforcement personnel.

(c) BUREAU DEFINED.—In this section, the term ''Bureau'' means the Bureau of International Narcotics and Law Enforcement Affairs of the Department of State.

(d) ANNUAL REPORT.—Not later than September 30 of each fiscal year, the Secretary shall submit to Congress a report on the training for international police or security forces conducted by the Bureau. Such report shall include the attrition rates of the instructors of such training and indicators of job performance of such instructors.

SA 309. Mr. SCHUMER (for himself, Mr. GRAHAM, Mr. BAYH, Mr. BUNNING, Mr. DODD, Mrs. DOLE, Mr. FEINGOLD, Ms. STABENOW, Mr. KOHL, Mr. REID, Mr. DURBIN, Mr. DEWINE, Mr. BURR, Mr. JOHNSON, and Ms. MIKULSKI) proposed an amendment to the bill S. 600, to authorize appropriations for the Department of State and international broadcasting activities for fiscal years 2006 and 2007, for the Peace Corps for fiscal years 2006 and 2007, for foreign assistance programs for fiscal years 2006 and 2007, and for other purposes; as follows:

On page 277, after line 8, add the following:

TITLE XXIX—CURRENCY VALUATION

SEC. 2901. NEGOTIATIONS REGARDING CURRENCY VALUATION.

(a) FINDINGS.—Congress makes the following findings:

(1) The currency of the People's Republic of China, known as the yuan or renminbi, is artificially pegged at a level significantly below its market value. Economists estimate the yuan to be undervalued by between 15 percent and 40 percent or an average of 27.5 percent.

(2) The undervaluation of the yuan provides the People's Republic of China with a significant trade advantage by making exports less expensive for foreign consumers and by making foreign products more expensive for Chinese consumers. The effective result is a significant subsidization of China's exports and a virtual tariff on foreign imports.

(3) The Government of the People's Republic of China has intervened in the foreign exchange markets to hold the value of the yuan within an artificial trading range. China's foreign reserves are estimated to be over $609,900,000,000 as of January 12, 2005, and have increased by over $206,700,000,000 in the last 12 months.

(4) China's undervalued currency, China's trade advantage from that undervaluation, and the Chinese Government's intervention in the value of its currency violates the spirit and letter of the world trading system of which the People's Republic of China is now a member.

(5) The Government of the People's Republic of China has failed to promptly address concerns or to provide a definitive timetable for resolution of these concerns raised by the United States and the international community regarding the value of its currency.

(6) Article XXI of the GATT 1994 (as defined in section 2(1)(B) of the Uruguay Round Agreements Act (19 U.S.C. 3501(1)(B))) allows a member of the World Trade Organization to take any action which it considers necessary for the protection of its essential security interests. Protecting the United States manufacturing sector is essential to the interests of the United States.

(b) NEGOTIATIONS AND CERTIFICATION REGARDING THE CURRENCY VALUATION POLICY OF THE PEOPLE'S REPUBLIC OF CHINA.—

(1) IN GENERAL.—Notwithstanding the provisions of title I of Public Law 106–286 (19 U.S.C. 2431 note), on and after the date that is 180 days after the date of enactment of this Act, unless a certification described in paragraph (2) has been made to Congress, in addition to any other duty, there shall be imposed a rate of duty of 27.5 percent ad valorem on any article that is the growth, product, or manufacture of the People's Republic of China, imported directly or indirectly into the United States.

(2) CERTIFICATION.—The certification described in this paragraph means a certification by the President to Congress that the People's Republic of China is no longer acquiring foreign exchange reserves to prevent the appreciation of the rate of exchange between its currency and the United States dollar for purposes of gaining an unfair competitive advantage in international trade. The certification shall also include a determination that the currency of the People's Republic of China has undergone a substantial upward revaluation placing it at or near its fair market value.

(3) ALTERNATIVE CERTIFICATION.—If the President certifies to Congress 180 days after the date of enactment of this Act that the People's Republic of China has made a good faith effort to revalue its currency upward placing it at or near its fair market value, the President may delay the imposition of the tariffs described in paragraph (1) for an additional 180 days. If at the end of the 180-day period the President determines that China has developed and started actual implementation of a plan to revalue its currency, the President may delay imposition of the tariffs for an additional 12 months, so that the People's Republic of China shall have time to implement the plan.

(4) NEGOTIATIONS.—Beginning on the date of enactment of this Act, the Secretary of the Treasury, in consultation with the United States Trade Representative, shall begin negotiations with the People's Republic of China to ensure that the People's Republic of China adopts a process that leads to a substantial upward currency revaluation within 180 days after the date of enactment of this Act. Because various Asian governments have also been acquiring substantial foreign exchange reserves in an effort to prevent appreciation of their currencies for purposes of gaining an unfair competitive advantage in international trade, and because the People's Republic of China has concerns about the value of those currencies, the Secretary shall also seek to convene a multilateral summit to discuss exchange rates with representatives of various Asian governments and other interested parties, including representatives of other G–7 nations.

SA 310. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 600, to authorize appropriations for the Department of State and international broadcasting activities for fiscal years 2006 and 2007, for the Peace Corps for fiscal years 2006 and 2007, for foreign assistance programs for fiscal years 2006 and 2007, and for other purposes; which was ordered to lie on the table; as follows:

On page 274, beginning on line 21, strike ''Committees'' and all that follows through ''Representatives'' on line 24 and insert the following: ''Committees on Foreign Relations, Armed Services, and Appropriations of the Senate and the Committees on International Relations, Armed Services, and Appropriations of the House of Representatives''.

SA 311. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 600, to authorize appropriations for the Department of State and international broadcasting activities for fiscal years 2006 and 2007, for the Peace Corps for fiscal years 2006 and 2007, for foreign assistance programs for fiscal years 2006 and 2007, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 212, strike line 14 and all that follows through page 218, line 2, and insert the following:

''SEC. 403. (a) REPORT ON OBJECTIVES AND NEGOTIATIONS.—Not later than April 15 of each year, the President shall submit to the Speaker of the House of Representatives, the Chairman of the Committee on Foreign Relations of the Senate, and the Committee on Armed Services of the Senate a report prepared by the Secretary of State, in consultation with the Secretary of Defense, the Secretary of Energy, the Director of National Intelligence, and the Chairman of the Joint Chiefs of Staff, on the status of United States policy and actions with respect to arms control, nonproliferation, and disarmament. Such report shall include—

''(1) a detailed statement concerning the arms control, nonproliferation, and disarmament objectives of the executive branch of Government for the forthcoming year; and

''(2) a detailed assessment of the status of any ongoing arms control, nonproliferation, or disarmament negotiations, including a comprehensive description of negotiations or other activities during the preceding year and an appraisal of the status and prospects for the forthcoming year.

''(b) REPORT ON COMPLIANCE.—Not later than April 15 of each year, the President shall submit to the Speaker of the House of Representatives, the Chairman of the Committee on Foreign Relations of the Senate, and the Committee on Armed Services of the Senate a report prepared by the Secretary of State with the concurrence of the Director of the Central Intelligence Agency and in consultation with the Secretary of Defense, the Secretary of Energy, and the Chairman of the Joint Chiefs of Staff on the status of United States policy and actions with respect to arms control, nonproliferation, and disarmament compliance. Such report shall include—

''(1) a detailed assessment of adherence of the United States to obligations undertaken in arms control, nonproliferation, and disarmament agreements, including information on the policies and organization of each relevant agency or department of the United States to ensure adherence to such obligations, a description of national security programs with a direct bearing on questions of adherence to such obligations and of steps being taken to ensure adherence, and a compilation of any substantive questions raised during the preceding year and any corrective action taken;

''(2) a detailed assessment of the adherence of other nations to obligations undertaken in all arms control, nonproliferation, and disarmament agreements or commitments, including the Missile Technology Control Regime, to which the United States is a participating state, including information on actions taken by each nation with regard to the size, structure, and disposition of its military forces in order to comply with arms control, nonproliferation, or disarmament agreements or commitments, including, in the case of each agreement or commitment about which compliance questions exist—

''(A) a description of each significant issue raised and efforts made and contemplated with the other participating state to seek resolution of the difficulty;

''(B) an assessment of damage, if any, to United States security and other interests;

''(C) recommendations as to any steps that should be considered to redress any damage to United States national security and to reduce compliance problems; and

''(D) for states that are not parties to such agreements or commitments, a description of activities of concern carried out by such states and efforts underway to bring such states into adherence with such agreements or commitments;

''(3) a discussion of any material noncompliance by foreign governments with their binding commitments to the United States with respect to the prevention of the spread of nuclear explosive devices (as defined in section 830(4) of the Nuclear Proliferation Prevention Act of 1994 (22 U.S.C. 6305(4)) by non-nuclear-weapon states (as defined in section 830(5) of that Act (22 U.S.C. 6305(5)) or the acquisition by such states of unsafeguarded special nuclear material (as defined in section 830(8) of that Act (22 U.S.C. 6305(8)), including—

''(A) a net assessment of the aggregate military significance of all such violations;

''(B) a statement of the compliance policy of the United States with respect to violations of those commitments; and

''(C) what actions, if any, the President has taken or proposes to take to bring any country committing such a violation into compliance with those commitments; and

''(4) a specific identification, to the maximum extent practicable in unclassified form, of each and every question that exists with respect to compliance by other countries with arms control, nonproliferation, and disarmament agreements and other formal commitments with the United States.

''(c) CHEMICAL WEAPONS CONVENTION COMPLIANCE REPORT REQUIREMENT SATISFIED.—The report submitted pursuant to subsection (b) shall include the information required under section 2(10)(C) of Senate Resolution 75, 105th Congress, agreed to April 24, 1997, advising and consenting to the ratification of the Convention on the Prohibition of Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, with annexes, done at Paris January 13, 1993 and entered into force April 29, 1997 (popularly known as the 'Chemical Weapons Convention'; T.Doc. 103–21)

''(d) CLASSIFICATION OF REPORT.—The reports required by this section shall be submitted in unclassified form, with classified annexes, as appropriate. The report portions described in paragraphs (2) and (3) of subsection (b) shall summarize in detail, at least in classified annexes, the information, analysis, and conclusions relevant to possible noncompliance by other countries that are provided by United States intelligence agencies.

''(e) REPORTING CONSECUTIVE NONCOMPLIANCE.—If the President in consecutive reports submitted to the Congress under subsection (b) reports that any country is not in full compliance with its binding nonproliferation commitments to the United States, then the President shall include in the second such report an assessment of what actions are necessary to compensate for such violations.

''(f) ADDITIONAL REQUIREMENT.—Each report required by subsection (b) shall include a discussion of each significant issue described in subsection (b)(4) that was contained in a previous report issued under this section during 1995, or after December 31, 1995, until the question or concern has been resolved and such resolution has been reported in detail to the Committee on Foreign Relations, the Committee on Armed Services, and the Select Committee on Intelligence of the Senate and the Committee on International Relations, the Committee on Armed Services, and the Permanent Select Committee on Intelligence of the House of Representatives.''.

SA 312. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 600, to authorize appropriations for the Department of State and international broadcasting activities for fiscal years 2006 and 2007, for the Peace Corps for fiscal years 2006 and 2007, for foreign assistance programs for fiscal years 2006 and 2007, and for other purposes; which was ordered to lie on the table; as follows:

On page 277, after line 8, add the following:

TITLE XXIX—SUPPORT FOR TRANSITION TO DEMOCRACY IN IRAN

SEC. 2901. SHORT TITLE.

This title may be cited as the ''Iran Freedom and Support Act of 2005''.

Subtitle A—Codification of Sanctions Against Iran

SEC. 2911. CODIFICATION OF SANCTIONS.

(a) CODIFICATION OF SANCTIONS RELATED TO WEAPONS OF MASS DESTRUCTION.—United States sanctions, controls, and regulations relating to weapons of mass destruction with respect to Iran, as in effect on the date of the enactment of this title, shall remain in effect until the President certifies to the appropriate congressional committees that the Government of Iran has permanently and verifiably dismantled its weapons of mass destruction programs and has committed to combating the proliferation of such weapons.

(b) NO EFFECT ON OTHER SANCTIONS RELATING TO SUPPORT FOR ACTS OF INTERNATIONAL TERRORISM.—

(1) IN GENERAL.—Notwithstanding a certification by the President under subsection (a), United States sanctions, controls, and regulations described in paragraph (2) as in effect on the date of the enactment of this title shall remain in effect.

(2) COVERED SANCTIONS.—The sanctions, controls, and regulations referred to in paragraph (1) are sanctions, controls, and regulations related to determinations under section 6(j)(1)(A) of the Export Administration Act of 1979 (as in effect pursuant to the International Emergency Economic Powers Act; 50 U.S.C. 1701 et seq.), section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a)), and section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)) regarding support by the Government of Iran for acts of international terrorism.

Subtitle B—Amendments to the Iran and Libya Sanctions Act of 1996

SEC. 2921. MULTILATERAL REGIME.

(a) REPORTS TO CONGRESS.—Section 4(b) of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended to read as follows:

''(b) REPORTS TO CONGRESS.—Not later than six months after the date of the enactment of the Iran Freedom and Support Act of 2005 and every six months thereafter, the President shall submit to the appropriate congressional committees a report regarding specific diplomatic efforts undertaken pursuant to subsection (a), the results of those efforts, and a description of proposed diplomatic efforts pursuant to such subsection. Each report shall include—

''(1) a list of the countries that have agreed to undertake measures to further the objectives of section 3(a);

''(2) a description of those measures, including—

''(A) government actions with respect to public or private entities (or their subsidiaries) located in their countries that are engaged in business in Iran;

''(B) any decisions by the governments of such countries to rescind or continue the provision of credits, guarantees, or other governmental assistance to such entities; and

''(C) actions taken in international fora to further the objectives of section 3;

''(3) a list of the countries that have not agreed to undertake measures to further the objectives of section 3 with respect to Iran, and the reasons therefor; and

''(4) a description of any memorandums of understanding, political understandings, or international agreements to which the United States has acceded which affect implementation of this section or section 5(a).''.

(b) WAIVER.—Section 4(c) of such Act (50 U.S.C. 1701 note) is amended to read as follows:

''(c) WAIVER.—

''(1) IN GENERAL.—The President may, on a case by case basis, waive for a period of not more than six months the application of section 5(a) with respect to a national of a country, if the President certifies to the appropriate congressional committees at least 30 days before such waiver is to take effect that—

''(A) such waiver is vital to the national security of the United States; and

''(B) the country of the national has undertaken substantial measures to prevent the acquisition and development of weapons of mass destruction by the Government of Iran.

''(2) SUBSEQUENT RENEWAL OF WAIVER.—If the President determines that a renewal of a waiver is appropriate, the President may, at the conclusion of the period of a waiver under paragraph (1), renew such waiver for a subsequent period of not more than six months.''.

SEC. 2922. IMPOSITION OF SANCTIONS.

(a) SANCTIONS WITH RESPECT TO DEVELOPMENT OF PETROLEUM RESOURCES.—Section 5(a) of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended—

(1) in the heading, by striking ''TO IRAN'' and inserting ''TO THE DEVELOPMENT OF PETROLEUM RESOURCES OF IRAN'';

(2) by striking ''(6)'' and inserting ''(5)''; and

(3) by striking ''with actual knowledge,''.

(b) SANCTIONS WITH RESPECT TO DEVELOPMENT OF WEAPONS OF MASS DESTRUCTION OR OTHER MILITARY CAPABILITIES.—Section 5(b) of such Act (50 U.S.C. 1701 note) is amended to read as follows:

''(b) MANDATORY SANCTIONS WITH RESPECT TO DEVELOPMENT OF WEAPONS OF MASS DESTRUCTION OR OTHER MILITARY CAPABILITIES.—Notwithstanding any other provision of law, the President shall impose two or more of the sanctions described in paragraphs (1) through (5) of section 6 if the President determines that a person has, on or after the date of the enactment of the Iran Freedom and Support Act of 2005, exported, transferred, or otherwise provided to Iran any goods, services, technology, or other items the provision of which has contributed to the ability of Iran to—

''(1) acquire or develop chemical, biological, or nuclear weapons or related technologies; or

''(2) acquire or develop destabilizing numbers and types of advanced conventional weapons.''.

(c) PERSONS AGAINST WHICH THE SANCTIONS ARE TO BE IMPOSED.—Section 5(c)(2) of such Act (50 U.S.C. 1701 note) is amended—

(1) in subparagraph (B), by striking ''or'' at the end;

(2) in subparagraph (C), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following new subparagraph:

''(D) is a private or government lender, insurer, underwriter, re-insurer, or guarantor of the person referred to in paragraph (1) if that private or government lender, insurer, underwriter, re-insurer, or guarantor, with actual knowledge, engaged in the activities referred to in paragraph (1).''.

(d) INVESTIGATIONS.—Section 5 of such Act (50 U.S.C. 1701 note) is further amended by adding at the end the following new subsection:

''(g) INVESTIGATIONS.—

''(1) IN GENERAL.—Upon public or private disclosure of activity related to investment in Iran by a person, the President shall direct the Secretary of the Treasury to initiate an investigation into the possible imposition of sanctions against such person as a result of such activity, to notify such person of such investigation, and to provide a recommendation to the President for such purposes.

''(2) DETERMINATION AND NOTIFICATION.—Not later than 90 days after the date of the disclosure of the activity described in paragraph (1), the President shall determine whether or not to impose sanctions against such person as a result of such activity and shall notify the appropriate congressional committees of the basis for such determination.

''(3) PUBLICATION.—Not later than 10 days after the President notifies the appropriate congressional committees under paragraph (2), the President shall ensure publication in the Federal Register of—

''(A) the identification of the persons against which the President has made a determination that the imposition of sanctions is appropriate, together with an explanation for such determination; and

''(B) the identification of the persons against which the President has made a determination that the imposition of sanctions is not appropriate, together with an explanation for such determination.''.

(e) EFFECTIVE DATE.—Sanctions imposed pursuant to the amendments made by this section shall apply with respect to investments made in Iran on or after the date of the enactment of this title.

SEC. 2923. TERMINATION OF SANCTIONS.

(a) REMOVAL OF LIBYA SANCTIONS.—Section 8 of the Iran and Libya Sanctions Act 1996 (50 U.S.C. 1701 note) is amended—

(1) in subsection (a), by striking the subsection designation and heading; and

(2) by striking subsection (b).

(b) ADDITIONAL CONDITION FOR REMOVAL OF IRAN SANCTIONS.—Such section, as amended by subsection (a), is further amended—

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

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

(3) by adding at the end the following new paragraph:

''(3) poses no threat to United States national security, interests, or allies.''.

SEC. 2924. SUNSET.

Section 13 of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended—

(1) in the section heading, by striking ''**; SUNSET**'';

(2) in subsection (a), by striking the subsection designation and heading; and

(3) by striking subsection (b).

SEC. 2925. CLARIFICATION AND EXPANSION OF DEFINITIONS.

(a) PERSON.—Section 14(14)(B) of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended—

(1) by inserting after ''trust'' the following: '', financial institution, insurer, underwriter, re-insurer, guarantor''; and

(2) by striking ''operating as a business enterprise''.

(b) PETROLEUM RESOURCES.—Section 14(15) of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended by inserting after ''includes petroleum'' the following: '', petroleum by-products,''.

Subtitle C—Democracy in Iran

SEC. 2931. FINDINGS.

Congress makes the following findings:

(1) The people of the United States have long demonstrated an interest in the well-being of the people of Iran, dating back to the 1830s.

(2) Famous Americans such as Howard Baskerville, Dr. Samuel Martin, Jane E. Doolittle, and Louis G. Dreyfus, Jr., made significant contributions to Iranian society by furthering the educational opportunities of the people of Iran and improving the opportunities of the less fortunate citizens of Iran.

(3) Iran and the United States were allies following World War II, and through the late 1970s Iran was as an important regional ally of the United States and a key bulwark against Soviet influence.

(4) In November 1979, following the arrival of Mohammed Reza Shah Pahlavi in the United States, a mob of students and extremists seized the United States Embassy in Tehran, Iran, holding United States diplomatic personnel hostage until January 1981.

(5) Following the seizure of the United States Embassy, Ayatollah Ruhollah Khomeini, leader of the repressive revolutionary movement in Iran, expressed support for the actions of the students in taking American citizens hostage.

(6) Despite the presidential election of May 1997, an election in which an estimated 91 percent of the electorate participated, control of the internal and external affairs of the Islamic Republic of Iran is still exercised by the courts in Iran and the Revolutionary Guards, Supreme Leader, and Council of Guardians of the Government of Iran.

(7) The election results of the May 1997 election and the high level of voter participation in that election demonstrate that the people of Iran favor economic and political reforms and greater interaction with the United States and the Western world in general.

(8) Efforts by the United States to improve relations with Iran have been rebuffed by the Government of Iran.

(9) The Clinton Administration eased sanctions against Iran and promoted people-to-people exchanges, but the Leader of the Islamic Revolution Ayatollah Ali Khamenei, the Militant Clerics' Society, the Islamic Coalition Organization, and Supporters of the Party of God have all opposed efforts to open Iranian society to Western influences and have opposed efforts to change the dynamic of relations between the United States and Iran.

(10) For the past two decades, the Department of State has found Iran to be the leading sponsor of international terrorism in the world.

(11) In 1983, the Iran-sponsored Hezbollah terrorist organization conducted suicide terrorist operations against United States military and civilian personnel in Beirut, Lebanon, resulting in the deaths of hundreds of Americans.

(12) The United States intelligence community and law enforcement personnel have linked Iran to attacks against American military personnel at Khobar Towers in Saudi Arabia in 1996 and to al Qaeda attacks against civilians in Saudi Arabia in 2004.

(13) According to the Department of State's Patterns of Global Terrorism 2001 report, ''Iran's Islamic Revolutionary Guard Corps and Ministry of Intelligence and Security continued to be involved in the planning and support of terrorist acts and supported a variety of groups that use terrorism to pursue their goals,'' and ''Iran continued to provide Lebanese Hizballah and the Palestinian rejectionist groups—notably HAMAS, the Palestinian Islamic Jihad, and the [Popular Front for the Liberation of Palestine-General Command]—with varying amounts of funding, safehaven, training and weapons.''

(14) Iran currently operates more than 10 radio and television stations broadcasting in Iraq that incite violent actions against United States and coalition personnel in Iraq.

(15) The current leaders of Iran, Ayatollah Ali Khamenei and Hashemi Rafsanjani, have repeatedly called upon Muslims to kill Americans in Iraq and install a theocratic regime in Iraq.

(16) The Government of Iran has admitted pursuing a clandestine nuclear program, which the United States intelligence community believes may include a nuclear weapons program.

(17) The Government of Iran has failed to meet repeated pledges to arrest and extradite foreign terrorists in Iran.

(18) The United States Government believes that the Government of Iran supports terrorists and extremist religious leaders in Iraq with the clear intention of subverting

coalition efforts to bring peace and democracy to Iraq.

(19) The Ministry of Defense of Iran confirmed in July 2003 that it had successfully conducted the final test of the Shahab-3 missile, giving Iran an operational intermediate-range ballistic missile capable of striking both Israel and United States troops throughout the Middle East and Afghanistan.

SEC. 2932. DECLARATION OF CONGRESS REGARDING UNITED STATES POLICY TOWARD IRAN.

Congress declares that it should be the policy of the United States—

(1) to support efforts by the people of Iran to exercise self-determination over the form of government of their country; and

(2) to actively support a national referendum in Iran with oversight by international observers and monitors to certify the integrity and fairness of the referendum.

SEC. 2933. ASSISTANCE TO SUPPORT DEMOCRACY IN IRAN.

(a) AUTHORIZATION.—The President is authorized, notwithstanding any other provision of law, to provide financial and political assistance (including the award of grants) to foreign and domestic individuals, organizations, and entities that support democracy and the promotion of democracy in Iran. Such assistance may include the award of grants to eligible independent pro-democracy radio and television broadcasting organizations that broadcast into Iran.

(b) SENSE OF CONGRESS ON ELIGIBILITY FOR ASSISTANCE.—It is the sense of Congress that financial and political assistance under this section be provided to an individual, organization, or entity that—

(1) opposes the use of terrorism;

(2) advocates the adherence by Iran to nonproliferation regimes for nuclear, chemical, and biological weapons and materiel;

(3) is dedicated to democratic values and supports the adoption of a democratic form of government in Iran;

(4) is dedicated to respect for human rights, including the fundamental equality of women;

(5) works to establish equality of opportunity for people; and

(6) supports freedom of the press, freedom of speech, freedom of association, and freedom of religion.

(c) FUNDING.—The President may provide assistance under this section using amounts made available pursuant to the authorization of appropriations under subsection (g).

(d) NOTIFICATION.—Not later than 15 days before each obligation of assistance under this section, and in accordance with the procedures under section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–l), the President shall notify the appropriate congressional committees and the Committees on Appropriations of the Senate and the House of Representatives.

(e) SENSE OF CONGRESS REGARDING COORDINATION OF POLICY AND APPOINTMENT.—It is the sense of Congress that in order to ensure maximum coordination among Federal agencies, if the President provides the assistance under this section, the President should appoint an individual who shall—

(1) serve as special assistant to the President on matters relating to Iran; and

(2) coordinate among the appropriate directors of the National Security Council on issues regarding such matters.

(f) SENSE OF CONGRESS REGARDING DIPLOMATIC ASSISTANCE.—It is the sense of Congress that—

(1) support for a transition to democracy in Iran should be expressed by United States representatives and officials in all appropriate international fora;

(2) representatives of the Government of Iran should be denied access to all United States Government buildings;

(3) efforts to bring a halt to the nuclear weapons program of Iran, including steps to end the supply of nuclear components or fuel to Iran, should be intensified, with particular attention focused on the cooperation regarding such program—

(A) between the Government of Iran and the Government of the Russian Federation; and

(B) between the Government of Iran and individuals from China, Malaysia, and Pakistan, including the network of Dr. Abdul Qadeer (A. Q.) Khan; and

(4) officials and representatives of the United States should—

(A) strongly and unequivocally support indigenous efforts in Iran calling for free, transparent, and democratic elections; and

(B) draw international attention to violations by the Government of Iran of human rights, freedom of religion, freedom of assembly, and freedom of the press.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Department of State $10,000,000 to carry out activities under this section.

SEC. 2934. REPORTING REQUIREMENT REGARDING DESIGNATION OF DEMOCRATIC OPPOSITION ORGANIZATIONS.

Not later than 15 days before designating a democratic opposition organization as eligible to receive assistance under section 2932, the President shall notify the appropriate congressional committees and the Committees on Appropriations of the Senate and the House of Representatives of the proposed designation. The notification may be in classified form.

SA 313. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 600, to authorize appropriations for the Department of State and international broadcasting activities for fiscal years 2006 and 2007, for the Peace Corps for fiscal years 2006 and 2007, for foreign assistance programs for fiscal years 2006 and 2007, and for other purposes; which was ordered to lie on the table; as follows:

On page 110, between lines 4 and 5, insert the following:

SEC. 812. SENSE OF CONGRESS ON MEMBERSHIP OF ISRAEL IN THE WESTERN EUROPEAN AND OTHERS GROUP AT THE UNITED NATIONS.

(a) FINDINGS.—Congress makes the following findings:

(1) The election of member states of the United Nations to the major bodies of the United Nations is determined by groups organized within the United Nations, most of which are organized on a regional basis.

(2) Israel has been refused admission to the group comprised of member states from the Asian geographical region of the United Nations and is the only member state of the United Nations that remains outside its appropriate geographical region, and is thus denied full participation in the day-to-day work of the United Nations.

(3) On May 30, 2000, Israel accepted an invitation to become a temporary member of the Western European and Others Group of the United Nations.

(4) On May 21, 2004, Israel's membership to the Western European and Others Group was extended indefinitely.

(5) Israel is only allowed to participate in limited activities of the Western European and Others Group in the New York office of the United Nations, is excluded from discussions and consultations of the Group at the United Nations offices in Geneva, Nairobi, Rome, and Vienna, and, may not participate in United Nations conferences on human rights, racism, or other issues held in such locations.

(6) Membership in the Western European and Others Group includes the non-European countries of Canada, Australia, and the United States.

(7) Israel is linked to the member states of the Western European and Others Group by strong economic, political, and cultural ties.

(8) The Western European and Others Group, the only regional group of the United Nations that is not purely geographical, is comprised of countries that share a western democratic tradition.

(9) Israel is a free and democratic country and its voting pattern in the United Nations is consistent with that of the member states of the Western European and Others Group.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the President should direct the United States Permanent Representative to the United Nations to seek an immediate end to the persistent and deplorable inequality experienced by Israel in the United Nations;

(2) Israel should be afforded the benefits of full membership in the Western European and Others Group at the United Nations and such membership would permit Israel to participate fully in the United Nations system and would serve the interests of the United States; and

(3) the Secretary should submit to Congress, on a regular basis, a report that describes actions taken by the United States Government to encourage the member states of the Western European and Others Group to accept Israel as a full member of such Group and the responses of such member states to those actions.

SA 314. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 600, to authorize appropriations for the Department of State and international broadcasting activities for fiscal years 2006 and 2007, for the Peace Corps for fiscal years 2006 and 2007, for foreign assistance programs for fiscal years 2006 and 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, insert the following:

SEC. 812. ASSESSMENTS AND STRATEGIC PLANNING FOR AIDS RELIEF.

(a) ASSESSMENTS.—

(1) REQUIREMENT.—Not later than 90 days after the date of the enactment of this Act, the Coordinator of United States Government Activities to Combat HIV/AIDS Globally shall carry out an assessment of health sector workforce capacity in each of the countries described in section 1(f)(2)(B)(ii)(VII) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(f)(2)(B)(ii)(VII)). Each such assessment shall include a description of—

(A) the health sector workforce capacity required by the country to reach the goals of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (22 U.S.C. 7601 et seq.) by 2008; and

(B) the health sector human resources required to meet internationally recognized goals related to infectious disease prevention and the promotion of maternal and child health.

(2) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Coordinator shall submit to the appropriate congressional committees the assessments required by paragraph (1).

(b) STRATEGIC PLAN.—

(1) REQUIREMENT.—The Coordinator of United States Government Activities to Combat HIV/AIDS Globally shall, in consultation with national governments and international donors, propose a strategic plan for each of the countries described in subsection (a)(1) to improve the health sector workforce capacity of each such country to enable each such country to meet the goals of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 that are related to disease prevention, care, and treatment without diverting health care personnel from other primary health priorities. Each such plan should include a description of initiatives that could be carried out in the country to—

(A) retain health care staff;

(B) recruit and train health care workers;

(C) strengthen public health infrastructure; and

(D) extend services related to HIV/AIDS to under served areas.

(2) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Coordinator shall submit to the appropriate congressional committees the strategic plans required by paragraph (1).

SA 315. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was referred to the Committee on Appropriations; as follows:

At the appropriate place, insert the following:

SEC. ___. SECOND SUPPLIER TO THE ARMY OF SECURE TYPE–1 MULTI-BAND, HAND-HELD RADIO SYSTEMS.

(a) IDENTIFICATION OF SECOND SUPPLIER.—(1) The Secretary of the Army shall identify a person or entity who, as of September 15, 2005, has the capacity to act as an independent second supplier to the Army of secure type–1 multi-band, hand-held radio systems.

(2) Any person or entity identified under paragraph (1) shall have the capacity to fulfill any requirements applicable to the accelerated fielding of Joint Tactical Radio System (JTRS) technology.

(b) REPORT ON PLAN TO CONTRACT WITH SECOND SUPPLIER.—Not later than November 15, 2005, the Secretary shall submit to the congressional defense committees a report setting forth the plans of the Secretary to enter into a contract with the person or entity identified under subsection (a) for the supply to the Army of secure type–1 multi-band, hand-held radio systems.

SA 316. Mr. NELSON of Florida (for himself and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was referred to the Committee on Appropriations; as follows:

At the appropriate place, insert the following:

SEC. ___. REPEAL OF REQUIREMENT OF REDUCTION OF SBP SURVIVOR ANNUITIES BY DEPENDENCY AND INDEMNITY COMPENSATION.

(a) REPEAL.—Subchapter II of chapter 73 of title 10, United States Code is amended—

(1) in section 1450(c)(1), by inserting after ''to whom section 1448 of this title applies'' the following: ''(except in the case of a death as described in subsection (d) or (f) of such section)''; and

(2) in section 1451(c)—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(b) PROHIBITION ON RETROACTIVE BENEFITS.—No benefits may be paid to any person for any period before the effective date provided under subsection (e) by reason of the amendments made by subsection (a).

(c) PROHIBITION ON RECOUPMENT OF CERTAIN AMOUNTS PREVIOUSLY REFUNDED TO SBP RECIPIENTS.—A surviving spouse who is or has been in receipt of an annuity under the Survivor Benefit Plan under subchapter II of chapter 73 of title 10, United States Code, that is in effect before the effective date provided under subsection (e) and that is adjusted by reason of the amendments made by subsection (a) and who has received a refund of retired pay under section 1450(e) of title 10, United States Code, shall not be required to repay such refund to the United States.

(d) RECONSIDERATION OF OPTIONAL ANNUITY.—Section 1448(d)(2) of title 10, United States Code, is amended by adding at the end the following new sentences: ''The surviving spouse, however, may elect to terminate an annuity under this subparagraph in accordance with regulations prescribed by the Secretary concerned. Upon such an election, payment of an annuity to dependent children under this subparagraph shall terminate effective on the first day of the first month that begins after the date on which the Secretary concerned receives notice of the election, and, beginning on that day, an annuity shall be paid to the surviving spouse under paragraph (1) instead.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the later of—

(1) the first day of the first month that begins after the date of the enactment of this Act; or

(2) the first day of the fiscal year that begins in the calendar year in which this Act is enacted.

SEC. ___. EFFECTIVE DATE FOR PAID-UP COVERAGE UNDER SURVIVOR BENEFIT PLAN.

Section 1452(j) of title 10, United States Code, is amended by striking ''October 1, 2008'' and inserting ''October 1, 2005''.

SA 317. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 600, to authorize appropriations for the Department of State and International broadcasting activities for fiscal years 2006 and 2007, for the Peace Corps for fiscal years 2006 and 2007, for foreign assistance programs for fiscal years 2006 and 2007, and for other purposes; as follows:

''SEC. . UN HEADQUARTERS RENOVATION.

(a) LIMITATION.—Notwithstanding any other provision of law, no loan in excess of $600,000,000 may be made available by the United States for renovation of the United Nations headquarters building, located in New York, New York.

(b) REPORTING REQUIREMENT.—Any such loan shall be contingent upon the satisfactory submission, by the Secretary-General of the United Nations, of a report to Congress containing a detailed analysis of the United Nations headquarters renovation.

SA 318. Mr. DODD (for himself and Mr. LIEBERMAN) proposed an amendment to the bill S. 600, to authorize appropriations for the Department of State and international broadcasting activities for fiscal years 2006 and 2007, for the Peace Corps for fiscal years 2006 and 2007, for foreign assistance programs for fiscal years 2006 and 2007, and for other purposes; as follows:

At the end of subtitle B of title XXII, add the following:

SEC. 2239. APPLICABILITY OF ARMS EXPORT CONTROL ACT REQUIREMENTS TO VHXX EXECUTIVE HELICOPTER PROGRAM.

(a) TREATMENT AS COOPERATIVE PROJECT.—The VHXX Executive Helicopter Program (also known as the Marine One Presidential Helicopter Program) shall be treated as a cooperative project for purposes of the Arms Export Control Act (22 U.S.C. 2751 et seq.) as authorized under section 27 of that Act (22 U.S.C. 2767).

(b) LICENSING AND NOTICE REQUIREMENTS.—

(1) IN GENERAL.—Any licensing and notice to Congress requirements that apply to the sale of defense articles and services under the Arms Export Control Act shall apply to any foreign production (including the export of technical data related thereto) under the VHXX Executive Helicopter Program without regard to any dollar threshold or limitation that would otherwise limit the applicability of such requirements to such production under that Act.

(2) NOTICE TO CONGRESS.—Notwithstanding the treatment of the VHXX Executive Helicopter Program as a cooperative project for purposes of the Arms Export Control Act under subsection (a), section 27(g) of that Act (22 U.S.C. 2767(g)) shall not be applicable to the program, and the notice requirements of subsections (b) and (c) of section 36 of that Act (22 U.S.C. 2776) shall be complied with in the issuance of any letters of offer or licenses for the program as required by paragraph (1).

(c) LIMITATION ON ISSUANCE OF LICENSES.—No license may be issued under the Arms Export Control Act for any portion of the VHXX Executive Helicopter Program, including research and development and the sharing of technical data relating to the program, until each participant in the program agrees, in writing, not to enter into any contract, or otherwise do any business, with any party who is subject to the jurisdiction of a country that supports international terrorism for five years after the date of the completion of the participation of such participant in the program.

(d) COUNTRY THAT SUPPORTS INTERNATIONAL TERRORISM DEFINED.—In this section, the term ''country that supports international terrorism'' means any country whose government has repeatedly provided support for acts of international terrorism for purposes of either of the provisions of law as follows:

(1) Section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)).

(2) Section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

SA 319. Mr. ENSIGN proposed an amendment to the bill S. 600, to authorize appropriations for the Department of State and international broadcasting activities for fiscal years 2006 and 2007, for the Peace Corps for fiscal years 2006 and 2007, for foreign assistance programs for fiscal years 2006 and 2007, and for other purposes; as follows:

At the end of the bill, add the following:

TITLE XXIX—PEACEFUL TRANSITION IN CUBA

SEC. 2901. SHORT TITLE.

This title may be cited as the ''Cuba Transition Act of 2005''.

SEC. 2902. FINDINGS.

Congress makes the following findings:

(1) The Cuban people are seeking change in their country, including through the Varela Project, independent journalist activity, and other civil society initiatives.

(2) Civil society groups and independent, self-employed Cuban citizens will be essential to the consolidation of a genuine and effective transition to democracy from an authoritarian, communist government in Cuba, and therefore merit increased international assistance.

(3) The people of the United States support a policy of proactively helping the Cuban people to establish a democratic system of government, including supporting Cuban citizen efforts to prepare for transition to a better and more prosperous future.

(4) The Inter-American Democratic Charter adopted by the General Assembly of the Organization of American States (OAS) provides both guidance and mechanisms for response by OAS members to the governmental transition in Cuba and that country's eventual reintegration into the inter-American system.

(5) United States Government support of pro-democracy elements in Cuba and planning for the transition in Cuba is essential for the identification of resources and mechanisms that can be made available immediately in response to profound political and economic changes on the island.

(6) Consultations with democratic development institutions and international development agencies regarding Cuba are a critical element in the preparation of an effective multilateral response to the transition in Cuba.

SEC. 2903. PURPOSES.

The purposes of this title are as follows:

(1) To support multilateral efforts by the countries of the Western Hemisphere in planning for a transition of the government in Cuba and the return of that country to the Western Hemisphere community of democracies.

(2) To encourage the development of an international group to coordinate multilateral planning to a transition of the government in Cuba.

(3) To authorize funding for programs to assist the Cuban people and independent nongovernmental organizations in Cuba in preparing the groundwork for a peaceful transition of government in Cuba.

(4) To provide the President with funding to implement assistance programs essential to the development of a democratic government in Cuba.

SEC. 2904. DEFINITIONS.

In this title:

(1) DEMOCRATICALLY ELECTED GOVERNMENT IN CUBA.—The term ''democratically elected government in Cuba'' has the meaning given the term in section 4 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6023).

(2) TRANSITION GOVERNMENT IN CUBA.—The term ''transition government in Cuba'' has the meaning given the term in section 4 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6023).

SEC. 2905. DESIGNATION OF COORDINATOR FOR CUBA TRANSITION.

(a) IN GENERAL.—The Secretary of State shall designate, within the Department of State, a coordinator who shall be responsible for—

(1) designing an overall strategy to coordinate preparations for, and a response to, a transition in Cuba;

(2) coordinating assistance provided to the Cuban people in preparation for a transition in Cuba;

(3) coordinating strategic support for the consolidation of a political and economic transition in Cuba;

(4) ensuring program and policy coordination among agencies of the United States Government in carrying out the policies set forth in this title; and

(5) pursuing coordination with other countries and international organizations, including international financial institutions, with respect to assisting a transition in Cuba.

(b) RANK AND STATUS OF THE TRANSITION COORDINATOR.—The coordinator designated in subsection (a) shall have the rank and status of ambassador.

SEC. 2906. MULTILATERAL INITIATIVES RELATED TO CUBA.

The Secretary of State is authorized to designate up to $5,000,000 of total amounts made available for contributions to international organizations to be provided to the Organization of American States for—

(1) Inter-American Commission on Human Rights activities relating to the situation of human rights in Cuba; and

(2) the funding of an OAS emergency fund for the deployment of human rights observers, election support, and election observation in Cuba as described in section 109(b) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6039(b)(1)).

SEC. 2907. SENSE OF CONGRESS.

(a) SENSE OF CONGRESS REGARDING CONSULTATION WITH WESTERN HEMISPHERE.—It is the sense of Congress that the President should begin consultation, as appropriate, with governments of other Western Hemisphere countries regarding a transition in Cuba.

(b) SENSE OF CONGRESS REGARDING OTHER CONSULTATIONS.—It is the sense of Congress that the President should begin consultations with appropriate international partners and governments regarding a multilateral diplomatic and financial support program for response to a transition in Cuba.

SEC. 2908. ASSISTANCE PROVIDED TO THE CUBAN PEOPLE IN PREPARATION FOR A TRANSITION IN CUBA.

(a) AUTHORIZATION.—Notwithstanding any other provision of law other than section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1) and comparable notification requirements contained in any Act making appropriations for foreign operations, export financing, and related programs, the President is authorized to furnish an amount not to exceed $15,000,000 in assistance and provide other support for individuals and independent nongovernmental organizations to support democracy-building efforts for Cuba, including assistance for—

(1) political prisoners and members of their families;

(2) persons persecuted or harassed for dissident activities;

(3) independent libraries;

(4) independent workers' rights activists;

(5) independent agricultural cooperatives;

(6) independent associations of self-employed Cubans;

(7) independent journalists;

(8) independent youth organizations;

(9) independent environmental groups;

(10) independent economists, medical doctors, and other professionals;

(11) establishing and maintaining an information and resources center to be in the United States interests section in Havana, Cuba;

(12) prodemocracy programs of the National Endowment for Democracy related to Cuba;

(13) nongovernmental programs to facilitate access to the Internet, subject to section 102(g) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6032(g));

(14) nongovernmental charitable programs that provide nutrition and basic medical care to persons most at risk, including children and elderly persons; and

(15) nongovernmental charitable programs to reintegrate into civilian life persons who have abandoned, resigned, or been expelled from the Cuban armed forces for ideological reasons.

(b) DEFINITIONS.—In this section:

(1) INDEPENDENT NONGOVERNMENTAL ORGANIZATION.—The term ''independent nongovernmental organization'' means an organization that the Secretary of State determines, not less than 15 days before any obligation of funds to the organization, is a charitable or nonprofit nongovernmental organization that is not an agency or instrumentality of the Cuban Government.

(2) ELIGIBLE CUBAN RECIPIENTS.—The term ''eligible Cuban recipients'' is limited to any Cuban national in Cuba, including political prisoners and their families, who are not officials of the Cuban Government or of the ruling political party in Cuba, as defined in section 4(10) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6023(10)).

SEC. 2909. SUPPORT FOR A TRANSITION GOVERNMENT IN CUBA.

(a) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds otherwise available for such purposes, there are authorized to be appropriated such sums as are necessary to the President to establish a fund to provide assistance to a transition government in Cuba as defined in section 4(14) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6023(14)).

(b) DESIGNATION OF FUND.—The fund authorized in subsection (a) shall be known as the ''Fund for a Free Cuba''.

(c) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.

SA 320. Mr. ENSIGN proposed an amendment to the bill S. 600, to authorize appropriations for the Department of State and international broadcasting activities for fiscal years 2006 and 2007, for the Peace Corps for fiscal years 2006 and 2007, for foreign assistance programs for fiscal years 2006 and 2007, and for other purposes; as follows:

At the end of title IV, add the following:

SEC. 405. PROHIBITION OF WAR CRIMES PROSECUTION.

(a) IN GENERAL.—Chapter 118 of title 18, United States Code, is amended by adding at the end the following:

''§ 2442. International criminal court

''(a) OFFENSE.—Except as provided in subsection (b), it shall be unlawful for any person, acting under the authority of the International Criminal Court, another international organization, or a foreign government, to knowingly indict, apprehend, detain, prosecute, convict, or participate in the

imposition or carrying out of any sentence or other penalty on, any American in connection with any proceeding by or before the International Criminal Court, another international organization, or a foreign government in which that American is accused of a war crime.

''(b) EXCEPTION.—Subsection (a) shall not apply in connection with a criminal proceeding instituted by the government of a foreign country within the courts of such country with respect to a war crime allegedly committed—

''(1) on territory subject to the sovereign jurisdiction of such government; or

''(2) against persons who were nationals of such country at the time that the war crime is alleged to have been committed.

''(c) CRIMINAL PENALTY.—

''(1) IN GENERAL.—Any person who violates subsection (a) shall be fined not more than $5,000,000, imprisoned as provided in paragraph (2), or both.

''(2) PRISON SENTENCE.—The maximum term of imprisonment for an offense under this section is the greater of—

''(A) 5 years; or

''(B) the maximum term that could be imposed on the American in the criminal proceeding described in subsection (a) with respect to which the violation took place.

''(d) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial jurisdiction over an offense under this section.

''(e) CIVIL REMEDY.—Any person who is aggrieved by a violation under subsection (a) may, in a civil action, obtain appropriate relief, including—

''(1) punitive damages; and

''(2) a reasonable attorney's fee as part of the costs.

''(f) DEFINITIONS.—In this section—

''(1) the term 'American' means any citizen or national of the United States, or any other person employed by or working under the direction of the United States Government;

''(2) the term 'indict' includes—

''(A) the formal submission of an order or request for the prosecution or arrest of a person; and

''(B) the issuance of a warrant or other order for the arrest of a person,

by an official of the International Criminal Court, another international organization, or a foreign government;

''(3) the term 'International Criminal Court' means the court established by the Rome Statute of the International Criminal Court adopted by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of and International Criminal Court on July 17, 1998; and

''(4) the term 'war crime' means—

''(A) any offense now cognizable before the International Criminal Court; and

''(B) any offense hereafter cognizable before the International Criminal Court, effective on the date such offense becomes cognizable before such court.''.

(b) CLERICAL AMENDMENT.—The table of sections in chapter 118 of title 18, United States Code, is amended by adding at the end the following:

''Sec. 2442. International criminal court.''.

SA 321. Mr. ENSIGN proposed an amendment to the bill S. 600, to authorize appropriations for the Department of State and international broadcasting activities for fiscal years 2006 and 2007, for the Peace Corps for fiscal years 2006 and 2007, for foreign assistance programs for fiscal years 2006 and 2007, and for other purposes; as follows:

On page 59, between lines 4 and 5, insert the following new section:

SEC. 405. UNITED NATIONS OFFICE OF THE INSPECTOR GENERAL.

(a) WITHHOLDING OF PORTION OF CERTAIN ASSESSED CONTRIBUTIONS.—Twenty percent of the funds made available in each fiscal year under section 1O2(a) for the assessed contribution of the United States to the United Nations shall be withheld from obligation and expenditure until a certification is made under subsection (b).

(b) CERTIFICATION.—A certification under this subsection is a certification by the Secretary in the fiscal year concerned that the following conditions are satisfied:

(1) ACTIONS BY THE UNITED NATIONS.—

(A) The United Nations has met the requirements of paragraphs (1) through (6) of section 401(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 446).

(B) The Office of Internal Oversight Services has fulfilled the directive in General Assembly Resolution 48/218B to make all of its reports available to the General Assembly, with modifications to those reports that would violate confidentiality or the due process rights of individuals involved in any investigation.

(C) The Office of Internal Oversight Services has an independent budget that does not require the approval of the United Nations Budget Office.

(2) ACTIONS BY THE OIOS.—The Office of Internal Oversight Service has authority to. audit, inspect, or investigate each program, project, or activity funded by the United Nations, and each executive board created under the United Nations has been notified in writing of that authority.

SA 322. Mr. ENSIGN proposed an amendment to the bill S. 600, to authorize appropriations for the Department of State and international broadcasting activities for fiscal years 2006 and 2007, for the Peace Corps for fiscal years 2006 and 2007, for foreign assistance programs for fiscal years 2006 and 2007, and for other purposes; as follows:

On page 11, line 15, striking ''There'' and insert the following:

(1) AUTHORIZATION OF APPROPRIATIONS.—There

On page 11, between lines 23 and 24, insert the following:

(2) NO GROWTH BUDGET.—Of the amounts appropriated pursuant to the authorization of appropriations in paragraph (1), $80,000,000 shall be withheld for each of the calendar years 2006 and 2007 unless the Secretary submits a certification to the appropriate congressional committees for each such calendar year that states that the United Nations has taken no action during the preceding calendar year to increase funding for any United Nations program without identifying an offsetting decrease elsewhere in the United Nations budget during that calendar year and that for such calendar years the United Nations will not exceed the spending limits of the initial 2004–2005 United Nations biennium budget adopted in December, 2003.

SA 323. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 600, to authorize appropriations for the Department of State and international broadcasting activities for fiscal years 2006 and 2007, for the Peace Corps for fiscal years 2006 and 2007, for foreign assistance programs for fiscal years 2006 and 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert:

Whereas in 2000, the United Nations, with strong backing by the United States, created the Special Court for Sierra Leone to prosecute persons who have committed and ''bear the greatest responsibility'' for war crimes, crimes against humanity, other serious violations of international humanitarian law, and other atrocities that occurred in Sierra Leone during that country's brutal civil war during the period after November 30, 1996;

Whereas United Nations Security Council resolution 1315 stated that the Security Council is ''[d]eeply concerned at the various serious crimes committed within the territory of Sierra Leone against the people of Sierra Leone . . . [and that] the international community will exert every effort to bring those responsible to justice . . .''

Whereas on June 4, 2003, the Special Court for Sierra Leone unsealed an indictment issued on March 3, 2003, against Charles Ghankay Taylor, former President of the Republic of Liberia, charging him with seventeen counts of war crimes, crimes against humanity, and other violations of international humanitarian law;

Whereas, INTERPOL, of which Nigeria is a member, issued a Red Notice for Mr. Taylor for ''crimes against humanity'' and ''grave breaches of the 1949 Geneva Convention.''

Whereas on August 11, 2003, Charles Taylor departed Liberia for Calabar, Nigeria, where he was granted asylum and, according to press reports, agreed to end his involvement in Liberian politics;

Whereas in September 2003 the Government of the Federal Republic of Nigeria warned Taylor that it would ''not tolerate any breach of this condition and others which forbid him from engaging in active communications with anyone engaged in political, illegal or governmental activities in Liberia'';

Whereas, Jacques Klein, the UN Representative charged with rebuilding Liberia, reported that Charles Taylor has broken the terms of his exile by stating: ''We know that there are people who commute basically between Monrovia and where [Taylor] is . . . Now, he's no longer giving the guidance he did by telephone, for obvious reasons, but the messengers still go back and forth. And so he still is a cloud that hangs over much of what we do.''

Whereas the job of promoting regional peace and security cannot be completed until Mr. Taylor appears before the Special Court for Sierra Leone to answer to the charges against him.

Now, therefore, be it

Resolved, That—

(1) it is the sense of the Senate that—

(A) the United States shall use its voice and vote at the United Nations Security Council to bring about the transfer of Charles Taylor to the Special Court for Sierra Leone.

(B) The actions called for in subsection (A) include supporting a Chapter VII Security Council resolution that would provide for the immediate transfer of Charles Taylor.

(2) the Senate urges the United States government to formulate a comprehensive, inter-agency strategy, consistent with section 585 of Public Law 108–447, aimed at bringing about the transfer of Charles Taylor well before the Liberian elections scheduled to occur in fall, 2005.

SA 324. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 600, to authorize appropriations for the Department of State and international broadcasting activities for fiscal years 2006 and 2007, for the Peace Corps for fiscal years 2006

and 2007, for foreign assistance programs for fiscal years 2006 and 2007, and for other purposes; which was ordered to lie on the table; as follows:

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

PROTECTION OF THE GALAPAGOS

Sec. . (a) FINDINGS.—The Senate makes the following findings—

(1) The Galapagos Islands are a global treasure and World Heritage Site, and the future of the Galapagos is in the hands of the Government of Ecuador;

(2) The world depends on the Government of Ecuador to implement the necessary policies and programs to ensure the long term protection of the biodiversity of the Galapagos, including enforcing the Galapagos Special Law;

(3) There are concerns with the leadership of the Galapagos National Park Service and that the biodiversity of the Galapagos and the Marine Reserve are not being properly managed or adequately protected; and

(4) The Government of Ecuador has reportedly given preliminary approval for commercial airplane flights to the Island of Isabela, which may cause irreparable harm to the biodiversity of the Galapagos, and has allowed the export of fins from sharks caught accidentally in the Marine Reserve, which may encourage illegal fishing.

(b) Whereas, now therefore, be it

Resolved, that—

(1) the Senate strongly encourages the Government of Ecuador to—

(A) refrain from taking any action that could cause harm to the biodiversity of the Galapagos or encourage illegal fishing in the Marine Reserve;

(B) abide by the agreement to select the Directorship of the Galapagos National Park Service though a transparent process based on merit as previously agreed by the Government of Ecuador, international donors, and nongovernmental organizations; and

(C) enforce the Galapagos Special Law in its entirety, including the governance structure defined by the law to ensure effective control of migration to the Galapagos and sustainable fishing practices, and prohibit long-line fishing which threatens the survival of shark and marine turtle populations.

(2) The Department of State should—

(A) emphasize to the Government of Ecuador the importance the United States gives to these issues; and

(B) offer assistance to implement the necessary policies and programs to ensure the long term protection of the biodiversity of the Galapagos and the Marine Reserve and to sustain the livelihoods of the Galapagos population who depend on the marine ecosystem for survival.

SA 325. Mr. DODD (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill S. 600, to authorize appropriations for the Department of State and international broadcasting activities for fiscal years 2006 and 2007, for the Peace Corps for fiscal years 2006 and 2007, for foreign assistance programs for fiscal years 2006 and 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title XXI, add the following:

SEC. 2227. INTERNATIONAL MILITARY EDUCATION AND TRAINING ASSISTANCE FOR LATIN AMERICA COUNTRIES NOT ENTERING INTO AGREEMENTS UNDER ARTICLE 98 OF THE ROME STATUTE.

Section 2007 of the American Servicemembers' Protection Act of 2002 (22 U.S.C. 7426) is amended by adding at the end the following new section:

''(e) ADDITIONAL EXEMPTION.—

''(1) EXEMPTION.—The prohibition of subsection (a) shall not apply to the provision of assistance under chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.), relating to International Military Education and Training, to a country in Latin America that is a party to the International Criminal Court, notwithstanding the lack of agreement between the United States and such country pursuant to Article 98 of the Rome Statute as described in subsection (c).

''(2) COUNTRY IN LATIN AMERICA DEFINED.—In this subsection, the term 'country in Latin America' means any country which is a participating member of the Organization of American States and that, but for this section, is eligible for assistance under chapter 5 of part II of the Foreign Assistance Act of 1961, relating to International Military Education and Training.''.

SA 326. Ms. SNOWE (for herself and Mr. COLEMAN) submitted an amendment intended to be proposed by her to the bill S. 600, to authorize appropriations for the Department of State and international broadcasting activities for fiscal years 2006 and 2007, for the Peace Corps for fiscal years 2006 and 2007, for foreign assistance programs for fiscal years 2006 and 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VII, insert the following:

SEC. 712. SMALL BUSINESS CONTRACTING IN OVERSEAS PROCUREMENTS.

(a) CONGRESSIONAL FINDINGS AND REAFFIRMATION OF EXISTING POLICY.—

(1) FINDINGS.—Congress finds that—

(A) small business contracting in support of overseas activities of the Federal Government strengthens the trade posture of the United States in the global marketplace;

(B) small business contractors are a vital component of the civilian and defense industrial base, and they have provided outstanding value in support of the activities of the Federal Government domestically and internationally, especially in the international reconstruction, stabilization, and assistance activities in the Global War on Terror;

(C) maintaining a vital small business industrial base protects the Federal Government from higher costs and reduced innovation that accompany undue consolidation of Government contracts;

(D) Congress has a strong interest in preserving the competitive nature of the Government contracting marketplace, particularly with regard to performance of Federal contracts and subcontracts overseas;

(E) small business contractors suffer competitive harm and the Federal Government suffers a needless reduction in competition and a needless shrinkage of its industrial base when Federal agencies exempt contracts and subcontracts awarded for performance overseas from the application of the Small Business Act;

(F) small businesses desiring to support the troops deployed in the Global War on Terror and the reconstruction of Iraq and Afghanistan have faced needless hurdles to meaningful participation in Government contracts and subcontracts; and

(G) Congress has a strong interest in holding large prime contractors accountable for fulfilling their subcontracting plans on overseas assistance and reconstruction projects.

(2) REAFFIRMATION OF POLICY.—In light of the findings in subparagraph (A), Congress reaffirms its policy contained in sections 2 and 15 of the Small Business Act (15 U.S.C. 631, 644) and section 302 of the Small Business Economic Policy Act of 1980 (15 U.S.C. 631a) to promote international competitiveness of United States small businesses and to ensure that small business concerns are awarded a fair portion of all Federal prime contracts, and subcontracts, regardless of geographic area.

(b) COMPLIANCE.—Not later than 270 days after the date of enactment of this Act, the head of each Federal agency, office, and department having jurisdiction over acquisition regulations shall conduct regulatory reviews to ensure that such regulations require compliance with the Small Business Act in Federal prime contracts and subcontracts, regardless of the geographic place of award or performance, and shall promulgate any necessary conforming changes to such regulations.

(c) COOPERATION WITH THE SMALL BUSINESS ADMINISTRATION.—The Administrator and the Chief Counsel for Advocacy of the Small Business Administration shall be consulted for recommendations concerning regulatory reviews and changes required by this section.

(d) CONFLICTING PROVISIONS OF LAW.—In conducting any regulatory review or promulgating any changes required by this section, due note and recognition shall be given to the specific requirements and procedures of any other Federal statute or treaty which may exempt any Federal prime contract or subcontract from the application of the Small Business Act in whole or in part.

(e) REPORT TO CONGRESSIONAL COMMITTEES.—Not later than 1 year after the date of enactment of this Act, the Administrator and the Chief Counsel for Advocacy of the Small Business Administration shall submit to the Committee on Small Business and Entrepreneurship of the Senate and to the Committee on Small Business of the House of Representatives a report containing their views on the compliance status of Federal agencies, offices, and departments in carrying out this section.

SA 327. Ms. SNOWE (for herself and Mr. COLEMAN) submitted an amendment intended to be proposed by her to the bill S. 600, to authorize appropriations for the Department of State and international broadcasting activities for fiscal years 2006 and 2007, for the Peace Corps for fiscal years 2006 and 2007, for foreign assistance programs for fiscal years 2006 and 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VII, insert the following:

SEC. 712. SMALL BUSINESS CONTRACTING IN OVERSEAS PROCUREMENTS.

(a) CONGRESSIONAL FINDINGS AND REAFFIRMATION OF EXISTING POLICY.—

(1) FINDINGS.—Congress finds that—

(A) small business contracting in support of overseas activities of the Federal Government strengthens the trade posture of the United States in the global marketplace;

(B) small business contractors are a vital component of the civilian and defense industrial base, and they have provided outstanding value in support of the activities of the Federal Government domestically and internationally, especially in the international reconstruction, stabilization, and assistance activities in the Global War on Terror;

(C) maintaining a vital small business industrial base protects the Federal Government from higher costs and reduced innovation that accompany undue consolidation of Government contracts;

(D) Congress has a strong interest in preserving the competitive nature of the Government contracting marketplace, particularly with regard to performance of Federal contracts and subcontracts overseas;

(E) small business contractors suffer competitive harm and the Federal Government suffers a needless reduction in competition and a needless shrinkage of its industrial base when Federal agencies exempt contracts and subcontracts awarded for performance overseas from the application of the Small Business Act;

(F) small businesses desiring to support the troops deployed in the Global War on Terror and the reconstruction of Iraq and Afghanistan have faced needless hurdles to meaningful participation in Government contracts and subcontracts; and

(G) Congress has a strong interest in holding large prime contractors accountable for fulfilling their subcontracting plans on overseas assistance and reconstruction projects.

(2) REAFFIRMATION OF POLICY.—In light of the findings in subparagraph (A), Congress reaffirms its policy contained in sections 2 and 15 of the Small Business Act (15 U.S.C. 631, 644) and section 302 of the Small Business Economic Policy Act of 1980 (15 U.S.C. 631a) to promote international competitiveness of United States small businesses and to ensure that small business concerns are awarded a fair portion of all Federal prime contracts, and subcontracts, regardless of geographic area.

(b) COMPLIANCE.—Not later than 270 days after the date of enactment of this Act, the head of each Federal agency, office, and department having jurisdiction over acquisition regulations shall conduct regulatory reviews to ensure that such regulations require compliance with the Small Business Act in Federal prime contracts and subcontracts, regardless of the geographic place of award or performance, and shall promulgate any necessary conforming changes to such regulations.

(c) COOPERATION WITH THE SMALL BUSINESS ADMINISTRATION.—The Administrator and the Chief Counsel for Advocacy of the Small Business Administration shall be consulted for recommendations concerning regulatory reviews and changes required by this section.

(d) CONFLICTING PROVISIONS OF LAW.—In conducting any regulatory review or promulgating any changes required by this section, due note and recognition shall be given to the specific requirements and procedures of any other Federal statute or treaty which may exempt any Federal prime contract or subcontract from the application of the Small Business Act in whole or in part.

(e) REPORT TO CONGRESSIONAL COMMITTEES.—Not later than 1 year after the date of enactment of this Act, the Administrator and the Chief Counsel for Advocacy of the Small Business Administration shall submit to the Committee on Small Business and Entrepreneurship of the Senate and to the Committee on Small Business of the House of Representatives a report containing their views on the compliance status of Federal agencies, offices, and departments in carrying out this section.

SA 328. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 600, to authorize appropriations for the Department of State and international broadcasting activities for fiscal years 2006 and 2007, for the Peace Corps for fiscal years 2006 and 2007, for foreign assistance programs for fiscal years 2006 and 2007, and for other purposes; which was ordered to lie on the table; as follows:

In section 105(a), strike ''$10,000,000'' and insert ''$18,000,000''.

SA 329. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 600, to authorize appropriations for the Department of State and international broadcasting activities for fiscal years 2006 and 2007, for the Peace Corps for fiscal years 2006 and 2007, for foreign assistance programs for fiscal years 2006 and 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XXV, add the following:

SEC. 2523. CONDITIONS ON ANY SUSPENSION OF IMMIGRATION PROCESSING OF ORPHANS.

(a) REQUIREMENTS OF DEPARTMENT OF HOMELAND SECURITY.—The Secretary of Homeland Security, in consultation with the Secretary of State, shall submit written notification to the Senate and the House of Representatives on the day on which the processing of petitions for classification of nationals of a country as orphans is suspended. The notification shall set forth the following:

(1) EXPLANATION.—Information, to the extent available, supporting the suspension, including the following:

(A) FAILURE TO OBTAIN BIRTH PARENT CONSENT.—Information indicating that in recent cases the consent of a birth parent to termination of parental rights or to the adoption was not obtained.

(B) FRAUD, DURESS, OR IMPROPER INDUCEMENT.—Information indicating that in recent cases the consent of a birth parent to termination of parental rights or to the adoption was obtained as a result of fraud, duress, or improper inducement.

(C) IMPROPER RELINQUISHMENT.—Information indicating that in recent cases birth parents have relinquished their children in return for improper reward.

(D) INADEQUATE SENDING COUNTRY ADOPTION PROCESS.—Information indicating that the system utilized by the sending country for the arrangement of international adoptions of orphans who are nationals of the sending country is inadequate and, as a result, the processing of cases according to the requirements of the Immigration and Nationality Act is compromised.

(E) DEPARTMENT OF STATE INABILITY TO PROCESS.—Information indicating that the system of the Department of State in that country for the processing of petitions for the classification of nationals of that sending country as orphans is insufficient, and as a result, the Department of State is unable to make an informed determination under section 101(b)(1)(F) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1)(F)).

(F) INABILITY TO PROCESS.—Information indicating that the system of the United States Citizen and Immigration Services (referred to in this section as the ''USCIS'') in that country for the processing of petitions for the classification of nationals of that sending country as orphans is insufficient, and as a result, the USCIS is unable to make an informed determination under such section 101(b)(1)(F).

(G) COMBINATION OF CONDITIONS.—Information indicating the existence of a combination of the conditions listed in subparagraphs (A) through (F), such that the Department of State or the USCIS is unable to make an informed determination under such section 101(b)(1)(F).

(H) OTHER CONDITIONS.—Information indicating such other conditions that justify a suspension of orphan processing, as appropriate.

(2) SUMMARY OF PRIOR ACTION.—A summary of recent actions taken in the sending country and information regarding previous efforts to address conditions articulated in paragraph (1).

(3) PLAN.—A plan that includes—

(A) ways to remedy the circumstance or circumstances described in paragraph (1) justifying the suspension;

(B) a process to notify United States citizens who might be affected by the suspension;

(C) a way to process families awaiting completion of processing as of the date that the suspension is issued; and

(D) a good faith estimate of the time needed to remedy the circumstance or circumstances described in paragraph (1), which recognizes and addresses the degree to which resolution of circumstance or circumstances described in paragraph (1) depend upon the cooperation of the sending country.

(b) EXEMPTIONS FROM SUSPENSION.—The Secretary of Homeland Security shall give consideration to exempting from the suspension those adoptions involving extraordinary humanitarian concerns in accordance with section 212(d)(5)(A) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)(A)).

(c) PERIODIC CONGRESSIONAL NOTIFICATION.—Not later than 180 days after a suspension takes effect after the date of enactment of this Act, and every 180 days until the suspension is terminated, the Secretary of Homeland Security shall submit a written report to Congress indicating—

(1) that the circumstances justifying the suspension still exist; and

(2) what actions have been taken, since the date of notification under subsection (a) or (f), to remedy the circumstances justifying the suspension.

(d) TRANSITION PROVISION.—Not later than 30 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to Congress, for each country for which a suspension is in effect on the date of enactment of this Act, a report containing a summary of the evidence, plan, and estimate described in subsection (a).

(e) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to require the inclusion of information that—

(1) reasonably could be expected to adversely affect or compromise a civil or criminal enforcement proceeding or investigation; or

(2) would disclose techniques and procedures for law enforcement investigations or prosecutions.

(f) REQUIREMENTS OF THE DEPARTMENT OF STATE.—The Secretary of State, or any other official of the Department of State, may not urge a foreign government to suspend the processing of international adoptions by United States citizens unless the Secretary of State provides written notification of such action to the Senate and the House of Representatives on the day such action is taken.

(g) DEFINITIONS.—In this section:

(1) ORPHAN.—The term ''orphan'' means a child described in subparagraph (F) or (G) of section 101(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1)).

(2) SENDING COUNTRY.—The term ''sending country'' means the country with legal authority to process the adoption of the child in question.

(3) SUSPENSION.—The term ''suspension'' means, with respect to a country, the decision by the Attorney General to suspend the processing of petitions for classification of orphans who are natives of that country.

SA 330. Ms. LANDRIEU (for herself, Mr. DEMINT, and Mr. CRAIG) submitted an amendment intended to be proposed

by her to the bill S. 600, to authorize appropriations for the Department of State and international broadcasting activities for fiscal years 2006 and 2007, for the Peace Corps for fiscal years 2006 and 2007, for foreign assistance programs for fiscal years 2006 and 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division A, add the following new title:

TITLE IX—INTERCOUNTRY ADOPTION

SEC. 901. SHORT TITLE.

This title may be cited as the ''Intercountry Adoption Reform Act of 2005'' or the ''ICARE Act''.

SEC. 902. FINDINGS; PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) That a child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love, and understanding.

(2) That intercountry adoption may offer the advantage of a permanent family to a child for whom a suitable family cannot be found in his or her country of origin.

(3) There has been a significant growth in intercountry adoptions. In 1990, Americans adopted 7,093 children from abroad. In 2001, they adopted 19,237 children from abroad.

(4) Americans increasingly seek to create or enlarge their families through intercountry adoptions.

(5) There are many children worldwide that are without permanent homes.

(6) In the interest of children without a permanent family and the United States citizens who are waiting to bring them into their families, reforms are needed in the intercountry adoption process used by United States citizens.

(7) Before adoption, each child should have the benefit of measures taken to ensure that intercountry adoption is in his or her best interests and prevents the abduction, selling, or trafficking of children.

(8) In addition, Congress recognizes that foreign born adopted children do not make the decision whether to immigrate to the United States. They are being chosen by Americans to become part of their immediate families.

(9) As such these children should not be classified as immigrants in the traditional sense. Once fully and finally adopted, they should be treated as children of United States citizens.

(10) Since a child who is fully and finally adopted is entitled to the same rights, duties, and responsibilities as a biological child, the law should reflect such equality.

(11) Therefore, foreign born adopted children of United States citizens should be accorded the same procedural treatment as biological children born abroad to a United States citizen.

(12) If a United States citizen can confer citizenship to a biological child born abroad, then the same citizen is entitled to confer such citizenship to their legally and fully adopted foreign born child immediately upon final adoption.

(13) If a United States citizen cannot confer citizenship to a biological child born abroad, then such citizen cannot confer citizenship to their legally and fully adopted foreign born child, except through the naturalization process.

(b) PURPOSES.—The purposes of this title are—

(1) to ensure that intercountry adoptions take place in the best interests of the child;

(2) to ensure that foreign born children adopted by United States citizens will be treated identically to a biological child born abroad to the same citizen parent; and

(3) to improve the intercountry adoption process by making it more citizen friendly and focused on the protection of the child.

SEC. 903. DEFINITIONS.

In this title:

(1) ADOPTABLE CHILD.—The term ''adoptable child'' has the same meaning given such term in section 101(c)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(c)(3)), as added by section 924(a) of this Act.

(2) AMBASSADOR AT LARGE.—The term ''Ambassador at Large'' means the Ambassador at Large for Intercountry Adoptions appointed to head the Office pursuant to section 911(b).

(3) COMPETENT AUTHORITY.—The term ''competent authority'' means the entity or entities authorized by the law of the child's country of residence to engage in permanent placement of children who are no longer in the legal or physical custody of their biological parents.

(4) CONVENTION.—The term ''Convention'' means the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, done at The Hague on May 29, 1993.

(5) FULL AND FINAL ADOPTION.—The term ''full and final adoption'' means an adoption—

(A) that is completed according to the laws of the child's country of residence or the State law of the parent's residence;

(B) under which a person is granted full and legal custody of the adopted child;

(C) that has the force and effect of severing the child's legal ties to the child's biological parents;

(D) under which the adoptive parents meet the requirements of section 925; and

(E) under which the child has been adjudicated to be an adoptable child in accordance with section 926.

(6) OFFICE.—The term ''Office'' means the Office of Intercountry Adoptions established under section 911(a).

(7) READILY APPROVABLE.—A petition or certification is considered ''readily approvable'' if the documentary support provided demonstrates that the petitioner satisfies the eligibility requirements and no additional information or investigation is necessary.

Subtitle A—Administration of Intercountry Adoptions

SEC. 911. OFFICE OF INTERCOUNTRY ADOPTIONS.

(a) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act, there is to be established within the Department of State, an Office of Intercountry Adoptions which shall be headed by the Ambassador at Large for Intercountry Adoptions who shall be appointed pursuant to subsection (b).

(b) AMBASSADOR AT LARGE.—

(1) APPOINTMENT.—The Ambassador at Large shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who have background, experience, and training in intercountry adoptions, taking care to ensure that the individual who serves as Ambassador is free from any conflicts of interest that might inhibit such individual's ability to serve as Ambassador.

(2) AUTHORITY.—The Ambassador at Large shall report directly to the Secretary, in consultation with the Assistant Secretary for Consular Affairs. The Ambassador at Large has no independent regulatory authority.

(3) DUTIES OF THE AMBASSADOR AT LARGE.—In carrying out the functions of the Office, the Ambassador at Large shall have the following responsibilities:

(A) IN GENERAL.—The primary responsibilities of the Ambassador at Large shall be—

(i) to ensure that intercountry adoptions take place in the best interests of the child; and

(ii) to assist the Secretary in fulfilling the responsibilities designated to the central authority under title I of the Intercountry Adoption Act of 2000 (42 U.S.C. 14911 et seq.).

(B) ADVISORY ROLE.—The Ambassador at Large shall be a principal advisor to the President and the Secretary regarding matters affecting intercountry adoption and the general welfare of children abroad and shall make recommendations regarding—

(i) the policies of the United States with respect to the establishment of a system of cooperation among the parties to the Convention;

(ii) the policies to prevent abandonment, strengthen families, and to advance the placement of children in permanent families; and

(iii) policies that promote the protection and well-being of children.

(C) DIPLOMATIC REPRESENTATION.—Subject to the direction of the President and the Secretary, the Ambassador at Large may represent the United States in matters and cases relevant to international adoption in—

(i) fulfillment of the responsibilities designated to the central authority under title I of the Intercountry Adoption Act of 2000 (42 U.S.C. 14911 et seq.);

(ii) contacts with foreign governments, intergovernmental organizations, and specialized agencies of the United Nations and other international organizations of which the United States is a member; and

(iii) multilateral conferences and meetings relevant to international adoption.

(D) INTERNATIONAL POLICY DEVELOPMENT.—The Ambassador at Large shall advise and support the Secretary and other relevant Bureaus of the Department of State in the development of sound policy regarding child protection and intercountry adoption.

(E) REPORTING RESPONSIBILITIES.—The Ambassador at Large shall have the following reporting responsibilities:

(i) IN GENERAL.—The Ambassador at Large shall assist the Secretary and other relevant Bureaus in preparing those portions of the Human Rights Reports that relate to the abduction, sale, and trafficking of children.

(ii) ANNUAL REPORT ON INTERCOUNTRY ADOPTION.—On September 1 of each year, the Secretary, with the assistance of the Ambassador at Large, shall prepare and transmit to Congress an annual report on intercountry adoption. Each annual report shall include—

(I) a description of the status of child protection and adoption in each foreign country, including—

(aa) trends toward improvement in the welfare and protection of children and families;

(bb) trends in family reunification, domestic adoption, and intercountry adoption;

(cc) movement toward ratification and implementation of the Convention; and

(dd) census information on the number of children in orphanages, foster homes, and other types of nonpermanent residential care as reported by the foreign country;

(II) the number of intercountry adoptions by United States citizens, including the country from which each child emigrated, the State in which each child resides, and the country in which the adoption was finalized;

(III) the number of intercountry adoptions involving emigration from the United States, including the country where each child now resides and the State from which each child emigrated;

(IV) the number of placements for adoption in the United States that were disrupted, including the country from which the child emigrated, the age of the child, the date of the placement for adoption, the reasons for the disruption, the resolution of the disruption, the agencies that handled the placement for adoption, and the plans for the child, and in addition, any information regarding disruption or dissolution of adoptions of children from other countries received pursuant to section 422(b)(14) of the Social Security Act (42 U.S.C. 622(b)(14));

(V) the average time required for completion of an adoption, set forth by the country from which the child emigrated;

(VI) the current list of agencies accredited and persons approved under the Intercountry Adoption Act of 2000 (42 U.S.C. 14901 et seq.) to provide adoption services;

(VII) the names of the agencies and persons temporarily or permanently debarred under the Intercountry Adoption Act of 2000 (42 U.S.C. 14901 et seq.), and the reasons for the debarment;

(VIII) the range of adoption fees involving adoptions by United States citizens and the median of such fees set forth by the country of origin;

(IX) the range of fees charged for accreditation of agencies and the approval of persons in the United States engaged in providing adoption services under the Convention; and

(X) recommendations of ways the United States might act to improve the welfare and protection of children and families in each foreign country.

(c) FUNCTIONS OF OFFICE.—The Office shall have the following 7 functions:

(1) APPROVAL OF A FAMILY TO ADOPT.—To approve or disapprove the eligibility of United States citizens to adopt foreign born children.

(2) CHILD ADJUDICATION.—To investigate and adjudicate the status of a child born abroad to determine their eligibility as an adoptable child.

(3) FAMILY SERVICES.—To provide assistance to United States citizens engaged in the intercountry adoption process in resolving problems with respect to that process and to track intercountry adoption cases so as to ensure that all such adoptions are processed in a timely manner.

(4) INTERNATIONAL POLICY DEVELOPMENT.—To advise and support the Ambassador at Large and other relevant Bureaus in the development of sound policy regarding child protection and intercountry adoption.

(5) CENTRAL AUTHORITY.—To assist the Secretary in carrying out duties of the central authority as defined in section 3 of the Intercountry Adoption Act of 2000 (42 U.S.C. 14902).

(6) ENFORCEMENT.—To investigate, either directly or in cooperation with other appropriate international, Federal, State, or local entities, improprieties relating to adoption, including issues of child protection, birth family protection, and consumer fraud.

(7) ADMINISTRATION.—To perform administrative functions related to the functions performed under paragraphs (1) through (6), including legal functions and congressional liaison and public affairs functions.

(d) ORGANIZATION.—

(1) IN GENERAL.—All functions of the Office shall be performed by officers housed in a centralized office located in Washington, D.C. Within the Washington, D.C. office, there shall be 7 divisions corresponding to the 7 functions of the Office. All 7 divisions and their respective directors shall report directly to the Ambassador at Large.

(2) APPROVAL TO ADOPT.—The division responsible for approving parents to adopt shall be divided into regions of the United States as follows:

(A) Northwest.
(B) Northeast.
(C) Southwest.
(D) Southeast.
(E) Midwest.
(F) West.

(3) CHILD ADJUDICATION.—To the extent practicable, the division responsible for the adjudication of foreign born children as adoptable shall be divided by world regions which correspond to those currently used by other divisions within the Department of State.

(4) USE OF INTERNATIONAL FIELD OFFICERS.—Nothing in this section shall be construed to prohibit the use of international field officers posted abroad, as necessary, to fulfill the requirements of this Act.

(5) USE OF EXISTING SYSTEMS.—Whenever possible, the Office shall utilize systems currently in place that ensure protections against child trafficking.

(e) QUALIFICATIONS AND TRAINING.—In addition to meeting the employment requirements of the Department of State, officers employed in any of the 7 divisions of the Office shall undergo extensive and specialized training in the laws and processes of intercountry adoption as well as understanding the cultural, medical, emotional, and social issues surrounding intercountry adoption and adoptive families. The Ambassador at Large shall, whenever possible, recruit and hire individuals with background and experience in intercountry adoptions, taking care to ensure that such individuals do not have any conflicts of interest that might inhibit their ability to serve.

(f) USE OF ELECTRONIC DATABASES AND FILING.—To the extent possible, the Office shall make use of centralized, electronic databases and electronic form filing.

SEC. 912. RECOGNITION OF CONVENTION ADOPTIONS IN THE UNITED STATES.

Section 505(a)(1) of the Intercountry Adoption Act of 2000 (42 U.S.C. 14901 note) is amended by inserting ''301, 302,'' after ''205,''.

SEC. 913. TECHNICAL AND CONFORMING AMENDMENT.

Section 104 of the Intercountry Adoption Act of 2000 (42 U.S.C. 14914) is repealed.

SEC. 914. TRANSFER OF FUNCTIONS.

(a) IN GENERAL.—Subject to subsection (c), all functions under the immigration laws of the United States with respect to the adoption of foreign born children by United States citizens and their admission to the United States that have been vested by statute in, or exercised by, the Commissioner of Immigration and Naturalization, the Immigration and Naturalization Service (or any officer, employee, or component thereof), of the Department of Homeland Security (or any officer, employee, or component thereof) immediately prior to the effective date of this title, are transferred to the Office on the effective date of this title for exercise by the Ambassador at Large in accordance with applicable laws and subtitle B of this title.

(b) EXERCISE OF AUTHORITIES.—Except as otherwise provided by law, the Ambassador at Large may, for purposes of performing any function transferred to the Ambassador at Large under subsection (a), exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function pursuant to this subtitle.

(c) LIMITATION ON TRANSFER OF PENDING ADOPTIONS.—If an individual has filed a petition with the Immigration and Naturalization Service or the Department of Homeland Security with respect to the adoption of a foreign born child prior to the date of enactment of this subtitle, the Secretary of Homeland Security shall have the authority to make the final determination on such petition and such petition shall not be transferred to the Office.

SEC. 915. TRANSFER OF RESOURCES.

Subject to section 1531 of title 31, United States Code, upon the effective date of this title, there are transferred to the Ambassador at Large for appropriate allocation in accordance with section 916, the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available to the Immigration and Naturalization Service or the Department of Homeland Security in connection with the functions transferred pursuant to this subtitle.

SEC. 916. INCIDENTAL TRANSFERS.

The Ambassador at Large may make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out this title. The Ambassador at Large shall provide for such further measures and dispositions as may be necessary to effectuate the purposes of this subtitle.

SEC. 917. SAVINGS PROVISIONS.

(a) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, agreements, including collective bargaining agreements, certificates, licenses, and privileges—

(1) that have been issued, made, granted, or allowed to become effective by the President, the Ambassador at Large, the former Commissioner of the Immigration and Naturalization Service, their delegates, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred pursuant to this subtitle; and

(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date);

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, any other authorized official, a court of competent jurisdiction, or operation of law, except that any collective bargaining agreement shall remain in effect until the date of termination specified in the agreement.

(b) PROCEEDINGS.—

(1) PENDING.—The transfer of functions under section 914 shall not affect any proceeding or any application for any benefit, service, license, permit, certificate, or financial assistance pending on the effective date of this subtitle before an office whose functions are transferred pursuant to this subtitle, but such proceedings and applications shall be continued.

(2) ORDERS.—Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(3) DISCONTINUANCE OR MODIFICATION.—Nothing in this section shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms

and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(c) SUITS.—This subtitle shall not affect suits commenced before the effective date of this subtitle, and in all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this subtitle had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Department of State, the Immigration and Naturalization Service, or the Department of Homeland Security, or by or against any individual in the official capacity of such individual as an officer or employee in connection with a function transferred pursuant to this section, shall abate by reason of the enactment of this Act.

(e) CONTINUANCE OF SUIT WITH SUBSTITUTION OF PARTIES.—If any Government officer in the official capacity of such officer is party to a suit with respect to a function of the officer, and pursuant to this subtitle such function is transferred to any other officer or office, then such suit shall be continued with the other officer or the head of such other office, as applicable, substituted or added as a party.

(f) ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.—Except as otherwise provided by this subtitle, any statutory requirements relating to notice, hearings, action upon the record, or administrative or judicial review that apply to any function transferred pursuant to any provision of this subtitle shall apply to the exercise of such function by the head of the office, and other officers of the office, to which such function is transferred pursuant to such provision.

SEC. 918. EFFECTIVE DATE.

This subtitle shall take effect 180 days after the date of enactment of this Act.

Subtitle B—Reform of United States Laws Governing Intercountry Adoptions

SEC. 921. AUTOMATIC ACQUISITION OF CITIZENSHIP FOR ADOPTED CHILDREN BORN OUTSIDE THE UNITED STATES.

(a) AMENDMENTS OF AUTOMATIC CITIZENSHIP PROVISIONS.—Section 320 of the Immigration and Nationality Act (8 U.S.C. 1431) is amended—

(1) by amending the section heading to read as follows: ''CHILDREN BORN OUTSIDE THE UNITED STATES; CONDITIONS UNDER WHICH CITIZENSHIP AUTOMATICALLY ACQUIRED''; and

(2) in subsection (a), by striking paragraphs (1) through (3) and inserting the following:

''(1) Upon the date the adoption becomes full and final, at least 1 parent of the child is a citizen of the United States, whether by birth or naturalization, who has been physically present in the United States or its outlying possessions for a period or periods totaling not less than 5 years, at least 2 of which were after attaining the age of 14 years. Any periods of honorable service in the Armed Forces of the United States, or periods of employment with the United States Government or with an international organization as that term is defined in section 1 of the International Organizations Immunities Act (22 U.S.C. 288) by such citizen parent, or any periods during which such citizen parent is physically present abroad as the dependent unmarried son or daughter and a member of the household of a person—

''(A) honorably serving with the Armed Forces of the United States; or

''(B) employed by the United States Government or an international organization as defined in section 1 of the International Organizations Immunities Act (22 U.S.C. 288);

may be included in order to satisfy the physical presence requirement of this paragraph.

''(2) The child is an adoptable child described in section 101(c)(3).

''(3) The child is the beneficiary of a full and final adoption decree entered by a foreign government or a court in the United States.

''(4) For purposes of this subsection, the term 'full and final adoption' means an adoption—

''(A) that is completed under the laws of the child's country of residence or the State law of the parent's residence;

''(B) under which a person is granted full and legal custody of the adopted child;

''(C) that has the force and effect of severing the child's legal ties to the child's biological parents;

''(D) under which the adoptive parents meet the requirements of section 925 of the Intercountry Adoption Reform Act of 2005; and

''(E) under which the child has been adjudicated to be an adoptable child in accordance with section 926 of the Intercountry Adoption Reform Act of 2005.''.

(b) EFFECTIVE DATE.—This section shall take effect as if enacted on January 1, 1950.

SEC. 922. REVISED PROCEDURES.

Notwithstanding any other provision of law, the following requirements shall apply with respect to the adoption of foreign born children by United States citizens:

(1) Upon completion of a full and final adoption, the Secretary shall issue a United States passport and a Consular Report of Birth for a child who satisfies the requirements of section 921 of the Immigration and Nationality Act (8 U.S.C. 1431), as amended by section 921 of this Act, upon application by a United States citizen parent.

(2) An adopted child described in paragraph (1) shall not require the issuance of a visa for travel and admission to the United States but shall be admitted to the United States upon presentation of a valid, unexpired United States passport.

(3) No affidavit of support under section 213A of the Immigration and Nationality Act (8 U.S.C. 1183a) shall be required in the case of any adoptable child.

(4)(A) The Secretary shall require that agencies provide prospective adoptive parents an opportunity to conduct an independent medical exam and a copy of any medical records of the child known to exist (to the greatest extent practicable, these documents shall include an English translation) on a date that is not later than the earlier of the date that is 2 weeks before the adoption, or the date on which prospective adoptive parents travel to such a foreign country to complete all procedures in such country relating to adoption.

(B) The Secretary shall not require an adopted child described in paragraph (1) to undergo a medical exam for the purpose of excluding the child's immigration to the United States.

(5) The Secretary shall take necessary measures to ensure that all prospective adoptive parents adopting internationally are provided with training that includes counseling and guidance for the purpose of promoting a successful intercountry adoption before such parents travel to adopt the child or the child is placed with such parents for adoption.

(6) The Secretary shall take necessary measures to ensure that—

(A) prospective adoptive parents are given full disclosure of all direct and indirect costs of intercountry adoption before they are matched with child for adoption;

(B) fees charged in relation to the intercountry adoption be on a fee for service basis not on a contingent fee basis; and

(C) that the transmission of fees between the adoption agency, the country of origin, and the prospective adoptive parents is carried out in a transparent and efficient manner.

(7) The Secretary shall take all measures necessary to ensure that all documents provided to a country of origin on behalf of a prospective adoptive parent are truthful and accurate.

SEC. 923. NONIMMIGRANT VISAS FOR CHILDREN TRAVELING TO THE UNITED STATES TO BE ADOPTED BY A UNITED STATES CITIZEN.

(a) IN GENERAL.—Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) is amended—

(1) by striking ''or'' at the end of subparagraph (U);

(2) by striking the period at the end of subparagraph (V) and inserting ''; or''; and

(3) by adding at the end the following:

''(W) an adoptable child who is coming into the United States for adoption by a United States citizen and a spouse jointly or by an unmarried United States citizen at least 25 years of age, who has been approved to adopt.''.

(b) TERMINATION OF PERIOD OF AUTHORIZED ADMISSION.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended by adding at the end the following:

''(s) In the case of a nonimmigrant described in section 101(a)(15)(W), the period of authorized admission shall terminate on the earlier of—

''(1) the date on which the adoption of the nonimmigrant is completed by the courts of the State where the parents reside; or

''(2) the date that is 4 years after the date of admission of the nonimmigrant into the United States, unless a petitioner is able to show cause as to why the adoption could not be completed prior to such date and the Secretary of State extends such period for the period necessary to complete the adoption.''.

(c) TEMPORARY TREATMENT AS LEGAL PERMANENT RESIDENT.—Notwithstanding any other law, all benefits and protections that apply to a legal permanent resident shall apply to a nonimmigrant described in section 101(a)(15)(W) of the Immigration and Nationality Act, as added by subsection (a), pending a full and final adoption.

(d) EXCEPTION FROM IMMUNIZATION REQUIREMENT FOR CERTAIN ADOPTED CHILDREN.—Section 212(a)(1)(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(1)(C)) is amended—

(1) in the heading by striking ''10 YEARS'' and inserting ''18 YEARS''; and

(2) in clause (i), by striking ''10 years'' and inserting ''18 years''.

(e) REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary shall prescribe such regulations as may be necessary to carry out this section.

SEC. 924. DEFINITION OF ADOPTABLE CHILD.

(a) IN GENERAL.—Section 101(c) of the Immigration and Nationality Act (8 U.S.C. 1101(c)) is amended by adding at the end the following:

''(3) The term 'adoptable child' means an unmarried person under the age of 18—

''(A)(i) whose biological parents (or parent, in the case of a child who has one sole or surviving parent) or other persons or institutions that retain legal custody of the child—

''(I) have freely given their written irrevocable consent to the termination of their legal relationship with the child, and to the child's emigration and adoption and that such consent has not been induced by payment or compensation of any kind and has not been given prior to the birth of the child;

''(II) are unable to provide proper care for the child, as determined by the competent authority of the child's residence; or

''(III) have voluntarily relinquished the child to the competent authorities pursuant to the law of the child's residence; or

''(ii) who, as determined by the competent authority of the child's residence—

''(I) has been abandoned or deserted by their biological parent, parents, or legal guardians; or

''(II) has been orphaned due to the death or disappearance of their biological parent, parents, or legal guardians;

''(B) with respect to whom the Secretary of State is satisfied that the proper care will be furnished the child if admitted to the United States;

''(C) with respect to whom the Secretary of State is satisfied that the purpose of the adoption is to form a bona fide parent-child relationship and that the parent-child relationship of the child and the biological parents has been terminated (and in carrying out both obligations under this subparagraph the Secretary of State, in consultation with the Secretary of Homeland Security, may consider whether there is a petition pending to confer immigrant status on one or both of the biological parents);

''(D) with respect to whom the Secretary of State, is satisfied that there has been no inducement, financial or otherwise, offered to obtain the consent nor was it given before the birth of the child;

''(E) with respect to whom the Secretary of State, in consultation with the Secretary of Homeland Security, is satisfied that the person is not a security risk; and

''(F) whose eligibility for adoption and emigration to the United States has been certified by the competent authority of the country of the child's place of birth or residence.''.

(b) CONFORMING AMENDMENT.—Section 204(d) of the Immigration and Nationality Act (8 U.S.C. 1154(d)) is amended by inserting ''and an adoptable child as defined in section 101(c)(3)'' before ''unless a valid home-study''.

SEC. 925. APPROVAL TO ADOPT.

(a) IN GENERAL.—Prior to the issuance of a visa under section 101(a)(15)(W) of the Immigration and Nationality Act, as added by section 923(a) of this Act, or the issuance of a full and final adoption decree, the United States citizen adoptive parent shall have approved by the Office a petition to adopt. Such petition shall be subject to the same terms and conditions as are applicable to petitions for classification under section 204.3 of title 8 of the Code of Federal Regulations, as in effect on the day before the date of enactment of this Act.

(b) EXPIRATION OF APPROVAL.—Approval to adopt under this Act is valid for 24 months from the date of approval. Nothing in this section may prevent the Secretary of Homeland Security from periodically updating the fingerprints of an individual who has filed a petition for adoption.

(c) EXPEDITED REAPPROVAL PROCESS OF FAMILIES PREVIOUSLY APPROVED TO ADOPT.—The Secretary shall prescribe such regulations as may be necessary to provide for an expedited and streamlined process for families who have been previously approved to adopt and whose approval has expired, so long as not more than 3 years have lapsed since the original application.

(d) DENIAL OF PETITION.—

(1) NOTICE OF INTENT.—If the officer adjudicating the petition to adopt finds that it is not readily approvable, the officer shall notify the petitioner, in writing, of the officer's intent to deny the petition. Such notice shall include the specific reasons why the petition is not readily approvable.

(2) PETITIONERS RIGHT TO RESPOND.—Upon receiving a notice of intent to deny, the petitioner has 30 days to respond to such notice.

(3) DECISION.—Within 30 days of receipt of the petitioner's response the Office must reach a final decision regarding the eligibility of the petitioner to adopt. Notice of a formal decision must be delivered in writing.

(4) RIGHT TO AN APPEAL.—Unfavorable decisions may be appealed to the Department of State and, after the exhaustion of the appropriate appeals process of the Department, to a United States district court.

(5) REGULATIONS REGARDING APPEALS.—Not later than 6 months after the date of enactment of this Act, the Secretary shall promulgate formal regulations regarding the process for appealing the denial of a petition.

SEC. 926. ADJUDICATION OF CHILD STATUS.

(a) IN GENERAL.—Prior to the issuance of a full and final adoption decree or a visa under section 101(a)(15)(W) of the Immigration and Nationality Act, as added by section 923(a) of this Act—

(1) the Office shall obtain from the competent authority of the country of the child's residence a certification, together with documentary support, that the child sought to be adopted meets the description of an adoptable child; and

(2) not later than 15 days after the date of the receipt of the certification referred to in paragraph (1), the Office shall make a final determination on whether the certification and the documentary support are sufficient to meet the requirements of this section or whether additional investigation or information is required.

(b) PROCESS FOR DETERMINATION.—

(1) IN GENERAL.—The Ambassador at Large shall work with the competent authorities of the child's country of residence to establish a uniform, transparent, and efficient process for the exchange and approval of the certification and documentary support required under subsection (a).

(2) NOTICE OF INTENT.—If the Office finds that the certification submitted by the competent authority of the child's country of origin is not readily approvable, the Office shall—

(A) notify the competent authority and the prospective adoptive parents, in writing, of the specific reasons why the certification is not sufficient; and

(B) provide the competent authority and the prospective adoptive parents the opportunity to address the stated insufficiencies.

(3) PETITIONERS RIGHT TO RESPOND.—Upon receiving a notice of intent to find that a certification is not readily approvable, the prospective adoptive parents shall have 30 days to respond to such notice.

(4) DECISION.—Not later than 30 days after the date of receipt of a response submitted under paragraph (3), the Office must reach a final decision regarding the child's eligibility as an adoptable child. Notice of such decision must be in writing.

(5) RIGHT TO AN APPEAL.—Unfavorable decisions on a certification may be appealed to the Department of State and, after the exhaustion of the appropriate appeals process of the Department, to a United States district court.

Subtitle C—Funding

SEC. 931. FUNDS.

The Secretary shall provide the Ambassador at Large with such funds as may be necessary for—

(1) the hiring of staff for the Office;

(2) investigations conducted by the Office; and

(3) travel and other expenses necessary to carry out this Act.

Subtitle D—Enforcement

SEC. 941. ENFORCEMENT.

(a) CIVIL PENALTIES.—A person shall be subject, in addition to any other penalty that may be prescribed by law, to a civil money penalty of not more than $50,000 for a first violation, and not more than $100,000 for each succeeding violation if such person—

(1) violates a provision of this title or an amendment made by this title;

(2) makes a false or fraudulent statement, or misrepresentation, with respect to a material fact, or offers, gives, solicits, or accepts inducement by way of compensation, intended to influence or affect in the United States or a foreign country—

(A) a decision for an approval under title II;

(B) the relinquishment of parental rights or the giving of parental consent relating to the adoption of a child; or

(C) a decision or action of any entity performing a central authority function; or

(3) engages another person as an agent, whether in the United States or in a foreign country, who in the course of that agency takes any of the actions described in paragraph (1) or (2).

(b) CIVIL ENFORCEMENT.—

(1) AUTHORITY OF ATTORNEY GENERAL.—The Attorney General may bring a civil action to enforce subsection (a) against any person in any United States district court.

(2) FACTORS TO BE CONSIDERED IN IMPOSING PENALTIES.—In imposing penalties the court shall consider the gravity of the violation, the degree of culpability of the defendant, and any history of prior violations by the defendant.

(c) CRIMINAL PENALTIES.—Whoever knowingly and willfully commits a violation described in paragraph (1) or (2) of subsection (a) shall be subject to a fine of not more than $250,000, imprisonment for not more than 5 years, or both.

SA 331. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 600, to authorize appropriations for the Department of State and international broadcasting activities for fiscal years 2006 and 2007, for the Peace Corps for fiscal years 2006 and 2007, for foreign assistance programs for fiscal years 2006 and 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title IV, add the following new section:

SEC. 405. UNITED NATIONS REFORM.

(a) POLICY STATEMENTS.—It shall be the policy of the United States to use its voice, vote and influence—

(1) to strengthen the effectiveness and independence of the United Nations Office of Internal Oversight Service;

(2) to ensure a credible, respectable Human Rights organization within the United Nations whose participating members uphold the values enumerated in the 30 articles of the Universal Declaration of Human Rights;

(3) to urge the United Nations to implement management reforms to improve its operational ability and utility, including—

(A) the adoption of a General Assembly resolution that provides for the automatic sunsetting of all United Nations programs, projects, or activities without explicit reauthorization by the General Assembly and the inclusion of a sunset provision in every new General Assembly resolution that establishes a program, project, or activity; and

(B) the adoption of a General Assembly resolution that prevents growth in the total number of United Nations personnel or positions, including outside contractors, from the number that are currently employed or contracted by the United Nations as of the date of the enactment of this Act; and

(4) to actively pursue weighted voting on budgetary and financial matters both in the

Administrative and Budgetary Committee and the General Assembly of the United Nations in accordance with the level of financial contributions of the Member States to the regular budget of the United Nations.

(b) WITHHOLDING OF CONTRIBUTIONS.—Fifty percent of the funds made available in each fiscal year for the assessed contribution of the United States to the United Nations regular budget shall be withheld from obligation and expenditure until the Secretary has submitted to the appropriate congressional committees the certification described in subsection (c) and the report described in subsection (d).

(c) CERTIFICATION.—The Secretary shall certify to the appropriate congressional committees that the following conditions have been met:

(1) The United Nations has met the requirements under paragraphs (1) through (6) of section 401(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 446).

(2) The United Nations Office of Internal Oversight Service has fulfilled the directive in General Assembly Resolution 48/218B to make all of its reports available to the General Assembly, with modifications to those reports that would violate confidentiality or the due process rights of individuals involved in any investigation.

(3) The United Nations Office of Internal Oversight Service is not subject to the budget or organizational authority of any entity within the United Nations other than the Secretary-General for purposes of nomination of its Director.

(4) The United Nations Office of Internal Oversight Service receives the totality of operational and budgetary resources through appropriations by the United Nations General Assembly and is not dependent upon any other bureau, division, department, or specialized agency of the United Nations for such funding.

(5) Any official of any bureau, division, department, or specialized agency of the United Nations, including the Secretary-General, may make a recommendation to the United Nations Office of Internal Oversight Service to initiate an investigation of any aspect of the United Nations system.

(6) The United Nations Office of Internal Oversight Service has the authority to audit, inspect, or investigate each program, project, or activity funded by the United Nations, including the Secretary-General, and each executive board created under the United Nations has been notified in writing of that authority.

(7) The United Nations Office of Internal Oversight Service Director is authorized to accept informational leads and testimony on allegations of wrongdoing by United Nations officials and entities pursuant to or initiating a formal Office of Internal Oversight Service investigation.

(8) The following human rights reforms have been adopted by the United Nations:

(A) Any Member State of the United Nations that fails to uphold the values enumerated in the 30 articles of the Universal Declaration of Human Rights shall be ineligible for membership on any United Nations human rights body.

(B) Any Member State that is subject to sanctions by the United Nations Security Council shall be ineligible for membership on any United Nations human rights body.

(C) Any Member State that is currently subject to an agenda item 9 country-specific resolution or has been the subject of an item 9 country-specific resolution within the last 2 years shall be ineligible for membership on any United Nations human rights body.

(D) Any Member State that violates the principles of a United Nations human rights body it aspires to join shall be ineligible for membership on such body.

(E) Agenda item 8 is abolished.

(9) The Office of the High Commissioner on Human Rights has been given greater authority in field operation activities, such as in Darfur and the Democratic Republic of the Congo, in furtherance of the purpose and mission of the United Nations.

(d) REPORT ON UNITED NATIONS REFORM.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit a report to the appropriate congressional committees on United Nations reform.

(2) CONTENT.—The report required under paragraph (1) shall describe—

(A) the status of the implementation of management reforms within the United Nations and its specialized agencies;

(B) the number of outputs, reports, or other items generated by General Assembly resolutions that have been eliminated, including those that were eliminated as a result of the results based budgeting process;

(C) the continued utility and relevance of the Economic and Financial Committee and the Social, Humanitarian, and Cultural Committee, given the duplicative agendas of those committees and the Economic and Social Council;

(D) the extent to which the Board of External Auditors is an independent entity within the United Nations and not subject to the budget authority or organizational authority of any authority within the United Nations other than the Secretary-General for purposes of nomination of its Director;

(E) the need for a United Nations Office of Special Investigator to investigate senior United Nations officials or allegations of serious misconduct involving United Nations activities in circumstances where an investigator independent of the United Nations is necessary to maintain public confidence in the integrity of the investigation; and

(F) the need for an independent United Nations Ethics Office within the United Nations to establish and monitor general rules of ethics and conduct, including the program of financial disclosure.

(e) PEACEKEEPING CONTRIBUTIONS.—

(1) WITHHOLDING OF FUNDS.—Beginning 90 days after the date of the enactment of this Act, 50 percent of the funds made available in each fiscal year for the assessed contribution of the United States to the United Nations peacekeeping operations budget shall be withheld from obligation and expenditure unless the certification described in paragraph (2) has been transmitted to the appropriate congressional committees.

(2) CERTIFICATION.—The Secretary of State shall certify to the appropriate congressional committees that the following reforms have been instituted by the United Nations Department of Peacekeeping Operations:

(A) Adoption of a uniform Code of Conduct for United Nations peacekeeping operations that applies equally to all military and civilian personnel, regardless of category, which would include measures to prevent the employees, contractor personnel, and peacekeeping forces of the United Nations from trafficking in persons, exploiting victims of trafficking, or committing acts of illegal sexual exploitation.

(B) Mechanisms for the enforcement of the Code of Conduct described in subparagraph (A) have been implemented, including—

(i) the compilation and maintenance of a data base to track violators of the Code of Conduct in order to ensure that they may never again serve in a United Nations peacekeeping operation;

(ii) the inclusion of provisions for the conduct of court martial proceedings while violators are still in-country in each Status of Forces Agreement (SOFA) or other official document creating, outlining, or governing the peacekeeping operation;

(iii) the creation of a model Memorandum of Understanding between the United Nations and each troop contributing country which requires each troop contributing country to refer any investigation of a violation of the Code of Conduct or other criminal activity by its nationals to its competent national or military authority for prosecution; and

(iv) the establishment of performance evaluations for program managers and area commanders that includes an assessment of efforts to prevent and address allegations of abuse of the Code of Conduct or other criminal activities by those under their authority.

(C) An independent investigative and audit function has been established within each United Nations peacekeeping mission.

(3) REPORT.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit a report to the appropriate congressional committees detailing—

(A) the financial compensation provided by the United Nations to countries that contribute troops to United Nations peacekeeping operations for each current peacekeeping mission in operation;

(B) the financial compensation each troop contributing country provides to individual peacekeepers who participate in United Nations peacekeeping operations; and

(C) the amount of money that the United Nations contributes to troop contributing countries to United Nations peacekeeping operations that is not directly provided to individuals serving in United Nations peacekeeping operations.

SA 332. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill S. 600, to authorize appropriations for the Department of State and international broadcasting activities for fiscal years 2006 and 2007, for the Peace Corps for fiscal years 2006 and 2007, for foreign assistance programs for fiscal years 2006 and 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division A, insert the following new title:

TITLE IX—INTERNATIONAL PARENTAL CHILD ABDUCTION PREVENTION

SEC. 901. SHORT TITLE.

This title may be cited as the ''International Parental Child Abduction Prevention Act of 2005''.

SEC. 902. INADMISSIBILITY OF ALIENS SUPPORTING INTERNATIONAL CHILD ABDUCTORS AND RELATIVES OF SUCH ABDUCTORS.

(a) IN GENERAL.—Section 212(a)(10)(C)(ii) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(C)(ii)) is amended by striking subclause (III) and inserting the following:

''(III) is a spouse (other than a spouse who is the parent of the abducted child), son or daughter (other than the abducted child), grandson or granddaughter (other than the abducted child), parent, grandparent, sibling, cousin, uncle, aunt, nephew, or niece of an alien described in clause (i), or is a spouse of the abducted child described in clause (i), if such person has been designated by the Secretary of State, at the Secretary of State's sole and unreviewable discretion,

is inadmissible until the child described in clause (i) is surrendered to the person granted custody by the order described in that clause, and such person and child are permitted to return to the United States or

such person's place of residence, or until the abducted child is 21 years of age (unless the Secretary determines that an abducted child who is 21 years of age or older is unable to travel freely in accordance with such individual's wishes).''.

(b) AUTHORITY TO CANCEL CERTAIN DESIGNATIONS; IDENTIFICATION OF ALIENS SUPPORTING ABDUCTORS AND RELATIVES OF ABDUCTORS; ENTRY OF ABDUCTORS AND OTHER INADMISSIBLE ALIENS IN THE CONSULAR LOOKOUT AND SUPPORT SYSTEM.—Section 212(a)(10)(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(C)) is amended by adding at the end the following:

''(iv) AUTHORITY TO CANCEL CERTAIN DESIGNATIONS.—The Secretary of State may, at the Secretary of State's sole and unreviewable discretion, at any time, cancel a designation made pursuant to clause (ii)(III).

''(v) IDENTIFICATION OF ALIENS SUPPORTING ABDUCTORS AND RELATIVES OF ABDUCTORS.—In all instances in which the Secretary of State knows that an alien has committed an act described in clause (i), the Secretary of State shall take appropriate action to identify the individuals who are potentially inadmissible under clause (ii).

''(vi) ENTRY OF ABDUCTORS AND OTHER INADMISSIBLE PERSONS IN CONSULAR LOOKOUT AND SUPPORT SYSTEM.—In all instances in which the Secretary of State knows that an alien has committed an act described in clause (i), the Secretary of State shall take appropriate action to cause the entry into the Consular Lookout and Support System of the name or names of, and identifying information about, such individual and of any persons identified pursuant to clause (v) as potentially inadmissible under clause (ii).

''(vii) DEFINITIONS.—In this subparagraph:

''(I) CHILD.—The term 'child' means an individual who was a child at the time the individual was detained or retained, or at the time custody of the individual was withheld, as described in clause (i) regardless of marital status.

''(II) SIBLING.—The term 'sibling' includes step-siblings and half-siblings.''.

(c) ANNUAL REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, and each February 1 thereafter for 4 years, the Secretary shall submit to the appropriate congressional committees, the Committee on the Judiciary of the Senate, and the Committee on the Judiciary of the House of Representatives, an annual report that describes the operation of section 212(a)(10)(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(C)), as amended by this section, during the prior calendar year to which the report pertains.

(2) CONTENT.—Each annual report submitted in accordance with paragraph (1) shall specify, to the extent that corresponding data is reasonably available, the following:

(A) The number of cases known to the Secretary, disaggregated according to the nationality of the aliens concerned, in which a visa was denied to an applicant on the basis of the inadmissibility of the applicant under section 212(a)(10)(C) of the Immigration and Nationality Act (as so amended) during the reporting period.

(B) The cumulative total number of cases known to the Secretary, disaggregated according to the nationality of the aliens concerned, in which a visa was denied to an applicant on the basis of the inadmissibility of the applicant under section 212(a)(10)(C) of the Immigration and Nationality Act (as so amended) since the beginning of the first reporting period.

(C) The number of cases known to the Secretary, disaggregated according to the nationality of the aliens concerned, in which the name of an alien was placed in the Consular Lookout and Support System on the basis of the inadmissibility of the alien or potential inadmissibility under section 212(a)(10)(C) of the Immigration and Nationality Act (as so amended) during the reporting period.

(D) The cumulative total number of names, disaggregated according to the nationality of the aliens concerned, known to the Secretary to appear in the Consular Lookout and Support System on the basis of the inadmissibility of the alien or potential inadmissibility under section 212(a)(10)(C) of the Immigration and Nationality Act (as so amended) at the end of the reporting period.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that the following hearing has been scheduled before the Committee On Energy and Natural Resources.

The hearing will be held on Thursday, April 14, at 10 a.m. in room 366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on S. 388, a bill that would direct the Secretary of Energy to promote the adoption of technologies that reduce greenhouse gas intensity, provide credit-based financial assistance and investment protection for projects that employ advanced climate technologies or systems and establish a national greenhouse gas registry.

Because of the limited time available for this hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD–364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact: Shane Perkins at 202–224–7555.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LUGAR. Mr. President, I ask unanimous consent that the committee on Agriculture, Nutrition and Forestry be authorized to conduct a hearing during the session of the Senate on Wednesday, April 6, 2005. The purpose of this hearing will be to consider the nomination of Charles F. Conner to be Deputy Secretary of Agriculture for the United States Department of Agriculture.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. LUGAR. Mr. President, I ask unanimous consent that the committee on banking, housing, and urban affairs be authorized to meet during the session of the Senate on April 6, 2005, at 9:30 a.m. to conduct a hearing on ''Regulatory Reform of the Government-Sponsored Enterprises.''

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. LUGAR. Mr. President, I ask unanimous consent that the committee on energy and natural resources be authorized to meet during the session of the Senate on Wednesday, April 6, at 10 a.m.

The purpose of the hearing is to consider the nomination of David Garman to be Under Secretary of Energy.

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

COMMITTEE ON ENVIRONMENTAL AND PUBLIC WORKS

Mr. LUGAR. Mr. President. I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Wednesday, April 6, 2005, at 9:15 a.m. to conduct a hearing regarding the following nominations:

Panel I: Stephen Johnson, nominated by the President to be the Administrator of the United States Environmental Protection Agency (EPA).

Panel II: Luis Luna—nominated by the President to be EPA's Assistant Administrator for Administration and Resource Management; John Paul Woodley, Jr.—nominated by the President to be Assistant Secretary of the Army for Civil Works; Major General Don Riley, United States Army—nominated by the President to be a Member and President of the Mississippi River Commission; Brigadier General William T. Grisoli, United States Army—nominated by the President to be a Member of the Mississippi River Commission; D. Michael Rappoport—nominated by the President to be a Member of the Board of Trustees of the Morris K. Udall Foundation; and Michael Butler—nominated by the President to be a Member of the Board of Trustees of the Morris K. Udall Foundation.

The hearing will be held in SD 406.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR AND PENSIONS

Mr. LUGAR. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to hold a hearing during the session of the Senate on Wednesday, April 6, 2005 at 9:30 a.m. in SD–562.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. LUGAR. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on April 6, 2005 at 2:30 p.m. to hold a closed briefing.

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

SUBCOMMITTEE ON AIRLAND

Mr. LUGAR. Mr. President, I ask unanimous consent that the Subcommittee on Airland be authorized to

meet during the session of the Senate on April 6, 2005, at 2:30 p.m., in open session to receive testimony on tactical aviation programs, in review of the defense authorization request for fiscal year 2006.

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

SUBCOMMITTEE ON READINESS AND MANAGEMENT SUPPORT

Mr. LUGAR. Mr. President, I ask unanimous consent that the Subcommittee on Readiness and Management Support be authorized to meet during the session of the Senate on April 6, 2005, at 9:30 a.m., in open session to receive testimony on military installation programs in review of the defense authorization request for fiscal year 2006.

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

UNANIMOUS CONSENT—H.R. 1268

Mr. ENZI. Mr. President, I ask unanimous consent at 3 p.m. on Monday, the Senate begin consideration of Calendar No. 67, H.R. 1268, the supplemental appropriations bill.

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

APPOINTMENTS

The PRESIDING OFFICER. The Chair announces, on behalf of the Secretary of the Senate, pursuant to Public Law 101–509, the appointment of Paul Gherman, of Tennessee, to the Advisory Committee on the Records of Congress.

The PRESIDING OFFICER. The Chair announces, on behalf of the Majority Leader, pursuant to Public Law 101–509, the re-appointment of Alan C. Lowe, of Tennessee, to the Advisory Committee on the Records of Congress.

EXECUTIVE SESSION

NOMINATION OF JOHN B. BELLINGER, TO BE LEGAL ADVISOR OF THE DEPARTMENT OF STATE

Mr. ENZI. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nomination on today's Executive Calendar: Calendar No. 30, John Bellinger, to be Legal Advisor to the Department of State.

I further ask unanimous consent that the nomination be confirmed, the motion 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. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

DEPARTMENT OF STATE

John B. Bellinger, of Virginia, to be Legal Adviser of the Department of State.

RECOGNIZING THE 50TH ANNIVERSARY OF THE SALK POLIO VACCINE

Mr. ENZI. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of S. Res. 101, which was submitted earlier today.

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

The legislative clerk read as follows:

A resolution (S. Res. 101) recognizing the 50th anniversary of the development of the Salk polio vaccine and its importance in eradicating the incidence of polio.

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

Mr. ENZI. I ask unanimous consent that resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 101) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 101

Whereas the epidemic of polio struck the citizens of the United States in the early 1950s, causing thousands of cases of lingering paralysis and death;

Whereas the epidemic of polio peaked in 1952, having affected nearly 58,000 people, mainly children and young adults;

Whereas many of those affected by polio needed the assistance of mechanical ventilators in order to breathe, while others were crippled and dependent upon crutches for mobility;

Whereas University of Pittsburgh faculty member Dr. Jonas Salk and his team of researchers developed the first vaccine against polio;

Whereas, in April 1955, the results of an unprecedented and successful nationwide clinical trial of the polio vaccine were announced;

Whereas the Salk polio vaccine was approved for widespread public use at that time; and

Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the pioneering achievement of Dr. Jonas Salk and his team of researchers at the University of Pittsburgh in the development of the Salk polio vaccine;

(2) expresses its appreciation to—

(A) the family of Dr. Salk for the elimination of polio, a disease that caused countless deaths and disabling consequences;

(B) the members of Dr. Salk's research team; and

(C) the individuals who generously agreed to participate in clinical trials to validate the efficacy of the polio vaccine; and

(3) celebrates with the University of Pittsburgh on the 50th anniversary of the approval and use of the Salk polio vaccine.

HONORING THE LIFE AND CONTRIBUTIONS OF YOGI BHAJAN

Mr. ENZI. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 34, just received from the House and at the desk.

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

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 34) honoring the life and contributions of Yogi Bhajan, a leader of Sikhs, and expressing condolences to the Sikh community on his passing.

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

Mr. ENZI. Mr. President, I ask unanimous consent that the concurrent 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 concurrent resolution (H. Con. Res. 34) was agreed to.

The preamble was agreed to.

ORDERS FOR THURSDAY, APRIL 7, 2005

Mr. ENZI. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 a.m. on Thursday, April 7. I further ask consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then begin a period of morning business with Senators permitted to speak for up to 10 minutes each.

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

PROGRAM

Mr. ENZI. Mr. President, tomorrow the Senate will be in a period of morning business throughout the day. A number of our colleagues will be traveling to Rome to attend the funeral of Pope John Paul II. We will return next week and begin consideration of the Iraq-Afghanistan supplemental appropriations bill. Senators should expect a busy week with rollcall votes throughout. Senators should be aware that we will have a Monday evening vote at approximately 5:15, and we will lock that in tomorrow morning.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. ENZI. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8 p.m., adjourned until Thursday, April 7, 2005, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate April 6, 2005:

DEPARTMENT OF TRANSPORTATION

MARIA CINO, OF VIRGINIA, TO BE DEPUTY SECRETARY OF TRANSPORTATION, VICE KIRK VAN TINE.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE 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. MICHAEL A. HAMEL, 0000

THE FOLLOWING NAMED OFFICER FOR REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531.

To be colonel

JOHN J. KUPKO II, 0000

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 531 AND 1552:

To be lieutenant colonel

GREGG W. ALLRED, 0000
JEFFREY A. FISHER, 0000
KEVIN S. GROVE, 0000
GERALD C. LEAKE, JR., 0000
ALBERT C. OESTERLE, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

STEPHEN E. VANGUNDY, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE, UNDER TITLE 10, U.S.C., SECTIONS 624 AND 1552:

To be major

BRETT L. SWAIN, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY JUDGE ADVOCATE GENERAL'S CORPS AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK(*)) UNDER TITLE 10, U.S.C., SECTIONS 624, 531, AND 3064:

To be major

SUNNY S. * AHN, 0000
OLGA M. * ANDERSON, 0000
DAVID O. * ANGLIN, 0000
REBECCA E. * AUSPRUNG, 0000
JAMES A. * BAGWELL, 0000
BRIAN R. * BATTLES, 0000
JASON M. BELL, 0000
MARK J. * BLASKO, 0000
BRADLEY W. BLOODWORTH, 0000
PATRICIA C. * BRADLEY, 0000
DEIRDRE G. BROU, 0000
JAMES E. * BROUSEK, 0000
JOHN M. * COOPER, 0000
JOHN P. * DEVER, JR., 0000
WILLIAM J. DOBOSH, JR., 0000
MARIA Z. * DOUCETTPERRY, 0000
JERRETT W. * DUNLAP, JR., 0000
SEBASTIAN A. EDWARDS, 0000
HEATHER J. * FAGAN, 0000
JANINE P. * FELSMAN, 0000
ERIC J. * FEUSTEL, 0000
GRACE M. * GALLAGHER, 0000
JESSICA A. * GOLEMBIEWSKI, 0000
CHRISTOPHER G. * GRAVELINE, 0000
JOHN A. * HAMNER II, 0000
MICHELLE A. * HANSEN, 0000
TIMOTHY P. * HAYES, JR., 0000
WILLIAM M. * HELIXON, 0000
RICHARD J. * HENRY, 0000
HOWARD H. HOEGE III, 0000
THEODORE C. * HOUDEK, 0000
CRYSTAL L. JENNINGS, 0000
GARY T. * JOHNSON, 0000
PETER * KAGELEIRY, 0000
SAMUEL W. KAN, 0000
KEVEN J. KERCHER, 0000
EUGENE Y. * KIM, 0000
JENNIFER L. KNIES, 0000
CHARLES J. * KOVATS, JR., 0000
CHARLES A. * KUHFAHL, JR., 0000
JAMES D. * LEVINE II, 0000
ERIC D. MAGNELL, 0000
MARK D. * MATTHEWS, 0000
JOHN M. * MCCABE, 0000
MATTHEW J. * MCDONALD, 0000
RUSSELL N. * PARSON, 0000
CARLA T. * PETERS, 0000
KELLI L. * PETERSEN, 0000
CHARLES L. * PRITCHARD, JR., 0000
TIMOTHY J. * RYAN, 0000
STEPHANIE D. * SANDERSON, 0000
LUISA * SANTIAGO, 0000
EMILY C. SCHIFFER, 0000
THOMAS E. SCHIFFER, 0000
CHRISTINE M. SCHVERAK, 0000
DAVID T. * SCOTT, 0000
TROY K. * STABENOW, 0000
JON M. * STANFIELD, 0000
JOHN H. * STEPHENSON II, 0000
KARIN G. TACKABERRY, 0000
MARGARET F. THOMAS, 0000
JACKIE L. * THOMPSON, JR., 0000
MARY C. * VERGONA, 0000
PATRICK L. * VERGONA, 0000
AARON A. WAGNER, 0000
LAURA T. * WELLS, 0000
ERIC W. * YOUNG, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

JAMES W. CALDWELL, JR., 0000
RICHARD F. EICH, JR., 0000
MARTY G. LUTHER, 0000
RICHARD J. PAPESCA, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

DAVID K. CHAPMAN, 0000
JOSHUA L. COHEN, 0000
MICHAEL S. FLANAGAN, 0000
BRIAN J. HALL, 0000
JAMES M. OMALLEY, 0000
FRANK V. PORCELLINI, JR., 0000
STEVE W. SHULTZ, 0000
ERIK G. STARK, 0000
PAUL C. VICINANZO, 0000
WILLIAM V. WEINMAN, JR., 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

ROBERT W. WORRINGER, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

MELISSA J. MACKAY, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

THOMAS J. CUFF, 0000
GERALD A. LEMAY, 0000
CARVEN A. SCOTT, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

STEVEN F. MOMANO, 0000
AGUSTIN L. OTERO, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

LARRY THOMAS, 0000
DAVID J. WRAY, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

KERI A. BUCK, 0000
JON C. HENRY, 0000
JOHN N. ROGERS, 0000
WILLIAM J. WILSON III, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

NICHOLAS A. FILIPPONE, 0000
SUSAN C. KINNEY, 0000
KYLE L. MCCOLLOM, 0000
KARI A. PEREZ, 0000
NANCY S. VEGEL, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

EDWARD Y. ANDRUS, 0000
ALESSANDRO V. CUEVAS, 0000
KAY A. GRIFFITHS, 0000
MARK W. RUSSELL, 0000
BRIAN W. SAXMAN, 0000
THOMAS E. STOWELL, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

REBEKAH R. BARRISH, 0000
VICTORIA BOYD, 0000
STEVEN M. CARLEY, 0000
DOUGLAS C. DERRICK, 0000
MICHAEL J. DEVINE, 0000
TIMOTHY W. DORSEY, 0000
JAMES J. GARRETT, 0000
MARK W. GIBSON, 0000
DUANE A. GILES, 0000
JEFFERY B. GOLDMAN, 0000
DONALD P. HENRY, 0000
CAROL W. HUMPHRIES, 0000
KEITH A. LOWRY, 0000
ANNE M. MALIWAUKI, 0000
JAMES B. MILLER, 0000
GREGORY L. MITSOFF, 0000
MICHAEL J. MURPHY, 0000
LAWRENCE J. NOLAN, 0000
DAVID G. PASTULA, 0000
VICTOR D. PRATT, 0000
CHRISTINE E. REIDELL, 0000
JEFFREY L. ROBERSON, 0000
GRANT W. SODERSTROM, 0000
PAUL E. STEPHAN, 0000
SAMUEL G. SUMWALT, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

CHARLES E. ADAMS, 0000
RODOLFO Q. ADVINCULA, 0000
JOHN L. BEAN, 0000
ROBERT J. DECESARI, 0000
ALLAN R. FLUHARTY, 0000
DAVID M. GIBBS, 0000
MICHAEL J. GOLDEN, 0000
LYNETTE M. HALBERT, 0000
KENNETH L. HAMPTON, 0000
MARTIN R. KRUGER, 0000
BRUCE W. MIXER, 0000
TIMOTHY J. POLICH, 0000
MARK D. RAHMES, 0000
JAMES H. RODMAN, JR., 0000
TERREL J. SPEARS, 0000
GREGORY D. SPRIGGS, 0000
KATHERINE A. WALTER, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

WALTER J. ADELMANN, JR., 0000
DOUGLAS C. BEYER, 0000
REY S. CONSUNJI, 0000
JOHN D. CROCE, 0000
GAIL A. EMOW, 0000
MICHAEL J. FOSTER, 0000
EDWARD G. GALLREIN III, 0000
RODELIO LACO, JR., 0000
ROBERT S. MCKENNA, 0000
RUSSELL N. MIELKE, 0000
JOSEPH A. MURACH, 0000
CLIFFORD A. PISH, 0000
STEPHEN V. PLATAMONE, 0000
JOHN J. REAPE, JR., 0000
BRIAN T. SMITH, 0000
DOUGLAS W. SWANSON, 0000
RICHARD S. TEDMON, 0000
CLAYTON G. TETTELBACH, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

RUSSELL E. ALLEN, 0000
TODD R. ALLEN, 0000
BRIAN D. ALTMAN, 0000
CHARLES D. BALDWIN, 0000
RUSSELL A. BAZEMORE, 0000
STEVEN P. BECK, 0000
THOMAS E. BECK, 0000
SYDNEY J. BEEM, 0000
ROBERT W. BERTRAND, 0000
GLENN P. BERUBE, 0000
GUY A. BONY, 0000
JOHN M. BOYD, 0000
SCOTT R. BOYER, 0000
WILLIAM L. BRACKIN, 0000
THOMAS E. BRANDT, 0000
FRANKLIN D. I. BRANGACCIO, 0000
THOMAS T. BRICE, 0000
JEFFREY A. BRITTON, 0000
DAVID A. BRUMLEY, 0000
DANIEL P. BURNS, 0000
PAUL A. BUSHROW, 0000
LEWIS S. BYINGTON, 0000
MICHAEL W. CALVERT, 0000
STEVEN J. CAMACHO, 0000
MICHAEL A. CANNON, 0000
LANCE S. CARR, 0000
ANDREW L. CASSITY, 0000
DONALD F. CHASE, 0000
STEVEN L. CHRISTENSEN, 0000
JEFFREY D. COBB, 0000
JOSEPH R. COOK, 0000
ANTHONY T. COWDEN, 0000
LISA A. CUMMING, 0000
GLENN H. DAUGHTERY, 0000
ANDREW J. DEEM, 0000
THOMAS F. DENIO, JR., 0000
HAROLD P. DUNNING, 0000
THOMAS L. EGBERT, 0000
NOEL M. ENRIQUEZ, 0000
JAMES R. FACINELLI, 0000
PETER T. FINNEY, 0000
JOHN B. FLUHART, 0000
CHRISTOPHER D. FOX, 0000
ROBERT E. J. FRONCILLO, 0000
GORDON C. FRY, 0000
JOHN W. FULCHER IV, 0000
ROBERT A. GANCAS, 0000

KENNETH R. GARBER, 0000
JOSE F. GARCIA III, 0000
CHRISTOPHER G. GILBERT, 0000
ALBERT K. GIVEN, 0000
RONALD G. GREIFF, 0000
PAUL F. HANKINS, 0000
DENNIS M. HANSEN, 0000
BRIAN R. HASTINGS, 0000
JOHN D. HATCH, 0000
LEONARD HATTON, 0000
KAREN D. HAYNES, 0000
HENRY F. HERBIG IV, 0000
GREGORY A. HERUTH, 0000
RUSTAN J. HILL, 0000
ALAN L. HOLLINGSWORTH, 0000
LAWRENCE B. JACKSON, 0000
LIONEL D. JENKINS, 0000
JAMES G. JENNINGS, 0000
SCOTT B. J. JERABEK, 0000
PATRICK J. KERSHAW, 0000
FRANCIS A. KIES, 0000
THOMAS P. KIM, 0000
GREGORY S. KIRSCHNER, 0000
KEVIN G. KNIGHT, 0000
MICHAEL D. LAMBING, 0000
JAMES D. LANE, 0000
WILLIAM M. LAPRISE, 0000
PHILIP J. LAWVER, 0000
JAMES R. LEACH, 0000
MARK L. LEAVITT, 0000
DAVID A. LEMMON, 0000
LAVERN D. LUTES, 0000
JOHN P. MADDEN, 0000
GREGORY P. MARVIL, 0000
DANIEL T. MASTERSON, 0000
JON G. MATHESON, 0000
CRAIG N. MCCARTNEY, 0000
JAMES M. MCGEE, 0000
MICHAEL P. MCMAHON, 0000
CRAIG S. MILLER, 0000
DEANE D. K. MUHLENBERG, 0000
BRIAN L. NEELEY, 0000
MICHAEL J. NEVINS, 0000
CALVIN C. NG, 0000
MATTHEW J. ODONOGHUE, 0000
THOMAS W. OKEEFE, 0000
TERRENCE J. OLAUGHLIN, 0000
JAMES S. OSTACH, 0000
JAMES K. OTTO, 0000
ROBERT B. OWEN, 0000
THOMAS M. OWENS, 0000
RAUL F. PALENZUELA, 0000
ANTHONY PANTOJA, 0000
MARK A. PATTERSON, 0000
JAMES D. PEGRAM, 0000
ROBERT J. PERRY, JR., 0000
GREGORY J. PERTLE, 0000
CRAIG A. PETERSEN, 0000
THOMAS R. PLENEFISCH, 0000
KERIM L. POWELL, 0000
MICHAEL L. PREAS, 0000
JOHN M. PRESKI, 0000
GEORGE S. QUIN, JR., 0000
RICHARD R. REICHEL, JR., 0000
JON L. ROBY, 0000
CHARLES J. ROGERS, 0000
PAUL S. ROSEN, 0000
THOMAS W. SAVIDGE, 0000
TIMOTHY G. SCHAEFER, 0000
KURT V. SCOTT, 0000
MICHAEL E. SEARS, 0000
JOSEPH C. SHARP, 0000
JAMES E. SHAW II, 0000
RICHARD W. SISK, 0000
STEPHEN M. SNYDER, 0000
STEVEN B. SNYDER, 0000
KENNETH P. SOURS, 0000
CARY M. STEVENS, 0000
KURT D. STOREY, 0000
THOMAS M. STROSCHEIN, 0000
RICHARD E. SWEETMAN, JR., 0000
DAVID Z. TAYLOR, 0000
PRAKASH THOMAS, 0000
GERARD P. TIGHE, 0000
JOHN W. TOKAREWICH, 0000
THOMAS M. TOMP, 0000
MICHAEL D. TURNER, 0000
MARTIN L. VANDENBOSCH, 0000
PETER M. VANSTEE, 0000
JAMES A. VITTON, 0000
PHILLIP D. VOELLER, 0000
JOHN P. WALISH, 0000
STEVEN D. WATKINS, 0000
MILDRED R. WEARS, 0000
MARK R. WEGGE, 0000
JOHN F. WEIGOLD, 0000
JOHN E. WEIRES, 0000
MICHAEL J. WELLINGTON, 0000
KENNETH D. WHIDDEN, JR., 0000
DOUGLAS C. WIED, 0000
ALEXANDER L. WILSON, JR., 0000
RONALD R. WOODS, 0000
KIMO K. ZAIGER, 0000
STEPHEN E. ZINI, 0000

DEPARTMENT OF THE TREASURY

TIMOTHY D. ADAMS, OF VIRGINIA, TO BE AN UNDER SECRETARY OF THE TREASURY, VICE JOHN B. TAYLOR.

CONFIRMATION

Executive nomination confirmed by the Senate Wednesday, April 6, 2005:

DEPARTMENT OF STATE

JOHN B. BELLINGER, OF VIRGINIA, TO BE LEGAL ADVISER OF THE DEPARTMENT OF STATE.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.